United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, TUESDAY, FEBRUARY 3, 2004 No. 11

Senate

The Senate met at 9:45 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:

Spirit of God, who brought creation out of the void, light from darkness, and order from chaos, everything under Heaven belongs to You. Lord, work with us to bring harmony where there is discord. Use our daily experiences of joy and sorrow, pleasure and pain, victory and defeat, for Your glory.

As enemies of liberty seek to create insecurity and fear, remind us that no evil can stop the unfolding of Your purposes and Providence. Thank You for leading us each day with Your merciful hands and for providing for our needs. You prepare tables of peace and confidence for us in the presence of our enemies, causing us to rejoice because of Your faithfulness.

Bless our leaders. Protect them with the shield of Your love. Fill their hearts with Your joy and give them Your peace. We pray this in Your holy 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.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 10:30 a.m., with 30 minutes under the control of the Senator from Florida, Mr. GRAHAM, and the remaining time under the control of the majority leader.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, under a previous order, we will be in morning business until 10:30 a.m., as mentioned. At 10:30 we will begin the highway bill. As mentioned yesterday, it will be very important to address this bill and spend the appropriate time this week and through next week with the objective of completing this bill by the end of next week. It is a very important bill in terms of supporting our infrastructure throughout this country, in terms of providing that infrastructure to support our economy, and also to create jobs. It is a very important bill.

The relevant committees met yesterday. Some of those committee meetings will be affected by the closure of the office buildings today, but we will have further announcements on the committee meetings a little bit later this morning.

We will be here today, and I do encourage Members to make their opening statements today. We will have a comment shortly on the policy luncheons today within the next several minutes after I speak with the Democratic leader.

RICIN FINDING

I will comment very quickly—because there are a lot of questions and a lot of news reports—as most people know, in midafternoon yesterday, a powder that was ultimately determined to be ricin was found in my personal office building. Everything was handled in a very appropriate way in terms of the screening tests that have been established, and ultimately, after a series of tests of what are called specificity and sensitivity tests, confirmatory results came back last night at around 9:30 that this was ricin.

There will be a lot of discussion in the news and around here as to what ricin is. As I mentioned last night, it is a type of what we call a toxin or a poison. It is not a virus, and it is not a bacteria, so a lot of people say it is not biological, but it is made from a castor bean. Somebody, in all likelihood, manufactured this with an intent to harm, and this is a criminal investigation that will be underway.

As everyone knows by now—or we hope they know—we made a decision, based on the procedures that are quite thorough and comprehensive, to close the three Senate office buildings today. Meetings have continued through the night and today over the course of this morning thus far. Further decisions will be made about reopening those buildings. The real purpose of that is that the mail be addressed in an appropriate way in those buildings.

Let me also say that all air sampling and all environmental studies today are negative with the exception of what was found in that single office at that site.

With that, I think I will stop to say we will have our activity here on the floor of the Senate. The Capitol Building is open today, and individual committee chairmen will be announcing what the plans are with hearings that were scheduled today in the Senate office buildings. Most of those will be closed.

At this time I will turn to the Democratic leader. We will likely be making other announcements over the course of the morning.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

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

Printed on recycled paper.

CONDUCTING SENATE BUSINESS

Mr. DASCHLE. Mr. President, let me first express the sentiment that I know is shared by the entire Senate family in expressing our concern and our admiration for Senator FRIST and his staff. Having been through this ordeal in another form a couple of years ago, I know the difficulty it presents personally to staff and to families of staff, and I know we are probably in a better position to confront these challenges today than we were 2 years ago. But we speak with one voice in expressing our concern for those staff and our optimism about our ability to successfully confront this challenge as we did 2 years ago.

I know this has been a long 24 hours for the majority leader. He had a late night the night before, and then last night it would not surprise me if he got no sleep at all. So he is working on little sleep, and I appreciate his report this morning.

Obviously, we have a number of decisions to make over the course of the day, and I will consult with him. I do hope, to the extent it is practicable, that we use this opportunity to continue the debate on highways. We do not have a lot of time, and I know each day is valuable from that perspective. But we also want to be practical, recognizing if the offices are closed, it will be hard for Senators and their staff to do work related to the highway bill. I look forward to consulting and working with the distinguished majority leader as we deal with the necessity this situation has presented to us.

Mr. President, I know colleagues on both sides of the aisle are interested in the schedule. I know the majority leader had announced that there will be caucus lunches. I want to make sure people understand, we will have our normally scheduled caucus lunch today. Both the Democrats and Republicans will be meeting. They will be held in the same location.

I yield the floor.

PROVISION FOR EMERGENCY AUTHORITY

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to a resolution at the desk regarding emergency authority; provided, further, that the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 296) was agreed to, as follows:

S. RES. 296

Resolved, That the Presiding Officer of the Senate may suspend any proceeding of the Senate, including a roll call vote or a quorum call, and declare a recess or adjournment of the Senate subject to existing authorities or subject to the call of the Chair, within the limits of article I, section 5, clause 4, of the Constitution, whenever the Presiding Officer has been notified of an imminent threat.

SEC. 2. When the Senate is out of session, the Majority and Minority Leaders, or their designees, may, acting jointly and within the limits of article I, section 5, clause 4, of the Constitution, modify any order for the time or place of the convening of the Senate when, in their opinion, such action is warranted by intervening circumstances.

The PRESIDENT pro tempore. The Senator from Vermont.

COMMENDING THE MAJORITY AND MINORITY LEADERS

Mr. LEAHY. Mr. President, I will take a moment.

I commend both the Republican and Democratic leaders for opening the Senate today. I was recollecting, as I came in, we had another majority leader from Tennessee, Howard Baker—the Democrat leader was ROBERT BYRD; both distinguished friends and colleagues—and there had been an explosive device put outside the Capitol one evening, something that could not be done today because there are changes in our security. But the majority leader recessed that evening—it was going to be a late-night session. We adjourned a little earlier than we anticipated because we had worked out something and needed time for drafting and worked out a logjam we had, and there was an explosive device put out—and the distinguished Presiding Officer remembers this time very well because he was also serving here, as I was, at the time—blowing out both the Republican and Democratic cloakrooms. There would have been great casualties had we been there. The next morning, as I recall, nearly 90 Senators were sitting in their seats. We came back in basically to say: Nothing is going to close us down.

So I commend my dear friend from Tennessee and my dear friend from South Dakota for opening up this session. I think this is a symbol of democracy throughout the whole world. Certainly in our country, the most obvious symbol of democracy is this Capitol Building. Every time we stay open, as we have after 9/11 and everything else, it demonstrates the leadership of our two leaders but also of the devotion to democracy we see in this Chamber.

That is all I am going to say. That is why I am here this morning. I wanted to compliment both of the leaders for opening up this session.

The PRESIDENT pro tempore. The majority leader.

SENATE STAFF AND THEIR FAMILIES

Mr. FRIST. Mr. President, I do want to briefly comment on the families of the individuals who were potentially exposed yesterday. It is an inconvenience because you are waiting for tests and you are doing screening tests that have a certain meaning in terms of sensitivity, specificity. We are waiting for results to get back, and you hear about the potential harm these poisons can do. I express my real sympathies to the families and the individuals affected.

We had a conference call. We were all together last night by telephone until the early hours of this morning. We had another conference call at 8:45 this morning, and we will continue to be in touch with all the people who could have potentially been affected. Again, we think about them and their families.

We will be having our policy lunches today. Both sides of the aisle will conduct their policy lunches in the usual fashion.

With that, Mr. President, I yield the floor.

The PRESIDENT pro tempore. Who seeks recognition?

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

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, are we in morning business?

The PRESIDENT pro tempore. We are in morning business, with 30 minutes under the control of the Senator from Florida, Mr. GRAHAM.

Mr. DURBIN. Mr. President, I would be glad to yield to the Senator from Florida.

Mr. GRAHAM of Florida. I say to the Senator, when I take the floor, I am going to be here for about 30 minutes. If the Senator has something he would like to say prior to that, I will yield.

Mr. DURBIN. I thank the Senator from Florida for the forewarning.

I ask the Chair, the Senator from Florida is going to speak for 30 minutes. How much time would I be allocated in morning business?

The PRESIDENT pro tempore. One minute.

Mr. REID. Mr. President, if the Senator from Illinois will yield, I ask unanimous consent that the Senator from Illinois be recognized for up to 10 minutes, and that there be equal time on the other side to match that, if that is necessary.

The PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator is recognized for 10 minutes.

May the Chair inform the Senator from Nevada, under the previous order the remaining time will be under the control of the majority leader. The time for Senator GRAHAM has expired. The Chair suggests the Senate might consider its time.

Mr. REID. I appreciate the counsel of the Presiding Officer. Because of the

events of last night, Senator GRAHAM's time was taken.

Mr. President, I think the time of the Senator from Florida starts at 10 o'clock.

The PRESIDENT pro tempore. The Parliamentarian informs me Senator GRAHAM will have to use his time now.

Mr. REID. He would have to use his time now?

The PRESIDENT pro tempore. Yes.

Mr. REID. I ask unanimous consent that the order now before the Senate be modified to allow the Senator from Illinois to speak for up to 10 minutes in morning business, and that like time be extended to the Republicans.

Mr. DURBIN. Reserving the right to object, I would be happy to yield to the Senator from Florida to go first, and I will follow him. That would be fine with me, 10 minutes after Senator GRAHAM.

Mr. REID. And that Senator GRAHAM be given his 30 minutes. I ask that my consent be modified.

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

The Senator from Florida.

INTELLIGENCE LESSONS

Mr. GRAHAM of Florida. Mr. President, yesterday I spoke to the Senate relative to my assessment of the responsibility for the attacks of September 11, 2001, some of the lessons learned from those attacks, and the status of the implementation of those lessons. I explained that my view was that those terrible events would have been prevented if our national intelligence community had been better organized and more clearly focused on the problem of terrorism. And if the Congress and the President had drawn on those lessons learned from the tragedy of 9/11 and initiated reforms of the intelligence community, we might well have avoided some of the embarrassments of the flawed intelligence on weapons of mass destruction or the misleading use of that intelligence which formed the basis of the war against Iraq. Today I would like to continue my discussion of those lessons that we should have learned and implemented.

As chairman of the Senate Select Committee on Intelligence for most of the 107th Congress, I had the honor of cochairing a bipartisan, bicameral committee charged with investigating the events of the intelligence community and their activities before and after the attacks of September 11. We set out to determine whether or not there was anything more we could have done to prevent the attacks and, specifically, if our intelligence community had problems that needed to be corrected.

The importance of our task was well understood. The 9/11 attacks were not the work of a crazed individual but, rather, were the result of a sophisticated plot carried out by a group of 19 terrorists and an undetermined number of facilitators who prepared for the execution of their plot over a period of almost 2 years. We can, we must, improve our ability to detect and disrupt plots of this nature. We can do so by ensuring that our intelligence-gathering networks are operating in an optimal manner and that any flaws in our intelligence community are addressed as quickly and effectively as possible.

Our committee identified a number of problems with our current intelligence-gathering system. We followed up with recommendations on how to fix these problems. By conducting this inquiry, making these recommendations, Congress not only assumed the responsibility for determining what happened before and after September 11 as related to our intelligence community, but it also assumed a responsibility relative to the implementation of the recommendations.

The American people will respond to future terrorist attacks by asking: What did we learn from the previous attack and how has that information been used to give the American people greater protection? They have the right to ask this question and we have an obligation to give them a good answer: What have you done with the information and the lessons learned? How have you implemented those lessons in a way to give me and the American people a greater sense of security?

So far, we have not made acceptable progress toward providing an answer to the American people. In fact, if we had to give it today, it would not be an answer of which we would be proud.

A large number of the problems identified by the joint inquiry and a series of commissions which preceded the joint inquiry have not been addressed. In my previous statement, I discussed those recommendations which related specifically to the issue of counterterrorism. This morning, I would like to address those recommendations which deal with the structure of the intelligence community.

Our national intelligence community is beset by a number of serious problems. There is a lack of leadership at the top and the absence of a coordinated national intelligence policy that gives us agencies with priorities, missions, and resources that do not necessarily complement one another.

As an example, in December of 1998, the Director of Central Intelligence, the man who has the statutory responsibility for the coordination of all of our various intelligence agencies, told senior managers of the CIA that he considered the United States to be at war with al-Qaida and that the intelligence community, all of its agencies, working in a coherent manner, should devote as many resources as possible to combating that terrorist organization.

While this statement might seem to be a positive step, a step in the right direction, our joint inquiry found that the DCI was either unable or unwilling to enlist other intelligence agencies in this effort. The troops either didn't hear or simply ignored the bugle call of war.

The lack of consistent, coordinated priorities is paralleled by a lack of consistent, predictable funding as well as the lack of internal accountability. This shortage of resources meant that the intelligence community simply did not have enough personnel to perform all the functions that were needed. This left the intelligence community ill-prepared to deal with the rapidly changing terrorist threat.

One of the reasons for the unpredictability and decline of funding of the intelligence community was the mistaken belief that the end of the cold war yielded a peace dividend for the American people when it came to defense spending, including a reduced need to spend money on intelligence.

Mr. President, in fact, the change from the single focus on the Soviet Union and its allies to the current world of diverse, constantly changing, emerging threats such as weapons of mass destruction and international terrorist groups has increased demand and, therefore, the cost of intelligence.

The first recommendation made by our commission urges the creation of a Cabinet-level director of national intelligence, appointed by the President and subject to Senate confirmation. We made this our first recommendation because we think it is the most important recommendation and one that can do the most to prevent another 9/11 tragedy. I gratefully recognize the excellent work of Senator FEINSTEIN in championing this issue.

The director of national intelligence would be responsible for establishing consistent priorities for all of our national intelligence agencies and assuring that these agencies work together, rather than independently, by coordinating budgets and resources and managing interagency relationships. We made this recommendation because of the obvious need for strong leadership in our intelligence community.

It is clear that prior to 9/11 our intelligence-gathering agencies had no comprehensive strategy for counterterrorism. Intelligence priorities were inconsistently formulated and applied throughout the various agencies and were not effectively leveraged through interagency coordination. The joint inquiry report offers specific details of FBI supervisors who thought there was no need to pay attention to Saudi citizens in the United States while at the same time the CIA was tracking suspected Saudi terrorists around the world.

The director of the national security agency, which is responsible for our electronic eavesdropping, described the problem of unclear priorities when he said: ''We had about 5 number 1 priorities.''

Although the Director of Central Intelligence is normally the head of the intelligence community, in practice he

has functioned as the head of one of those agencies, the CIA, with limited influence over other organizations. The limited ability of the Director of Central Intelligence to mobilize other intelligence agencies in the war against al-Qaida is a tragic example of this point. Before 9/11, personnel in many intelligence agencies—particularly the FBI—had not even heard his statement on the topic, let alone acted upon it.

The DCI does have some budgetary authority, but it cannot be exercised effectively without the cooperation of the Department of Defense since many intelligence agencies are run through the Department of Defense. It is therefore necessary to appoint a strong director of national intelligence who is not the head of any specific intelligence agency. This is a recommendation which has been consistently made by citizens, commissions, and governmentally appointed commissions which have reviewed the intelligence community in the recent past.

So far, Congress and the administration have not acted on this first recommendation and indeed appear to be moving in the opposite direction. The recent creation of an Under Secretary of Defense for Intelligence will serve to further separate the Defense Department from the civilian intelligence agencies rather than improving cooperation. Legislation has been introduced to accomplish this necessary restructuring, but as of this date it has not had a hearing before the Senate Select Committee on Intelligence.

This is an issue which now sits upon the shoulders of the Congress. If we fail to act, we will be held accountable when the next preventable terrorist act occurs.

Another important recommendation was No. 11, which called for the recruitment and development of greater numbers of quality intelligence personnel. Obviously, the need for more counterterrorism training is a major part of this recommendation, as is the need for more linguists and an expanded intelligence community reserve corps that could provide relevant expertise when special circumstances arise.

The committee also recommends an expansion of education grant programs, such as the national security education program. Included among the suggestions for improving the workforce was one calling for legislation that instills the concept of jointness or interoperability among the various agencies. This is similar to the 1986 Goldwater-Nichols Act, which applied the concept of jointness to the military. One way jointness has been instilled in the military is by having service members serve tours of duty with another service or in a multiservice command. This reform is widely recognized as having substantially improved our military's ability to fight and win wars, as was so dramatically demonstrated in Iraq.

In the intelligence community, there is too much isolation among intelligence agencies and between those agencies and the users of intelligence. As an example, the intelligence community, having examined the likely means of attack by al-Qaida, identified hijacking of commercial airliners to be used as weapons of mass destruction as a particularly significant part of the arsenal of al-Qaida. However, the Federal Aviation Administration was not notified of this new form of threat. Therefore, the training and protocols of flight crews had been to not attempt to resist hijackers but, rather, to succumb until the plane was on the ground and then let other law enforcement and professionals attempt to negotiate with the hijackers, and that was the form of action that was still in place on September 11.

Possibly, had the FAA been aware of this new threat of taking command of a plane not for economic or political purposes but to use it as a weapon, airlines would have been better prepared to deal with this particular generation of hijackers. We need our intelligence community to substantially improve its capability in the same way that the military has.

By working and training on a joint basis, intelligence agencies can conserve resources and help personnel gain an appreciation for a wider variety of intelligence-gathering tactics and techniques. If this recommendation had been implemented earlier, it could have reduced our vulnerability.

Our joint inquiry found that a shortage of staff was a near universal problem for intelligence agencies before 9/11. For instance, at the CIA's counterterrorism center, employees were required to work extremely long hours with no relief. Overworking these critical personnel made them less effective and lowered their morale to the point where retention had become a problem. Problems similar to that of the CIA's counterterrorism center existed at the FBI, the National Security Agency, and the shortage of Arabic linguists at the National Security Agency became especially pronounced. Linguists continue to be in short supply, in part because qualified linguists cannot be trained overnight.

Counterterrorism training has been stepped up in other areas, but raising our capabilities to an adequate level will still require more personnel with enhanced and expanded training.

The Intelligence Authorization Act for Fiscal Year 2004 included pilot programs for training students who will form the future of the intelligence community.

No legislation regarding jointness has yet been passed despite the clear, positive results achieved by previous efforts in similar and relevant parts of the Federal Government.

The joint terrorism task forces set up by the FBI have had some success in bringing together officials from different agencies. It was one of these groups which was responsible for the capture of Zaccaria Moussaoui, the so-called 20th hijacker. If more of these task forces had been set up before 2001, and if those that did exist had all the personnel they needed to be effective, we can only imagine what might have been accomplished, what might have been prevented.

Recommendation No. 12 regards our national intelligence budget and suggests several measures to ensure our investments in intelligence provide maximum benefits. It calls for more flexibility in the budget to be accompanied by greater oversight and raises the idea of a cost-benefit analysis by an independent agency.

It also urges the President and the Congress to develop a budget that includes a sustained, long-term investment in counterterrorism to replace the unpredictable funding stream that currently exists. Providing the intelligence community with an adequate level of base funding would obviously increase budget stability and assist in long-term planning.

Contrary to that, for the past several years, counterterrorism programs have been funded primarily through supplemental appropriations which were often in response to a specific event, such as the September 11 tragedy, and therefore the supplemental appropriations varied greatly from one year to the next.

Intelligence officials who were interviewed by our joint inquiry were understandably critical of this system since it makes it more difficult to plan sustainable counterterrorism programs. This dynamic still persists, despite its obvious flaws, despite its obvious contribution to the increased—the unnecessarily increased—vulnerability of the American people.

There have been significant increases in our intelligence budget, but in 2003, a substantial portion of our counterterrorism budget still came from supplemental appropriations.

Another problem with the intelligence budget is the way it is tied to the Defense Department's budget. During the 1990s, we made significant cuts to the Defense Department budget, and the intelligence budget was cut proportionately.

While the end of the cold war meant we could reduce the size of our Armed Forces, intelligence requirements actually increased due to the diversification of the threat. In addition, greater budget stability in our efforts to fight terrorism would be better served by greater budget flexibility. It is currently quite difficult for intelligence officials to shift resources from one priority to the other as circumstances require. Even small adjustments require prolonged formalized approvals.

For instance, a number of CIA officials were aware of the need for more agents in Afghanistan prior to 2001 but were unable to reassign resources away from other priorities. The Director of the National Security Agency has discussed similar problems. The 2004 Intelligence Authorization Act permits the

Director of Central Intelligence to authorize the employment of additional civilian personnel if he believes this is necessary.

This is a small step in the right direction, but more flexibility is still needed. This flexibility must be accompanied by increased congressional oversight.

It became apparent during the course of our joint inquiry that the intelligence community does not have a clear idea of how much money it spends on counterterrorism, and accounting methods vary among the different agencies.

In light of this, it seems appropriate that a cost-benefit analysis from an outside agency would be very helpful, but so far no real efforts have been made to undertake such a step.

Recommendation No. 15 suggests that the President and the Congress evaluate and consider revising the intelligence classification process. This task would pursue the twin goals of expanding access to important information and assuring that classified intelligence information is not disclosed inappropriately.

The current system of intelligence classification is not the result of a thoughtful, open debate, but is, rather, the product of a series of Executive orders rooted in cold war mentality and issued with little or no consultation of Congress.

Many people with extensive knowledge of the system have suggested there is a tendency toward too much secrecy and that this has had a predictably negative effect on the flow of information.

There was an interesting column recently in the New York Times talking about one of the core problems within the Government of Saddam Hussein prior to the war, and that was that all parts of that society practiced secrecy and deception; that the army deceived Saddam Hussein as to just what it was doing to prepare for war; scientists deceived Saddam Hussein as to the state of their development of weapons of mass destruction; Saddam Hussein attempted to fool the people of Iraq, and our intelligence agencies were fooled by all of the above.

Allowing an increase in a curtain of secrecy to fall over the information of our United States agencies will have the same effect the veil of secrecy did in Iraq, and that is to make us less secure, more vulnerable because we have not shared information in a way that can increase our security.

By treating so much of this information as treasure to be guarded, intelligence agencies can actually reduce the information's usefulness. By reducing biases toward excessive secrecy, Congress and the President can help make sure more information gets to the people who need it, particularly those such as first responders, local government, law enforcement officials, and Federal agencies, such as the Federal Aviation Agency.

There is a suspicion among many Americans—and I believe it is justified—that classification is being used to shield politically embarrassing information from public scrutiny, as was the case with the information on the role of foreign governments in the September 11 attack.

Unfortunately, little progress has been made so far in the task of reviewing the use of classified information, particularly in the area of intelligence. The Intelligence Authorization Act requires the President to report on the barriers to sharing classified information. Congress has not yet given serious consideration to this important topic.

Another very important recommendation issued by the joint committee, which has also been largely ignored, is recommendation No. 16, which calls for a new standard of accountability in the intelligence community. Given the continued and increasing use of intelligence information in our national policymaking, whether it is to fight terrorism, to determine the true capability of a potential adversary, or to reduce the proliferation of weapons of mass destruction, it is critically important that we have accountability mechanisms in place that review intelligence agencies' failures in order to learn from those mistakes. To date, no personnel in intelligence or other affected agencies has been sanctioned as a result of the tragedy of September 11.

It is also true that no one has been sanctioned for the apparently incorrect intelligence assessments upon which the case to go to war in Iraq was predicated. Weapons of mass destruction alleged to exist in Iraq have not been found and, according to David Kay, our lead investigator, it is unlikely they will ever be found. This raises in stark terms the responsibility of the President to determine who is accountable for intelligence failures and what should be the appropriate sanction of those responsible.

It is as though the chairman of the steamship company that owned the Titanic put all of the blame for the tragedy on the iceberg and declared that was the end of it; the captain of the ship would be let off scot-free.

At the same time, it is unclear if any rewards or recognitions have been given for outstanding performance in the intelligence community, outstanding performance such as that of those who contributed to the capture of Saddam Hussein.

If we want our intelligence agencies to be as good as they can be and they must and should be, then we must assure that they have systems in place to reward exceptional performance and to deal with bad performance appropriately. Currently, there are no systems performing this function and all attempts to bring accountability to our intelligence-gathering programs have been made in an ad hoc manner. We must demand that the intelligence community establish standards of accountability since reliable intelligence is critical to our security as citizens and our credibility as a nation.

The last recommendation I would like to address today is No. 17. This calls for the removal of inappropriate and obsolete barriers between intelligence and law enforcement agencies engaged in counterterrorism. It advises the administration to report to Congress regarding the removal of these barriers so that Congress can take whatever legislative actions are appropriate.

Our joint inquiry found that the various agencies engaged in counterterrorism have been surprisingly reluctant to share information with each other. Example: In the months before the September 11 attack, the CIA was aware of two terrorists associated with al-Qaida, Khalid al-Mihdhar and Nawaf al-Hazmi. These two terrorists had attended a planning session in Malaysia, a session at which both the attack on the USS *Cole*, which was to occur in November of 2000, and the attack on the World Trade Center, the Pentagon, and the failed effort that ended in a field in Pennsylvania had been discussed.

Both of these terrorists attended a planning conference for purposes of proceeding with those two terrorist attacks, and then acquired visas for travel to the United States, because the CIA had not informed law enforcement or border protection agencies of the threat posed by these individuals. The FBI and other agencies did not seem to have received this information which could have helped disrupt the 9/11 attack.

Similarly, the FBI prevented its agents from participating in an effort to track down these terrorists on the grounds that this was not a job for criminal investigators. The FBI was reluctant to share information regarding counterterrorism because of concerns about legal barriers preventing collaboration between intelligence and law enforcement agencies. These concerns sprang partly from an overly restrictive Department of Justice policy and partly from misunderstanding among agents regarding the law. Sharing of intelligence information with law enforcement agencies was seen as particularly difficult, almost taboo. This was a clear contradiction of the law that existed prior to September 11.

Legal considerations also seem to have impaired information sharing by the National Security Agency and the CIA as well. However, these agencies, particularly the CIA, were also motivated by an overly zealous desire to protect sources. While protecting sources and methods is certainly an important goal, these sources and methods are not very useful if we cannot effectively use the information they provide to us.

From a legislative point of view, significant progress has been made in this area. Congress has passed legislation removing legal restrictions regarding

the sharing of intelligence information. Agency heads have updated obsolete and inappropriate guidelines. Intelligence community personnel now seem to have a much clearer picture of what methods and actions are available to them.

Unfortunately, while the legislative barriers to information sharing have been removed, the fact is that effective information sharing is still not taking place between intelligence and law enforcement, and this is a special problem between Federal intelligence and law enforcement agencies and State and local law enforcement.

I frequently hear complaints that agency culture, habit, and inertia, have preserved problems that should have been solved, making this yet another area in which the lessons of 9/11 have not been learned and not been applied effectively.

September 11 was a wake-up call. It alerted us to the fact that our intelligence agencies were not performing at the level required during this era of terrorism. We have just received our first report card. The report card is to tell us how well we have done since September 11 in applying lessons learned to the greater protection of the American people. We have received a grade of F. The false assertion of large stockpiles of weapons of mass destruction in Iraq demonstrates that we have not yet made the reforms to our intelligence agencies that are required.

The next report card will come when we have the next intelligence failure. The President and the Congress will both be held accountable if we have not acted on these necessary reforms to protect the safety of the people of America.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I thank the distinguished Senator from Florida for his extraordinarily enlightening and very helpful discussion in this series of speeches he is giving this week. I think we would all do well not only to listen but to read and to thoughtfully consider much of what he has shared with us. He speaks with experience and extraordinary credibility, and I applaud him for taking the time and making the effort that he has to bring this important issue before us in a meaningful way.

IRAQ INTELLIGENCE COMMISSION

Mr. DASCHLE. Mr. President, the vital interest of our national security is critical to our understanding of the degree to which we can cope with the circumstances involving the intelligence failure we have now experienced over this past year or more. Two important voices have been added to the growing chorus, raising questions about the accuracy and the veracity of the allegations the administration used to take this country to war. Just yesterday Secretary Powell made clear the importance of the prewar claims, suggesting that the case for war was much weaker without the allegations of existing stockpiles of weapons. When asked whether he would have recommended an invasion last year if he knew then what he knows now, Secretary Powell said:

> I don't know, because it was the stockpile that presented the final little piece that made it more of a real and present danger and threat to the region and to the world.

A year ago this week, Secretary Powell made a lengthy presentation to the United Nations Security Council about the grave threat posed by Iraq's weapons of mass destruction. The Secretary of State did not speak of ''weapons of mass destruction-related program activities,'' but of existing stockpiles—existing stockpiles of horrendous weapons and the means to deliver them. In large measure because of the alarming assertions by Secretary Powell and similar claims by President Bush, Vice President CHENEY, Secretary of Defense Rumsfeld, National Security Adviser Rice, and many other senior administration officials, a majority of Congress voted to give the President the authority to send troops to wage war against Iraq.

Late last month, Secretary Powell had something decidedly different to say. For the first time since his U.N. presentation he explicitly acknowledged the strong possibility his claims about Iraq's weapons were untrue, telling reporters on his trip to Georgia:

> . . . what the open question is: how many stocks [the Iraqis] had, if any? And if they had any, where did they go? And if they didn't have any, then why wasn't that known beforehand?

A few days later, Dr. David Kay, Chief Weapons Inspector in Iraq until a couple of weeks ago, told the Armed Services Committee here in the Senate the administration's prewar intelligence on Iraq was, in his words, ''all wrong.'' While several nonpartisan experts have reached similar conclusions about our intelligence and raised concerns about the accuracy of the administration statements on this issue, hearing Secretary Powell and Dr. Kay, two of this Nation's most respected and knowledgeable officials, speak in this manner, has raised some questions at home and abroad about the foundation of the administration's case for going to war against Iraq.

Given the significance of these questions, a broad, thorough, nonpartisan review of both the intelligence community's assessment of the threats posed by Iraq and the administration's use of this information is essential to restoring the trust of the American public and the international community in this administration and in the intelligence system itself.

The reason is clear. The most effective means to counterterrorism and the many other national security challenges facing this Nation today is by gaining and maintaining the support of the American people and assembling a international coalition. Accurate, unimpeachable intelligence is one of the most crucial tools the President has at his disposal for rallying the American people and the world. If the President is to successfully convince Americans of the need to send daughters and sons into harm's way and urge our allies to support America's course of action, our intelligence must be seen as absolutely credible and accurate. National security experts of both parties have begun to warn that the lack of any weapons of mass destruction in Iraq after the administration's grave predictions in the runup to the war is undermining America's credibility, not only on Iraq but on other national security challenges as well.

For example, the United States increasingly believes that North Korea has used the last couple of years to create additional nuclear material and weapons. However, officials in South Korea and China have raised questions about these conclusions, in part by pointing to our intelligence community's failures in Iraq. This failure to reach a consensus on the threat posed by North Korea has greatly complicated efforts to effectively confront a nation that already possesses nuclear weapons and has been characterized as the world's greatest weapons proliferator.

Given these stakes, one would think the President would be the first to demand a full and complete accounting of the accuracy and use of Iraq prewar intelligence. Yet up until this past weekend, the President has stubbornly insisted there was nothing wrong with that intelligence or the alarming assertions that he and senior administration officials made in the days leading up to the start of the war in Iraq. In a remarkable about-face this past week, administration officials said publicly that the President will support the establishment of an independent commission, provided he appoints the commissioners and defines the scope of their work. As in other instances, the administration is apparently seeking to both convince the America public it supports a thorough investigation at the same time it stacks the deck against such an investigation effort ever occurring.

Although one of the major questions that needs to be addressed is whether senior administration officials exaggerated the nature of the threat to Iraq, the President is attempting to make the case that actions by these officials are best investigated by a commission whose members are appointed by and report to those very officials in the White House.

There is little reason to believe a commission appointed and controlled by the White House will have the independence and credibility necessary to investigate and bring closure to these crucial issues. Consider this: At the same time the Secretary of State was suggesting that it was an open question whether Iraq had any weapons of mass destruction and the chief weapons

inspector in Iraq was concluding that Iraq did not have any stockpiles of weapons before the war, Vice President CHENEY was on national radio still suggesting that it was just a matter of time until such weapons could be found.

If the President's senior advisers are still arguing that the prewar intelligence was right, can the American people be certain that commissioners handpicked by the White House to undertake an investigation defined by the White House will follow the facts wherever they lead?

It would be a shame to have such an important commission start its work under the shadow of such doubt. We can avoid ever having to ask those questions by forming a truly independent commission that can rise above those concerns. I strongly believe the Congress can and should establish a truly independent commission to examine the collection, analysis, dissemination, and use by policymakers of intelligence on Iraq. Twice the Senate has voted to establish just such a commission that would be given access to all relevant information, appointed on a bipartisan basis by the congressional leadership of the House and Senate. I voted for this proposal both times.

Although supporters of this commission fell short both times, I continue to believe that after putting our troops in harm's way we owe it to them to get to the bottom of this question. We owe them a truly independent investigation, conducted in the same way that our Armed Forces carry out their duties every day in Iraq, with honor and with integrity. I fear the process being started by the administration is neither, but it is not too late to establish a commission of which we can all be proud.

I yield the floor.

Mr. KENNEDY. Will the Senator be good enough to yield?

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

Mr. KENNEDY. First, I thank the Senator for an excellent statement.

Earlier today the Armed Services Committee had meant to meet. We were going to have Secretary Rumsfeld up before the committee. I intended to ask him two or three questions on the issue of intelligence, but since the Senator is on his feet now, I am wondering if he would be willing to respond to a question or two and help clear this up in my mind.

What we have now, as I understand it, is the intelligence agencies saying that they provided the intelligence to the administration and that they were not intimidated. I intended to ask the Secretary whether he was aware of the Defense Intelligence Agency's own intelligence report that stated—and I am quoting. This has been published. It was declassified and published in the news sources—this is the Defense Intelligence Agency:

> . . . there is no reliable information on whether Iraq is producing and stockpiling chemical weapons, or where Iraq has—or will—establish its chemical warfare agent production facilities.

That was in September of 2002. Yet a month later, just as Congress was about to vote, the National Intelligence Estimate stated very precisely that:

> Iraq probably has stocked at least 100 metric tons and possibly as much as 500 metric tons of chemical weapon agents—much of it added in the last year.

I was just wondering, if I can raise this point, here we have the Defense Intense Intelligence Agency giving one report. Then, if we look at the State Department Bureau of Intelligence, this is what the State Department Bureau of Intelligence concluded:

> The activities we have detected do not . . . add up to a compelling case that Iraq is currently pursuing what INR would consider an integrated and comprehensive approach to get nuclear weapons . . . INR considers the available evidence inadequate to support such a judgment.

The Department of State, Bureau of Intelligence.

Mr. KYL. Could we have regular order?

Mr. KENNEDY. Regular order. I believe I have the floor.

The PRESIDING OFFICER. The Senator may yield for a question but not for a statement.

Mr. KENNEDY. I am making the predicate. If the Senator from Arizona is not pleased with it, that is his problem.

The third intelligence report was the Department of Energy disagreed that the famous tubes were for nuclear weapons. The State Department's Intelligence Bureau also concluded that the tubes were ''not intended for use in Iraq's nuclear weapons program.''

Finally, Greg Thielmann, retired State Department official, who served as director of the Office of Strategic Proliferation and Military Affairs in the Bureau of Intelligence, said last July:

> Some of the fault lies with the performance of the intelligence community, but most of it lies with the way senior officials misused the information they are provided.

He said:

> They surveyed the data, and picked out what they liked. The whole thing was bizarre. The Secretary of Defense had this huge Defense Intelligence Agency, and he went around it.

I just ask, are these the kinds of questions that we hope an independent kind of commission might be helpful to resolve? When the administration's own Defense Intelligence Agency, the State Department agency, and the Energy Intelligence Agency came up with similar conclusions as Dr. Kay prior to the time the Senate voted on this issue, don't you think the American people are entitled to know what the facts are, not just the intelligence information made available but how it was used by the administration and by the President?

Mr. DASCHLE. Mr. President, I appreciate the question, as well as the predicate offered by the distinguished Senator from Massachusetts.

The answer is yes, I am troubled by one fact that is now undeniable. That fact is, we were given bad information, information that now is much clearer than it was 6 months or 12 months ago, information that many of our colleagues have used repeatedly on which to base decisions fundamental to their interpretation of circumstances and ultimately the vote they cast on the resolution committing this country to a course of action.

I was troubled by a report I read just this morning that there are many in the intelligence community who are becoming increasingly angered and frustrated that all of this responsibility has been put on their shoulders. The report by one intelligence officer was: ''We did our job. We reported the information. It isn't us.''

My question is, If it is not the intelligence community, who is responsible? Why did we get bad information? Was it the collection and analysis or was it the use of that information once it was collected and analyzed? We do not know the answer to that today. But we do know our best opportunity for collecting the answers to the questions posed by the Senator from Massachusetts is an independent counsel.

What does it say of the independence of those potential commissioners when someone is suggesting to them, we want you to take this job to investigate us; we want you to have the authority to investigate us, with the implication that the detrimental consequences of an adverse investigation could weigh heavily on the commission itself.

I don't think there is any doubt about the need for independence, about the need to look at past precedent when we have established commissions of this kind. We need to know beyond a shadow of a doubt that this commission will have the opportunity to go wherever the facts lead them.

The way the President and this administration are proposing this investigation be done flies in the face of past precedent, with that cloud that hangs over any investigation that could not be as open, honest, and ultimately successful as it needs to be.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. It is my understanding that under the previous unanimous consent I am recognized for 10 minutes.

The PRESIDING OFFICER. The Senator is correct.

U.S. INTELLIGENCE

Mr. DURBIN. Mr. President, I thank the minority leader, Senator DASCHLE, as well as my colleague from Massachusetts, Senator KENNEDY, for raising this timely and important question about intelligence. I also salute Senator BOB GRAHAM of Florida, who announced his retirement. His departure will be a great loss to this institution.

I was fortunate enough to serve on the Senate Intelligence Committee which Senator GRAHAM chaired, and I still continue that service. He was an extraordinary leader, not just on that committee but when it came to the policies of protecting America. His has been a clarion voice from the beginning that the war on terrorism continues unabated and should continue despite the diversion of Iraq. We still have a war on terrorism, much broader in scope, that has to be considered on a daily basis.

I come to the floor and want to be careful of the words I say. I do not want to disclose anything I have been told in the Senate Intelligence Committee. That is certainly the policy which should be followed by every member of that committee. We are given a rare opportunity to see the intelligence community and its work from inside. Because we are given that opportunity, we are warned not to share that information. So the points I am about to make relate exclusively to that information which has been made public and declassified. It raises an important issue.

All of this information points in one direction. What happened to the United States of America prior to the invasion of Iraq relative to weapons of mass destruction of that country represents, in my mind, the greatest failure of intelligence in America since the fall of the Soviet Union. Recall, not that long ago, when our intelligence community and those in charge of national defense and security failed to see the collapse of the Soviet Union, a superpower, our premier enemy for decades, until it actually happened. Despite all of the millions of dollars and thousands of people, we missed it.

Here we have a similar situation. Prior to our invasion of Iraq, we were told by the intelligence community they had identified—and this is unclassified, declassified information—they had identified 550 suspected sites within Iraq where we would find weapons of mass destruction. And the level of certainty for each of those sites was different, but for a discrete number of those sites the intelligence community told us: We believe that when we go into Iraq and go directly to this location, we will find weapons of mass destruction, nuclear weapons, chemical and biological weapons.

So I asked Dr. Kay—and others have as well—after you had completed your investigation, after you had looked at those sites, what did you find? And the answer was: Nothing, nothing whatever.

We accumulated this information; we said, through our intelligence sources, we have 550 known locations; and we were wrong in every instance.

How can that be? How can the intelligence community have missed it?

The second element, the unmanned aerial vehicles, flying over locations, mapping different things, viewing different locations, prepared, if necessary, to fire on hostile situations—these unmanned aerial vehicles were identified by the intelligence community and the administration as a threat not only to the Middle East but to the United States of America. We were told these unmanned aerial vehicles would be used to deliver chemical and biological weapons against the United States of America.

I can state now in published reports we know that the UAVs were not designed for this purpose. We missed it completely. Sadly, I can say there is additional information which has not been disclosed which also casts doubt on that conclusion.

Why is it important? Because Members of the Senate were called to the White House, asked to vote for the use-of-force resolution, and told that the reason for the necessity of an invasion was the unmanned aerial vehicles and their threat to the United States of America. They were given partial information—in fact, misleading information—about the danger associated with the unmanned aerial vehicles.

All of this raises serious questions, questions Senator DASCHLE and others have addressed. This is what it comes down to: This should not be a matter of either the Democrats in the Senate or the Republicans in the Senate protecting their President. I will say this: If an open, honest, independent investigation finds anything was done wrong under the Clinton administration leading up to this intelligence failure, so be it. If they find anything wrong in this intelligence operation under President George W. Bush was responsible for this breakdown, so be it.

The American people deserve an honest answer. They are more concerned about the safety and security of America than they are about the political safety and security of any President. And that is exactly the way it should be.

Now, more than ever, intelligence is critical. Since 9/11 we understand the war on terrorism and its success by the United States depends on solid intelligence, acted on responsibly by political leaders. We need to ask these hard questions, and we need the panel of an independent commission that will come up with the answers.

Senator JON CORZINE, my colleague from New Jersey, has been proposing this independent commission for months. I have supported it. Many have resisted it, saying we do not need it. Well, thank goodness, after Dr. Kay's report, even the White House has conceded we need this independent commission. I think, frankly, we need it now more than ever.

We need sound and solid intelligence gathering. We need it to be evaluated in a proper fashion, and we need the political leaders in America to deal with it in a responsible way. We must ask the hard questions, whether this has been done leading up to the invasion of Iraq, and continuing with our war against al-Qaida and terrorism elements all across the United States of America and around the world.

Mrs. BOXER. Will my friend yield for a question?

Mr. DURBIN. I am happy to yield to the Senator from California.

Mrs. BOXER. I thank the Senator very much for his clear, as usual, laying out of this issue. I want to pick up on the word ''independent,'' ''independent commission.''

Does my friend agree that to get to an independent commission, all the members should not be appointed by the administration that has just been part of this error?

Mr. DURBIN. I say to the Senator from California, it is important that this be viewed as a nonpartisan effort. In order for that to occur, we either need to find those people who are beyond reproach from the political side or make certain there is an appointment on both sides, Democrats and Republicans working together.

Why in the world would we allow this commission to go forward under the shadow of suspicion that it has a partisan agenda? We do not need that. As a country, we do not need that. Once and for all, we need to turn to men and women who have served this country, and served it in terms of our national defense, and who have no political agenda, who are really focused on the defense of our country.

Mrs. BOXER. I would agree with that because otherwise I do not think the American people will trust the commission. If the commission were to be appointed by, say, the majority leader of the Senate—certain Members—and then the Democratic leader of the Senate, that is another example. We could get a couple from the House Democrats, House Republicans, and then the President, and not an artificial date: By the way, you can't come back and talk to us until 2005 after the election. The American people are very wise.

So I am really glad the President, as you said, has come around to say we need to take a look at this. But I think the way he is approaching this does not pass the smell test for a lot of my folks back home.

Mr. DURBIN. I say to the Senator from California, there is another element, and that is this matter involving former Ambassador Joe Wilson, and his wife, who was serving this country in an intelligence capacity and whose identity was disclosed to columnist Robert Novak as part of political retribution.

I can tell you, having spoken to people who have given their lives to the intelligence community, and risked their lives for America on a regular basis, they were angry and demoralized by this leak from the White House.

I think in order to get the proper answers to the important questions about the role of the intelligence community, we should try to make it as nonpartisan as possible, try to bring in the professionals who are viewed by both political parties as people of respect and people who ask the right questions, so the intelligence community will come forward with honest and objective answers.

The bottom line is not who wins this political battle in the hearts and minds of the American people. The bottom line is, who will win in terms of America's national security and defense. We need sound and solid intelligence now more than ever. The President's admission last week that there was a failure of intelligence leading up to the invasion of Iraq has really called on all of us to rise above party.

I think the Senator from California and the Senator from South Dakota are moving in the right direction toward an independent, bipartisan, and nonpartisan approach. I hope we do get this done quickly.

The PRESIDING OFFICER. The Senator's time has expired.

Under the previous order, there are 10 minutes allocated to the majority.

Mr. REID. Mr. President, I ask unanimous consent that the majority be given an extra 5 minutes in morning business; 5 minutes for Senator KYL, 5 minutes for Senator LOTT, 5 minutes for Senator CHAMBLISS.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KYL. Mr. President, I express my appreciation to the assistant minority leader for that request.

INTELLIGENCE INVESTIGATION

Mr. KYL. Mr. President, I think we need to respond to some of what has been said here this morning because the implication is very disturbing. It is not just that some of the intelligence of the United States—and by the way, all of the other intelligence agencies around the world might not have been totally accurate—but that somebody might have been misleading us. That is the charge. That is the implication. It leads to this notion we could not trust the President to look into what might have been wrong with the intelligence, that there is a ''shadow of suspicion'' here.

Well, the shadow of suspicion is being cast by our colleagues on the other side by the innuendo that is throughout the comments they have been making here this morning and that we have read elsewhere. I think that is a very bad thing. Especially when our troops are fighting abroad trying to win this war on terror, to suggest that not only is the intelligence we are gathering not entirely accurate but that there were deliberate attempts by people in the administration to mislead the American people, and to mislead the Congress, that, I think, is what is very disturbing.

What are some of the strains of that? I heard one of them on the radio this morning: Well, Vice President CHENEY went down to the CIA and talked to them. He must have been trying to intimidate them to come up with some preordained conclusion to sort of cook the books a little bit.

There is no evidence of that whatsoever. David Kay has discounted that as a possibility. Nobody from the intelligence agencies, under questioning, has suggested that was the case.

Indeed, the question is, if the Vice President had not gone down to the intelligence agencies and asked the tough questions of the CIA people, and said, are you sure you are correct about this, then our friends on the other side would be complaining the administration did not even bother to doublecheck the information. So when politics are involved, you cannot win. But I do not think we should allow these suspicions from the political side of things to dictate the kind of action we take.

Another question: Secretary Powell went to the CIA. I think he spent something like 3 days with them, with these people going over and over and over the evidence, saying: Are you absolutely certain of this? And remember, before he made his presentation to the United Nations, he took some of the material out, some of the material he did not think was verifiable, that they could not nail down well enough. He wanted to make sure what he took to the United Nations was solid.

The Vice President and the Secretary of State are not the only people who have been involved. We have intelligence from other countries, such as the Israelis, the British. We have the United Nations itself, and the inspectors who came back with their reports.

At the end of the day, the reason why the international community passed resolutions asking for Saddam Hussein to comply with his commitment to come clean on what he had was because the whole world thought he had these weapons of mass destruction.

Now, since then, we have not been able to find everything. We have found some things. But one of the things we have not found are the chemical artillery shell warheads. We thought those were going to be used against our troops. Every day the war occurred, we were briefed on the so-called red line, the point at which we thought the Iraqis were going to shoot artillery shells with chemical weapons at our troops. Our troops had to put on all the heavy equipment in order to try to fight through that if, in fact, the attack occurred, and there was some surprise when it did not occur. We had to, of course, bomb the warehouses we thought it was in. We bombed the artillery pieces. We sent millions of leaflets to the commanders saying: Don't you dare fire chemical weapons at our troops or we will take you before the criminal court when this is all done. We disrupted their command and control, and we thought that is what prevented them from firing those artillery shells. But the point is, we thought they had them. We thought they were going to be used against our troops.

This was not a matter of the President or the Vice President or anybody in the administration trying to mislead anybody. Maybe the intelligence was not entirely accurate, but I urge my colleagues on both sides of the aisle, in conducting this debate, to try to do it from the higher plain, not from the suspicion that the President of the United States is trying to deliberately mislead the American people, but to acknowledge maybe there was something wrong with part of our intelligence and that is worth looking into.

That is precisely what the President has said he wants to have done because obviously he is just as concerned about this as anybody else is. It is for that reason he has asked for an investigation into the intelligence to find out whether it was correct, if it wasn't, why not, and what can we do about that in the future.

I urge my colleagues, in conducting this debate, let's do so from a higher plain than one in which we sow the seeds of politics and blame and suspicion, as has been done around here. We can conduct this debate on a much higher plain than that.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I believe I have 5 minutes under the unanimous consent agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. LOTT. I thank Senator KYL and Senator REID for making sure we have this time. I, too, think we need to sober up a little bit and look at the facts of what is involved.

First, it is an election year. Politics will come into play in everything we do. I don't mean that necessarily critically of us or either side. It is a fact. I suspect that it is having a hand in what we are seeing now.

Secondly, the fact is, we do have some problems with our intelligence community. It is not new. It didn't come up over the last 10 months or the last 10 years. It probably goes back to the mid-1970s when we had the Pike and the Church commissions that forced changes in the intelligence community from which we have never quite recovered. That is when we started getting away from human intelligence and relying on satellites and computers and technology. That is a big problem.

We can go back and point to things we didn't know or information we should have had back in the 1980s and 1990s that we didn't have. For us to take a look at our intelligence community and ask questions about why they have not done some things or they have gotten some things wrong is perfectly legitimate. The most important question should be, what are we going to do about it? Instead of pointing the finger of blame, trying to put some scalp on the wall and say: We nailed somebody because this information may not have been completely accurate, we should ask: What did we know? Did we need to know more? Were there inaccuracies? If so, what were they, and what are we going to do about it? Do we need to completely reconstruct our intelligence community?

Do we need to make some changes at the head of some of these agencies? I don't know yet. But that should be our approach because we are going to need our intelligence community. We need it this very day.

Senator KYL was making the point. Our troops are in the field today all over the world, particularly in Iraq and Afghanistan. They are working with the intelligence community today to try to make sure they know what is going on and what is happening, what the threats are. We don't want to undermine them. At the same time, if we are going to make improvements or changes, the sooner we can do it, the better.

The other thing is, what did we know. It is almost as if there were no weapons of mass destruction. We knew they had weapons of mass destruction—chemical, biological. They tried to get nuclear capability. We know they killed their own people. They used chemical weapons on the Iranians. I was talking to a constituent this morning who was in Bazra back in the early 1990s, who talked about how simple it was to produce chlorine gas. Yet if you looked at the plant, you could be told, this is just a plastics plant. But it is very simple to make chlorine gas. It is very toxic, and that was what was used, I believe, against the Iranians. So we know they had these weapons of mass destruction.

Did they dismantle them, destroy them? Where did they destroy them? Why did Saddam Hussein give out bad information? Was he being lied to? Yes. Was he lying to the world community? Yes. There are all kinds of problems or questions such as that.

Did they move these weapons to Syria, Iran? We know they had them. That is a fact. We still don't know exactly what happened to them, and that is a danger.

What are we going to do about it? Let's become a government of commissions. It is really easy. Pass it off to a commission—the base-closure procedure, the 9/11 investigation, Social Security, intelligence. Let the Congress just say: We know nothing; we see nothing; we hear nothing. Let's let somebody else do it.

By the way, I have watched these commissions. Just because you have Republicans and Democrats, are you going to call them independent? How about an independent commission set up by the President that might have people who weren't clearly Republican or Democrat? How about experts on intelligence, people who have been at the CIA and the FBI, people who are not identified in the political area? If you want a real independent commission, that might be the way to do it.

I have another question: Why don't we do our own work? What do we have the intelligence committee for? The more I am on there, the more I think maybe we should not have it the way it is presently constituted. We are not going to wait for the Senate Intelligence Committee to put out its report. We are not going to wait on the House, bipartisan, Select Intelligence Committee to put out its report. No, we are going to rush pellmell and create a commission before we even see the report.

I suspect the report from the Senate Intelligence Committee is going to be more aggressive than a lot of people might think. I think we are going to ask a lot of legitimate questions. How about letting the Iraqi survey team, the group that is out there still looking, do their work. But, no, it is a political year. We are going to use this to question all kinds of people.

The President got information on which he relied. The Senate got information it relied on. If there was inaccurate information, we ought to find out why and determine what we are going to do about it. We need to back off a little bit because we are dealing with people's lives. How we act in the intelligence area is going to be very important in the next few months.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. I thank the Senator from Arizona and the Senator from Mississippi for including me in this time because this is the most critical issue, obviously, facing not just the administration but the American public today. It is an issue which has already been adequately addressed, but it is not a new issue.

The fact of failures within the intelligence community is not something newly discovered. We knew following 9/11 that there were deficiencies within our intelligence community that probably allowed September 11 to happen. What have we done since that time?

As the Senator from Mississippi said: It was time to step up to the plate after 9/11, fix the problems. That is what we did in a bipartisan way, and we have done that since that point in time.

Now we are moving into an election year, and we are seeing sniping for political reasons and not solving problems for the right reasons. The problem continues to be out there, the problem of deficiencies within the intelligence community. It is not new. It is the same problem. It is a little bit different area.

We, as Members of this body and as Members of the House of Representatives, have an obligation to the American people to find out what went wrong. But let's not politicize it. Let's figure out what was wrong. By the way, when you look at the deficiencies in our intelligence community and you try to point the finger at them, you can't stop there. If you are going to point it at our intelligence community, what about the French intelligence community that believed exactly the same thing as our intel community? What about the German community, the British community? Every intelligence agency in the world had the same information and the same facts that we had.

Our President was presented with the facts that every other head of state was presented, but it was the Americans who were the target of the bad guys around the world. It was the Americans who were the victims on September 11 and were the potential victims thereafter. Our President exercised good, sound judgment based upon the information that he had and based upon the information that every other head of state had.

We can talk about the fact that we ought not to politicize the commission but we have, in fact, politicized the issue. There is a major, fundamental difference in trying to say that intelligence was faulty and at the same time trying to intimate that this administration exercised misleading acts. That is something entirely different, and that is an issue that we can debate long and hard. But it is simply not a fact substantiated by any of the evidence. Whereas the fact that Saddam Hussein possessed weapons of mass destruction had been substantiated time and time again since 1992, as the Senator from Mississippi delineated. It has been substantiated by intelligence communities from every other country in the world up until the time the Iraqi conflict began. There was no misleading on the part of this administration based upon the facts with which they were presented.

Let me address one item in particular that the Senator from Illinois stated. He and I both serve on the Intelligence Committee. This issue relative to the UAVs and the possible—I emphasize ''possible''—use by Saddam Hussein of UAVs to distribute biological weapons being an issue:

He knows good and well that we received information that indicated it was a possibility. We don't know for sure that was their intention, but we know good and well that it was a possibility.

So we could go down the line item by item with each of the statements that have been made. I will go back and conclude with what the Senator from Mississippi said. We can argue and take 10 minutes on each side to discuss this, but what the American people expect is leadership. What this administration is exhibiting is leadership. This body ought to do the same. We ought to exercise leadership to the American people because that is what we were sent here to do. We could come together and say we know what happened; now let's find the answer; let's figure out what the solution is to the problem at hand within our intelligence community in a bipartisan way, and nobody disputes that is the way we ought to act.

I say what we need to do is quit debating the issue and move forward now with finding out what the problem was, and let's do what is in the best interest of the American people, and that is continue to work hard to make America a safe place.

I yield the floor.

SAFE, ACCOUNTABLE, FLEXIBLE, AND EFFICIENT TRANSPORTATION EQUITY ACT OF 2003—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 having arrived, the Senate will resume consideration of the motion to proceed to S. 1072, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to consideration of S. 1072, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

The PRESIDING OFFICER. The motion to proceed is agreed to.

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

The PRESIDING OFFICER. The clerk will report the bill by title.

The 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, which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in Italic.)

S. 1072

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 ''Safe, Accountable, Flexible, and Efficient Transportation Equity 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. Definitions.

[TITLE I—FEDERAL-AID HIGHWAYS

[Subtitle A—Funding

[Sec. 1101. Authorization of appropriations.
[Sec. 1102. Obligation ceiling.
[Sec. 1103. Apportionments.
[Sec. 1104. Minimum guarantee.
[Sec. 1105. Revenue aligned budget authority.

[Subtitle B—New Programs

[Sec. 1201. Infrastructure performance and maintenance program.
[Sec. 1202. Clarify federal-aid eligibility for certain security projects.
[Sec. 1203. Future of the Interstate Highway System.
[Sec. 1204. Military vehicle access (oversize and overweight vehicles; —relief from tolls).
[Sec. 1205. Freight transportation gateways; freight intermodal connections.
[Sec. 1206. Authority for alternative time-saving procedures for —critical transportation security projects.

[Subtitle C—Finance

[Sec. 1301. Federal share.
[Sec. 1302. Transfer of highway and transit funds.
[Sec. 1303. State infrastructure bank pilot program.
[Sec. 1304. Transportation Infrastructure Finance and Innovation Act —(TIFIA) Amendments.
[Sec. 1305. International registration plan and international fuel tax agreement facilitation.
[Sec. 1306. Commercialized rest area pilot projects.
[Sec. 1307. Highway use tax evasion projects.

[Subtitle D—Program Efficiencies and Improvements—Safety

[Sec. 1401. National highway safety goal; national Blue Ribbon Commission on Highway Safety.
[Sec. 1402. Highway Safety Improvement Program.
[Sec. 1403. Operation lifesaver.
[Sec. 1404. Highway safety programs; certification of public road mileage.

[Subtitle E—Program Efficiencies and Improvements—Planning

[Sec. 1501. Metropolitan planning.
[Sec. 1502. Statewide planning.
[Sec. 1503. State planning and research.
[Sec. 1504. Critical real property acquisition.
[Sec. 1505. Planning capacity building initiative.

[Subtitle F—Program Efficiencies and Improvements—Environment

[Sec. 1601. Congestion Mitigation and Air Quality Improvement Program.
[Sec. 1602. Efficient environmental reviews for project decisionmaking.
[Sec. 1603. Assumption of responsibility for categorical exclusions.
[Sec. 1604. Section 4(f) policy on lands, wildlife and waterfowl refuges, and historic sites.
[Sec. 1605. National Scenic Byways Program.
[Sec. 1606. Recreational Trails Program.
[Sec. 1607. Exemption of the Interstate System.
[Sec. 1608. Modifications to NHS/STP for invasive species, wetlands, brownfields, and environmental restoration.
[Sec. 1609. Standards.
[Sec. 1610. Use of HOV lanes.
[Sec. 1611. Bicycle transportation and pedestrian walkways.
[Sec. 1612. Transportation, energy, and environment.
[Sec. 1613. Idling reduction facilities in interstate rights-of-way.
[Sec. 1614. Appropriation for transportation purposes of lands or interest in lands owned by the United States.
[Sec. 1615. Toll programs.
[Sec. 1616. Ozone standards, particulate matter standards, and regional haze program.
[Sec. 1617. Indemnification on certain railbanked projects.

[Subtitle G.—Program Efficiencies and Improvements—Operations

[Sec. 1701. Transportation systems management and operations.
[Sec. 1702. Real-Time System Management Information Program.
[Sec. 1703. Intelligent transportation systems performance incentive program.
[Sec. 1704. Commercial vehicle information systems and networks deployment.

[Subtitle H—Program Efficiencies and Improvements—Federal-Aid Stewardship

[Sec. 1801. Surface Transportation System Performance Pilot Program.
[Sec. 1802. Stewardship and oversight.
[Sec. 1803. Emergency relief.
[Sec. 1804. Federal Lands Highways Program.
[Sec. 1805. Appalachian Development Highway System.
[Sec. 1806. Multi-State Corridor Planning Program.
[Sec. 1807. Border Planning, Operations, and Technology Program.
[Sec. 1808. Territorial Highway Program amendments.
[Sec. 1809. Future interstate system routes.
[Sec. 1810. Donations and credits.
[Sec. 1811. Disadvantaged business enterprises.
[Sec. 1812. Highway Bridge Program.
[Sec. 1813. Design-build.
[Sec. 1814. International ferries.
[Sec. 1815. Assumption of responsibility for transportation enhancements, recreational trails, and Transportation and Community and System Preservation Program projects.
[Sec. 1816. Transportation, Community, and System Preservation Program.
[Sec. 1817. Program efficiencies—Finance.

[Subtitle I—Technical Corrections to Title 23, U.S.C.

[Sec. 1901. Repeal or update of obsolete text.
[Sec. 1902. Clarification of date.
[Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.
[Sec. 1904. Inclusion of ''Buy America'' requirements in title 23.
[Sec. 1905. Technical amendments to 23 U.S.C. 140—Nondiscrimination.
[Sec. 1906. Federal share payable for projects for elimination of hazards of railway-highway crossings.

[TITLE II—HIGHWAY SAFETY

[Sec. 2001. Highway safety programs.
[Sec. 2002. Highway safety research and development.
[Sec. 2003. Emergency medical services.
[Sec. 2004. State traffic safety information system improvements.
[Sec. 2005. Authorization of appropriations.
[Sec. 2006. Repeal of obsolete provisions of title 23.

[TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

[Sec. 3001. Short title.
[Sec. 3002. Updated terminology; amendments to title 49, United States Code.
[Sec. 3003. Policies, findings, and purposes.
[Sec. 3004. Definitions.
[Sec. 3005. Metropolitan planning.
[Sec. 3006. Statewide planning.
[Sec. 3007. Planning programs.
[Sec. 3008. Private enterprise participation.
[Sec. 3009. Urbanized Area Public Transportation Formula Grants Program.
[Sec. 3010. Formula grants for other than urbanized areas.
[Sec. 3011. New Freedom program.
[Sec. 3012. Major capital investment program.
[Sec. 3013. Research, development, demonstration, and deployment projects.
[Sec. 3014. Cooperative research grant program.
[Sec. 3015. National research programs.
[Sec. 3016. National Transit Institute.
[Sec. 3017. Bus testing facility.
[Sec. 3018. Bicycle facilities.
[Sec. 3019. Suspended light rail technology pilot project.
[Sec. 3020. General provisions on assistance.
[Sec. 3021. Special provisions for capital projects.
[Sec. 3022. Contract requirements.

[Sec. 3023. Human resources programs.
[Sec. 3024. Project management oversight and review.
[Sec. 3025. Project review.
[Sec. 3026. Investigations of safety and security risk.
[Sec. 3027. State safety oversight.
[Sec. 3028. Sensitive security information.
[Sec. 3029. Terrorist attacks and other acts of violence against public transportation systems.
[Sec. 3030. Controlled substances and alcohol misuse testing.
[Sec. 3031. Employee protective arrangements.
[Sec. 3032. Administrative procedures.
[Sec. 3033. Reports and audits.
[Sec. 3034. Apportionments of appropriations for formula grants.
[Sec. 3035. Apportionments based on fixed guideway factors.
[Sec. 3036. Authorizations.
[Sec. 3037. National parks and public lands legacy project.
[Sec. 3038. Over-the-road bus accessibility program.
[Sec. 3039. Formula grants for special needs of elderly individuals and individuals with disabilities.
[Sec. 3040. Job access and reverse commute.
[TITLE IV—MOTOR CARRIER SAFETY
[Sec. 4001. Authorization of appropriations.
[Sec. 4002. Motor carrier safety grants.
[Sec. 4003. Hobbs Act.
[Sec. 4004. Penalty for denial of access to records.
[Sec. 4005. Medical review board and medical examiners.
[Sec. 4006. Enforcement of household goods regulations.
[Sec. 4007. Registration of commercial motor carriers, freight forwarders, and brokers.
[Sec. 4008. Financial responsibility for private motor carriers.
[Sec. 4009. Increased penalties for out-of-service violations and false records.
[Sec. 4010. Elimination of commodity and service exemptions.
[Sec. 4011. Intrastate operations of interstate motor carriers.
[Sec. 4012. Authority to stop commercial motor vehicles.
[Sec. 4013. Pattern of safety violations by motor carrier management.
[Sec. 4014. Motor carrier research and technology program.
[Sec. 4015. International cooperation.
[Sec. 4016. Performance and Registration Information System Management (PRISM).
[Sec. 4017. Information systems and data analysis.
[Sec. 4018. Outreach and education.
[TITLE V—TRANSPORTATION RESEARCH AND EDUCATION
[Subtitle A—Funding
[Sec. 5101. Authorization of appropriations.
[Subtitle B—Research, Technology, and Education
[Sec. 5201. Research, technology, and education.
[Sec. 5202. Surface transportation environment and planning cooperative research program.
[Sec. 5203. Long-term bridge performance program; innovative bridge research and deployment program.
[Sec. 5204. Technology deployment.
[Sec. 5205. Training and education.
[Sec. 5206. Advanced travel forecasting procedures program.
[Subtitle C—Multimodal Research Programs; Scholarship Opportunities
[Sec. 5301. University transportation research.
[Sec. 5302. Multimodal research program.
[Sec. 5303. Commercial remote sensing products.
[Sec. 5304. Transportation scholarship opportunities program.
[Subtitle D—Transportation Data and Analysis
[Sec. 5401. Bureau of transportation statistics.
[Subtitle E—Intelligent Transportation Systems Research
[Sec. 5501. Short title.
[Sec. 5502. Goals and purposes.
[Sec. 5503. General authorities and requirements.
[Sec. 5504. National architecture and standards.
[Sec. 5505. Research and development.
[Sec. 5506. Use of funds.
[Sec. 5507. Definitions.
[Sec. 5508. Repeal.
[TITLE VI—TRANSPORTATION PLANNING; INTERMODAL FACILITIES
[Sec. 6001. Transportation planning.
[Sec. 6002. Intermodal passenger facilities.
[TITLE VII—MISCELLANEOUS
[Subtitle A—Railroads
[Sec. 7101. Rail corridor planning.
[Sec. 7102. High speed rail authorizations.
[Subtitle B—Miscellaneous Technical Corrections to Title 49
[Sec. 7201. Correction of obsolete references to Interstate Commerce Commission.
[Subtitle C—Hazardous Material Transportation
[Sec. 7301. Definitions.
[Sec. 7302. Representations and tampering with hazardous material– packaging.
[Sec. 7303. Hazardous material transportation safety and security.
[Sec. 7304. Administrative authority for transportation service and —infrastructure assurance research.
[Sec. 7305. Postal Service Civil Penalty Authority.
[Sec. 7306. Registration.
[Sec. 7307. Shipping paper retention.
[Sec. 7308. Planning and training grants.
[Sec. 7309. Enforcement.
[Sec. 7310. Penalties.
[Sec. 7311. Emergency waiver of preemption.
[Sec. 7312. Judicial review.
[Subtitle D—Sanitary Food Transportation
[Sec. 7401. Short title.
[Sec. 7402. Responsibilities of the Secretary of Health and Human Services.
[Sec. 7403. Department of Transportation Requirements.
[Sec. 7404. Effective date of the subtitle.
[Subtitle E—Sport Fishing and Boating Safety
[Sec. 7501. Sport fish restoration account amendments.
[TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS
[Sec. 8101. Discretionary spending categories.
[Sec. 8102. Level of obligation limitations.
[Sec. 8103. Effectiveness of title.
[TITLE IX—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986
[Sec. 9001. Short title; amendment of 1986 Code.
[Sec. 9002. Extension of highway-related taxes and trust fund.
[Sec. 9003. Extension of tax benefits for alcohol fuels.
[Sec. 9004. Private activity bonds for surface transportation infrastructure.
[Sec. 9005. All alcohol fuel taxes transferred to highway trust fund.
[Sec. 9006. Transfer from highway trust fund to boat safety account.
[Sec. 9007. Extension of small-engine fuel taxes transferred to sport —fish restoration account.
[Sec. 9008. Technical correction.
[Sec. 9009. Transfer by registered pipeline, vessel, or barge required for fuel tax exemption of bulk transfers to registered terminals or refineries; display of registration requirement.
[Sec. 9010. Returns filed electronically.
[Sec. 9011. Civil penalty for refusal of entry.
[Sec. 9012. Requirement of tax payment decal; elimination of installment payments of highway use tax.
[Sec. 9013. Additional rules regarding inspections of records.–

[SEC. 2. DEFINITIONS.

[In this Act, the following definitions apply:

[(1) METROPOLITAN PLANNING ORGANIZATION.—The term ''metropolitan planning organization'' has the meaning such term has under section 5203(b) of title 49, United States Code, as added by section 6001 of this Act.

[(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

[(3) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—The term ''Transportation Equity Act for the 21st Century'' means the Transportation Equity Act for the 21st Century, Public Law 105–178, as amended by the TEA 21 Restoration Act, title IX of Public Law 105–206.

[TITLE I—FEDERAL-AID HIGHWAYS

[Subtitle A—Funding

[SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

[(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code, $4,100,000,000 for fiscal years 2004 and 2005, $4,200,000,000 for fiscal year 2006, $4,400,000,000 for fiscal year 2007, $4,500,000,000 for fiscal year 2008, and $4,700,000,000 for fiscal year 2009.

[(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of such title $5,000,000,000 for fiscal years 2004 and 2005, $5,100,000,000 for fiscal year 2006, $5,200,000,000 for fiscal year 2007, $5,400,000,000 for fiscal year 2008, and $5,500,000,000 for fiscal year 2009.

[(3) BRIDGE PROGRAM.—For the bridge program under section 144 of such title $3,400,000,000 for fiscal year 2004, $3,500,000,000 for fiscal year 2005, $3,700,000,000 for fiscal year 2006, $3,800,000,000 for fiscal year 2007, $3,900,000,000 for fiscal year 2008, and $4,000,000,000 for fiscal year 2009.

[(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of such title $5,102,000,000 for fiscal year 2004, $5,202,000,000 for fiscal year 2005, $5,402,000,000 for fiscal year 2006, $5,514,000,000 for fiscal year 2007, $5,714,000,000 for fiscal year 2008, and $5,807,000,000 for fiscal year 2009.

[(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of such title $1,100,000,000 for fiscal year 2004, $1,462,000,000 for fiscal year 2005, $1,500,000,000 for fiscal year 2006, $1,600,000,000 for fiscal years 2007 through 2009.

[(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement

program under section 150 of such title $1,000,000,000 for fiscal year 2004, $1,100,000,000 for fiscal year 2005, $1,200,000,000 for fiscal year 2006, $1,300,000,000 for fiscal year 2007, $1,400,000,000 for fiscal year 2008, and $1,500,000,000 for fiscal year 2009.

[(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) $450,000,000 for each of fiscal years 2004 through 2009.

[(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of such title $60,000,000 for each of fiscal years 2004 through 2009.

[(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

[(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of such title $333,000,000 for each of fiscal years 2004 through 2009.

[(B) RECREATION ROADS.—For recreation roads under section 204 of such title $50,000,000 for each of fiscal years 2004 through 2009.

[(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of such title, $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.

[(D) REFUGE ROADS.—For refuge roads under section 204 of such title $30,000,000 for each of fiscal years 2004 through 2009.

[(E) FOREST HIGHWAYS.—For forest highways under section 204 of such title $200,000,000 for each of fiscal years 2004 through 2009.

[(F) SAFETY.—For safety under section 204 of such title $40,000,000 for each of fiscal years 2004 through 2009.

[(10) MULTI-STATE CORRIDOR PLANNING PROGRAM.—For the multi-state corridor planning program under section 1806 of this Act $76,500,000 for fiscal year 2004 and $84,000,000 for each of fiscal years 2005 through 2009.

[(11) BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.—For the border planning, operations, and technology program under section 1807 of this Act $76,500,000 for fiscal year 2004 and $84,000,000 for each of fiscal years 2005 through 2009.

[(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of title 23, United States Code, $31,500,000 for each of fiscal years 2004 through 2009.

[(13) INTELLIGENT TRANSPORTATION SYSTEMS PERFORMANCE INCENTIVE PROGRAM.—For carrying out the intelligent transportation systems performance incentive program under section 1703 of this Act, $135,000,000 for each of fiscal years 2004 through 2009.

[(14) HIGHWAY USE TAX EVASION PROJECTS.—For highway use tax evasion projects under section 143 of such title, $26,550,000 for fiscal year 2004, $54,500,000 for each of fiscal years 2005 and 2006, $44,500,000 for fiscal year 2007, and $11,000,000 for each of fiscal years 2008 and 2009.

[(15) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.—For carrying out the Commercial Vehicle Information Systems and Networks Deployment program under section 1704 of this Act, $25,000,000 for each of fiscal years 2004 through 2009.

[(16) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the infrastructure performance and maintenance program under section 1201 of this Act, $1,000,000,000 for each of fiscal years 2004 through 2009.

[SEC. 1102. OBLIGATION CEILING.

[(a) GENERAL LIMITATION.—Notwithstanding any other provision of law, but subject to subsections (f) and (g), the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

[(1) $29,293,948,000 for fiscal year 2004;

[(2) $30,265,000,000 for fiscal year 2005;

[(3) $31,326,000,000 for fiscal year 2006;

[(4) $32,257,000,000 for fiscal year 2007;

[(5) $33,104,000,000 for fiscal year 2008; and

[(6) $33,903,000,000 for fiscal year 2009.

[(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under—

[(1) section 125 of title 23, United States Code;

[(2) section 147 of the Surface Transportation Assistance Act of 1978;

[(3) section 9 of the Federal-Aid Highway Act of 1981;

[(4) sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982;

[(5) sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987;

[(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991;

[(7) section 157 of title 23, United States Code, as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century;

[(8) section 105 of title 23, United States Code (but, for each of fiscal years 2004 through 2009), only in an amount equal to $639,000,000 per fiscal year; and

[(9) for Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century or subsequent public laws for multiple years or to remain available until used, but only to the extent that such obligation authority has not lapsed or been used.

[(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2004 through 2009, the Secretary shall—

[(1) reserve obligation authority provided by subsection (a) for such fiscal year for amounts authorized for administrative expenses, programs funded from the administrative takedown authorized by section 104(a) of title 23, United States Code, the infrastructure performance and maintenance program, and for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code;

[(2) reserve the obligation authority provided by subsection (a) less the amounts reserved under paragraph (1) for section 201 of the Appalachian Regional Development Act of 1965, and $2,000,000,000 for such fiscal year under section 105 of such title (relating to minimum guarantee); and

[(3) distribute the obligation authority provided by subsection (a) less the aggregate amounts not reserved under paragraph (1) and (2) for Federal-aid highway and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

[(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

[(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

[(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2004 through 2009, revise a distribution of the obligation authority made available under subsection (c) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

[(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations imposed by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, and under title V of this Act; except that obligation authority made available for such programs under such limitations shall remain available for a period of 3 fiscal years and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

[(f) SPECIAL RULE.—Obligation authority distributed for a fiscal year under subsection (c)(2) for a section set forth in subsection (c)(2) shall remain available until used for obligation of funds for such section and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

[(g) ADJUSTMENT IN OBLIGATION LIMIT.—Limitations on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined pursuant to section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year, as amended by this Act. Any such adjustment shall be distributed in accordance with this section.

[(h) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

[(1) $350,000,000 for fiscal year 2004;

[(2) $380,000,000 for fiscal year 2005;

[(3) $400,000,000 for fiscal year 2006;

[(4) $420,000,000 for fiscal year 2007;

[(5) $440,000,000 for fiscal year 2008; and

[(6) $460,000,000 for fiscal year 2009.

[SEC. 1103. APPORTIONMENTS.

[(a) ADMINISTRATIVE EXPENSES.—Section 104(a) of title 23, United States Code, as amended by this Act, is further amended in paragraph (1) by striking ''1 1/6'' and inserting ''1.4''.

[(b) METROPOLITAN PLANNING.—Section 104(f) of title 23, United States Code, is amended—

[(1) in paragraph (1), by striking ''not to exceed''; and by striking ''authorized under this title'' and inserting ''identified in such subsection, except for the Federal lands highway program and the Appalachian development highway program'';

[(2) in paragraph (2), by striking ''per centum'' and inserting ''percent'';

[(3) in paragraph (3), by striking ''These funds shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.'' and inserting ''Any funds that are not used to carry out section 134 of this title may be made available by a metropolitan planning organization to the State to fund activities under section 135.''; and

[(4) by adding the following after paragraph (5):

[''(6) FEDERAL SHARE.—Funds apportioned to a State under this subsection shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program

would be best served without such matching.''.

[(c) STATE DEFINED.—Section 1103(n) of the Transportation Equity Act for the 21st Century (Public Law 105–178) is repealed.

[(d) EXECUTIVE OFFICE COMPLEX.—Section 104 of title 23, United States Code, is amended by adding after subsection (q), as added by this Act, the following:

[''(r) EXECUTIVE OFFICE COMPLEX.—On October 1 of each fiscal year for fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $2,000,000 for each of fiscal years 2004 through 2006, $14,000,000 for each of fiscal years 2007 and 2008, and $7,000,000 for fiscal year 2009 of the remaining funds authorized to be appropriated under subsection (b)(3) for the preferred option determined by a study for highway access near the Executive Office complex.''.

[(e) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking ''$18,800,000 for each of fiscal years 1998 through 2002 for the Alaska Highway'' and substituting ''$18,800,000 for each of fiscal years 2004 through 2009 for the Alaska Highway''.

[SEC. 1104. MINIMUM GUARANTEE.

[Section 105 of title 23, United States Code, is amended to read as follows:

[''§ 105. Minimum guarantee

[''(a) GENERAL RULE.—For each of fiscal years 2004 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that each State's percentage of the total apportionments for such fiscal year of Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation, highway safety improvement, minimum guarantee, Appalachian development highway system, infrastructure performance and maintenance, and recreational trails programs shall equal the percentage listed for each State in subsection (b). The minimum amount allocated to a State listed in subsection (b) under this section for a fiscal year shall be $1,000,000.

[''(b) STATE PERCENTAGES.—The percentage referred to in subsection (a) for a State shall be determined in accordance with the following table:

[''States:	Percentage:
[Alabama	2.0269
[Alaska	1.1915
[Arizona	1.5581
[Arkansas	1.3214
[California	9.1962
[Colorado	1.1673
[Connecticut	1.5186
[Delaware	0.4424
[District of Columbia	0.3956
[Florida	4.6176
[Georgia	3.5104
[Hawaii	0.5177
[Idaho	0.7718
[Illinois	3.3819
[Indiana	2.3588
[Iowa	1.2020
[Kansas	1.1717
[Kentucky	1.7365
[Louisiana	1.5900
[Maine	0.5263
[Maryland	1.5087
[Massachusetts	1.8638
[Michigan	3.1535
[Minnesota	1.4993
[Mississippi	1.2186
[Missouri	2.3615
[Montana	0.9929
[Nebraska	0.7768
[Nevada	0.7248
[New Hampshire	0.5163
[New Jersey	2.5816
[New Mexico	0.9884
[New York	5.1628
[North Carolina	2.8298
[North Dakota	0.6553
[Ohio	3.4257
[Oklahoma	1.5419
[Oregon	1.2183
[Pennsylvania	4.9887
[Rhode Island	0.5958
[South Carolina	1.5910
[South Dakota	0.7149
[Tennessee	2.2646
[Texas	7.2131
[Utah	0.7831
[Vermont	0.4573
[Virginia	2.5627
[Washington	1.7875
[West Virginia	1.1319
[Wisconsin	1.9916
[Wyoming	0.6951.

[''(c) SPECIAL RULE.—The Secretary shall allocate to Puerto Rico $1,000,000 for each of fiscal years 2004 through 2009. Such amounts shall be subject to the provisions in paragraph (d) of this section.

[''(d) TREATMENT OF FUNDS.—

[''(1) PROGRAMMATIC DISTRIBUTION.—The Secretary shall apportion 50 percent of the amounts made available under this section so that the amount apportioned to each State under this paragraph for each program referred to in subsection (a) (other than metropolitan planning, minimum guarantee, Appalachian development highway system, infrastructure performance and maintenance, and recreational trails programs) 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 subsection (a) (other than metropolitan planning, minimum guarantee, Appalachian development highway system, infrastructure performance and maintenance, and recreational trails programs) for a fiscal year; bears to

[''(B) the total amount of funds apportioned to each State for all such programs for such fiscal year.

[''(2) REMAINING DISTRIBUTION.—The Secretary shall allocate the remainder of funds made available under this section to the States for use in accordance with section 133; except that requirements of paragraphs (1) and (2) of section 133(d) shall not apply to amounts apportioned pursuant to this paragraph.

[''(e) AUTHORIZATION.—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.

[''(f) GUARANTEE OF 90.5 PERCENTAGE RETURN.—

[''(1) IN GENERAL.—Before making any apportionment under this title for each of fiscal years 2004 through 2009, the Secretary shall adjust the percentages in the table in subsection (b) to reflect the estimated percentage of 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 is available, to ensure that no State's percentage return from such Trust Fund is less than 90.5 percent of the State's percentage contribution.

[''(2) CONFORMING ADJUSTMENTS.—After making any adjustments under paragraph (1) for a fiscal year, the Secretary shall adjust the remaining percentages in the table set forth in subsection (b) to ensure that the total of the percentages in the table, as adjusted, do not exceed 100 percent for such fiscal year.

[''(3) LIMITATION ON ADJUSTMENTS.—After making any adjustments under paragraph (2) for a fiscal year, the Secretary shall determine whether or not any State's percentage return from the Highway Trust Fund (other than the Mass Transit Account) is less than 90.5 percent of the State's percentage contribution to the Highway Trust fund as a result of such adjustments and shall adjust the percentages in the table for such fiscal year accordingly. Adjustments of the percentages in the table under this paragraph may not result in the total of such percentages exceeding 100 percent.

[''(4) RATE OF RETURN.—A State's percentage return for such fiscal year shall be in the ratio that—

[''(A) the quotient obtained by dividing the total amount of funds apportioned to each State, except Puerto Rico, for the current fiscal year for Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation, minimum guarantee, highway safety improvement, Appalachian development highway system, infrastructure performance and maintenance, and recreational trails programs by the total amount of funds apportioned for such programs in all States, except Puerto Rico, for the current fiscal year; bears to

[''(B) the quotient obtained by dividing 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 by the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for such fiscal year.''.

[SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY (RABA) — AMENDMENTS.

[Section 110 of title 23, United States Code, is amended—

[(1) in subsections (a)(1) and (a)(2), by striking ''2000'' and inserting ''2006'';

[(2) in subsection (a)(2), by striking ''the succeeding'' and inserting ''that'', and by striking ''and the motor carrier safety grant program'';

[(3) in subsection (b)(1)(A), by striking ''and the motor carrier safety grant program'' and by striking '', the Transportation Equity Act for the 21st Century, and subchapter I of chapter 311 of title 49'' after ''under this title'' and insert ''and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003'';

[(4) in subsection (c), by inserting ''the highway safety improvement program,'' after ''the surface transportation program,''; and

[(5) by striking subsections (e), (f), and (g).

[Subtitle B—New Programs

[SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.

[(a) ESTABLISHMENT.—The Secretary shall establish and implement an Infrastructure Performance and Maintenance Program in accordance with this section.

[(b) ELIGIBLE PROJECTS.—

[(1) IN GENERAL.—A State may obligate funds apportioned to it under this section only for highway projects eligible under the Interstate Maintenance Program, the National Highway System Program, and the Surface Transportation Program that will—

[(A) cost-effectively preserve, maintain, or otherwise extend 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) TRANSFER PROHIBITION.—Notwithstanding sections 104 and 126 of title 23, United States Code, funds apportioned under

this section shall not be transferred to another Federal agency or program.

[(c) APPORTIONMENT OF INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM FUNDS.—

[(1) IN GENERAL.—On October 1 of each fiscal year the Secretary shall apportion to the States the funds authorized to be appropriated to carry out this section in accordance with the following formula:

[(A) 25 percent of the apportionments in the ratio that—

[(i) the total lane miles of Federal-aid highways in each State; bears to

[(ii) the total lane miles of Federal-aid highways in all States.

[(B) 40 percent of the apportionments in the ratio that—

[(i) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

[(ii) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

[(C) 35 percent of the apportionments 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.

[(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

[(d) CONTRACT AUTHORITY.—Funds authorized to be appropriated under section 1101(a)(16) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available for obligation only as provided in subsection (e); shall not be subject to any deduction or set aside requirement; and shall not be transferred to another Federal agency or program in accordance with subsection (b)(2).–

[(e) PERIOD OF AVAILABILITY.—

[(1) OBLIGATION WITHIN 6 MONTHS.—Funds apportioned to a State under this section must be obligated by such State within 6 months of the date of apportionment. Any amounts that remain unobligated at the end of that period shall be reapportioned in accordance with subsection (f).

[(2) ONE YEAR.—All funds apportioned or reapportioned under this section shall remain available for obligation until the last day of the fiscal year in which they are apportioned. Any amounts apportioned that remain unobligated at the end of the fiscal year shall lapse.

[(f) REDISTRIBUTION OF APPORTIONED FUNDS AND OBLIGATION AUTHORITY.—Six months after the date of apportionment or as soon thereafter as feasible in each fiscal year, the Secretary shall withdraw any funds apportioned to a State under this section that remain unobligated, along with an equal amount of obligation authority provided for the use of such funds pursuant to section 1102(c) of this Act, and shall reapportion such funds and redistribute such obligation authority to those States that have fully obligated all amounts apportioned under this section in such fiscal year and that demonstrate they are able to obligate additional amounts for projects eligible under this section before the end of the fiscal year. The calculation and distribution of funds under section 105 of title 23, United States Code, shall not be adjusted as a result of the reapportionment of funds under this subsection.

[(g) FEDERAL SHARE PAYABLE.—The Federal share payable for a project funded under this section shall be determined in accordance with the provisions of section 120 of title 23, United States Code.

[(h) STATE DEFINED.—In this section, the term ''State'' has the meaning such term has under section 101(a) of title 23, United States Code.

[SEC. 1202. CLARIFY FEDERAL-AID ELIGIBILITY FOR SECURITY PROJECTS.

[Section 101 of title 23, United States Code, is amended—

[(1) by striking the word ''and'' at the end of paragraph (a)(3)(G);

[(2) by striking the period at the end of paragraph (a)(3)(H) and inserting ''; and'';

[(3) by adding the following at the end of paragraph (a)(3)(H):

[''(I) improvements directly related to homeland security for detection, preparedness, prevention, response, and recovery.''; and

[(4) by inserting the words ''protection and'' after the words ''means the'' and by inserting '', secure,'' after the word ''safe'' in section (a)(14).

[SEC. 1203. FUTURE OF THE INTERSTATE HIGHWAY SYSTEM.

[(a) DECLARATION OF POLICY.—Section 101 of title 23, United States Code, is amended by striking subsection (b) and inserting the following:

[''(b) It is hereby declared to be in the national interest to accelerate the construction and reconstruction of the Federal-aid highway systems since many of such highways, or portions thereof, are in fact inadequate to meet the needs of local and interstate commerce and national and civil defense.

[''It is further declared that it is in the national interest to preserve and enhance the Dwight D. Eisenhower National System of Interstate and Defense Highways (hereafter referred to as the ''Interstate System'') to meet the nation's needs for the 21st Century. Urban and long distance personal travel and freight movement demands continue to grow. Travel demand patterns will remain dynamic. Continued planning for and investment in the Interstate System is critical to assure it adequately meets the changing travel demands of the future. The Interstate System must be safe, efficient, and reliable and must ensure national and interregional personal mobility, the flow of interstate commerce, and travel movements essential for national security. To the maximum extent possible, actions under this title should address congestion and freight transportation to provide for a strong and vigorous national economy. Special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals.

[''The Interstate System is further declared to be the nation's premiere highway system, essential for the nation's economic vitality, national security, and general welfare. The Secretary is directed to take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.''.

[SEC. 1204. MILITARY VEHICLE ACCESS (OVERSIZE AND OVERWEIGHT VEHICLES; RELIEF FROM TOLLS).

[(a) PROCEDURES ON MILITARY VEHICLE ACCESS.—The Secretary of Transportation is authorized to issue, in consultation with the Secretary of Defense and the Secretary of Homeland Security, procedures and orders that will expedite the highway movement of all marked military vehicles and convoys. The procedures shall specifically address the expedited movement of marked military vehicles, including the establishment of temporary vehicle size and weight limits in excess of Federal and local maximum limits, expedited oversize/overweight permits, and exemptions from payment of local tolls and expedited movement through toll facilities.

[(b) PREEMPTION.—A law, regulation, order, ruling, provision, or other requirement of a State, territory, Indian tribe, or political subdivision thereof, which covers the vehicles and movements described in paragraph (a) and which is not consistent with the procedures or related limitations established by the Secretary under that paragraph, is preempted. The Secretaries of Transportation, Homeland Security, and Defense, may request the Attorney General to bring a civil action seeking appropriate relief respecting the effect of such laws, regulations, orders, rulings, provisions or other requirements in any court of competent jurisdiction. Nothing in this section shall be construed as limiting claims or remedies otherwise available under law or equity.

[(c) EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT.—A procedure established by the Secretary under paragraph (a) shall be exempt from the provisions of 5 U.S.C. 553.

[SEC. 1205. FREIGHT TRANSPORTATION GATEWAYS; FREIGHT INTERMODAL CONNECTIONS.

[(a) FREIGHT TRANSPORTATION GATEWAYS.—Chapter 3 of title 23, United States Code, is amended by adding after section 324 the following new section:

[''§ 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 such 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 such 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; and

[''(D) to support military mobilization and readiness.

[''(b) STATE RESPONSIBILITIES.—

[''(1) PROJECT DEVELOPMENT PROCESS.—Each State shall ensure that intermodal freight transportation, trade facilitation, and economic development needs are adequately addressed 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 POSITION.—Each State shall designate a freight transportation coordinator. The coordinator shall be responsible for fostering public and private sector collaboration needed to implement complex solutions to freight transportation and freight transportation gateway problems, including coordination of metropolitan and statewide transportation activities with trade and economic interests and coordination with other States, local Department of Defense officials, local Department of Homeland Security officials, agencies, and organizations to find regional solutions to freight transportation problems.

The coordinator shall also be responsible for advancing freight professional capacity building programs for the State.

[''(c) INNOVATIVE FINANCE.—States and localities are encouraged to adopt innovative financing strategies for freight transportation gateway improvements, including new user fees; modifications to existing user fees, including trade facilitation charges; revenue options that incorporate private sector investment; and a blending of Federal-aid and innovative finance programs. The Secretary shall provide technical assistance to States and localities with respect to such strategies.

[''(d) INTERMODAL FREIGHT TRANSPORTATION PROJECTS.—

[''(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—A State may obligate funds apportioned to it under section 104(b)(3) of this title for publicly owned intermodal freight transportation projects that provide community and highway benefits by addressing economic, congestion, security, safety, and environmental issues associated with freight transportation gateways.

[''(2) ELIGIBLE PROJECTS.—Projects eligible for funding under this section—

[''(A) may include publicly-owned intermodal freight transfer facilities, access to such facilities, and operational improvements for such 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 access into and out of such port; and

[''(B) may involve the combining of private and public sector funds.''.–

[(b) ELIGIBILITY FOR SURFACE TRANSPORTATION PROGRAM FUNDS.—Section 133(b) of title 23, United States Code, is amended by adding at the end the following new paragraph:

[''(15) Intermodal freight transportation projects in accordance with section 325(d)(2) of this title.''.

[(c) FREIGHT INTERMODAL CONNECTIONS TO NHS.—Section 103(b) of such title, is amended by adding at the end the following new paragraph:

[''(7) FREIGHT INTERMODAL CONNECTIONS TO THE NHS—

[''(A) FUNDING SET-ASIDE.—Of the funds apportioned to a State in each fiscal year under section 104(b)(1) of this title, an amount determined in accordance with subparagraph (B) of this paragraph shall only be available to such State to be obligated for projects on—

[''(i) National Highway System routes connecting to intermodal freight terminals identified according to criteria set forth in the report to Congress entitled ''Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals'' dated May 24, 1996, referenced in paragraph (1) of this subsection, and any modifications to these connections consistent with paragraph (4) of this subsection, and

[''(ii) Strategic Highway Network (STRAHNET) connectors to strategic military deployment ports.

[''(B) DETERMINATION OF AMOUNT.—The amount of funds for each State in a fiscal year that shall be set aside pursuant to subparagraph (A) of this paragraph shall be—

[''(i) equal to the total amount of funds apportioned to such State under section 104(b)(1) of this title multiplied by the percentage of miles that routes set forth in subparagraph (A) of this paragraph constitute of the total miles on the National Highway System in such State, or

[''(ii) two percent of the annual apportionment to the State of funds under 104(b)(1), whichever is greater.

[''(C) EXEMPTION FROM SET-ASIDE.—In any fiscal year, a State may obligate the funds otherwise set aside by this paragraph on any project which is both eligible under paragraph (6) of this subsection and located in such State on a segment of the National Highway System set forth in paragraph (2) of this subsection if such State certifies and the Secretary concurs that—

[''(i) the routes described in subparagraph (A) of this paragraph are in good condition and provide an adequate level of service for military vehicle and civilian commercial vehicle use, and

[''(ii) significant needs on such routes are being met or do not exist.''.

[(d) DEFINITIONS AND DECLARATION OF POLICY.—Section 101(a) of such title is amended by redesignating paragraphs (11) through (37) as paragraphs (12) through (38), respectively, and inserting new paragraph (11) as follows:

[''(11) FREIGHT TRANSPORTATION GATEWAY.—The term 'freight transportation gateway' means a nationally or regionally significant transportation port of entry or hub for domestic and global trade, military mobilization, and includes freight intermodal and Strategic Highway Network connections that provide access to and from these gateways.''.

[(e) FEDERAL SHARE PAYABLE.—Section 120 of such title is amended by adding at the end the following new subsection:

[''(m) INCREASED FEDERAL SHARE FOR CONNECTORS.—On National Highway System intermodal freight connections and Strategic Highway Network connectors to strategic military deployment ports described in section 103(b)(7), the Federal share may be up to 90 percent of the total cost of the project.''.

[(f) LENGTH LIMITATIONS.—Section 31111(e) of title 49, United States Code, is amended by adding at the end ''In the interests of economic competitiveness, security, and intermodal connectivity, States shall update these qualifying highways within three years of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to include Strategic Highway Network connectors to strategic military deployment ports and National Highway System intermodal freight connections serving military and commercial truck traffic going to major intermodal terminals as described in section 103(b)(7).''.

[(g) CONFORMING AMENDMENT.—The analysis of chapter 3 of title 23 is amended by adding at the end the following:

[''325. Freight transportation gateways.''.

[SEC. 1206. AUTHORITY FOR ALTERNATIVE TIME-SAVING PROCEDURES FOR CRITICAL TRANSPORTATION SECURITY PROJECTS.

[(a) Critical, time sensitive highway and public transportation security projects are projects that are necessary to address an imminent threat to the security of a transportation facility or to repair damage to a transportation facility caused by a terrorist attack against the United States. Such projects shall be identified by the Secretary in consultation with the owner-operator of the facility and with the Secretary of Homeland Security.

[(b) The Secretary of Transportation shall develop and implement expedited procedures for critical, time-sensitive highway and public transportation security projects. These procedures shall address planning, environmental review, public involvement, acquisition of rights-of-way, and contracting, and they shall be developed with the concurrence of other affected Federal agencies whose authorities will be affected by the procedures and in consultation with any other Federal agencies that the Secretary determines have an interest in the procedures. For the limited purpose of expediting interim measures needed to address an imminent threat to the security of a transportation facility, the Secretary may provide that these procedures are exclusive of any other statute relating to planning, environmental reviews, public involvement, acquisition of right-of-way, and contracting, so long as the Secretary determines that such measures are necessary for the protection of the public and receives the concurrence of any other Federal agency responsible for administering such statutes. The Secretary shall issue rules establishing these procedures within one year of the enactment of this law.

[Subtitle C—Finance

[SEC. 1301. FEDERAL SHARE.

[Section 120 of title 23, United States Code, is amended—

[(1) in subsection (a), by striking ''shall be 90 percent'' and all that follows through the end of the subsection and inserting ''shall not exceed 90 percent of the total cost of the project.'';

[(2) in subsection (b), by striking ''shall be'' and all that follows through the end of the subsection and inserting ''shall not exceed 80 percent of the total cost of the project.''; and

[(3) by striking subsection (d) and inserting the following:

[''(d) INCREASED FEDERAL SHARE.—The Federal share payable under (a) and (b) may be increased in the case of any State containing nontaxable Indian lands, public lands (both reserved and unreserved), national forests, and national parks and monuments. The Federal share for any project subject to this section shall be increased by a percentage of the remaining cost equal to the percentage that the area of all such lands in a State is of its total area not to exceed 95 percent of the total cost of the project. These rates shall be revised as needed based on data provided by the Federal agencies responsible for maintaining the data.''.

[SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

[Section 104(m) of title 23, as redesignated by this Act, is amended to read as follows:

[''(m) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

[''(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—Funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

[''(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—Funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title, except that the provisions of such chapter relating to the non-Federal share shall apply to the transferred funds.

[''(3) TRANSFER OF HIGHWAY FUNDS TO OTHER FEDERAL AGENCIES.—Except as provided in paragraphs (1) and (2), when an expenditure is specifically authorized in Federal-aid highway legislation, as a line item in an appropriation act, or when a State transportation department consents to a transfer of funds under this title that are derived from the Highway Trust Fund (other than the Mass Transit account), such funds may be transferred to another Federal agency subject to subparagraphs (A), (B), (C), and (D) of this paragraph—

[''(A) if the Secretary determines, after consultation with the State transportation

department as appropriate, that another Federal agency should carry out a project with funds made available under this title or any other act that are derived from Highway Trust Fund (other than the Mass Transit account);

[''(B) the project will be administered by the Federal agency under its procedures, and such funds shall not be deemed to be an augmentation of that agency's appropriations;

[''(C) such other Federal agency agrees to accept the transfer of funds and to administer those funds; and

[''(D) the provisions of this title or the acts referred to above relating to the non-Federal share shall apply to the transferred funds, except where the Secretary determines that it is in the best interest of the United States that such share be waived.

[''(4) TRANSFER OF FUNDS AMONG STATES OR TO THE FEDERAL HIGHWAY ADMINISTRATION.—The Secretary may, at the request of a State, transfer funds apportioned or allocated to such State to another State or to the Federal Highway Administration for the purpose of funding a specific project or projects. The funds transferred shall be used for the same purpose and in the same manner for which they were authorized. Such transfer shall have no effect on any apportionment formula used to distribute funds to the States under sections 104, 105, or 144. Funds that are apportioned or allocated to a State under section 104(b)(3) and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) may be transferred under this subsection only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

[''(5) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority shall be transferred in the same manner and amount as the funds for the projects are transferred under this section.''.

[SEC. 1303. STATE INFRASTRUCTURE BANK PILOT PROGRAM.

[(a) DEFINITIONS.—In this section, the following definitions apply:

[(1) CAPITAL PROJECT.—The term ''capital project'' has the meaning such term has under section 5302 of title 49, United States Code.

[(2) OTHER ASSISTANCE.—The term ''other assistance'' includes any use of funds in an infrastructure bank—

[(A) to provide credit enhancements;

[(B) to serve as a capital reserve for bond or debt instrument financing;

[(C) to subsidize interest rates;

[(D) to ensure the issuance of letters of credit and credit instruments;

[(E) to finance purchase and lease agreements with respect to transit projects;

[(F) to provide bond or debt financing instrument security; and

[(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.

[(3) STATE.—The term ''State'' has the meaning such term has under section 101 of title 23, United States Code.

[(4) CAPITALIZATION.—The term ''capitalization'' means the process used for depositing funds as initial capital into a State Infrastructure Bank to establish the infrastructure bank.

[(5) COOPERATIVE AGREEMENT.—The term ''cooperative agreement'' means the written consent between a State and the Secretary which sets forth the manner in which the State Infrastructure Bank will be administered.

[(6) LOAN.—The term ''loan'' means any form of direct financial assistance from the State Infrastructure Bank, required to be repaid over a period of time, which is provided to a project sponsor for all or part of project costs.

[(7) GUARANTEE.—The term ''guarantee'' means a contract or contracts entered into by the State Infrastructure Bank in which the State Infrastructure Bank agrees to take responsibility for all or a portion of a project sponsor's financial obligations for a project under specified conditions.

[(8) INITIAL ASSISTANCE.—The term ''initial assistance'' means the first round of State Infrastructure Bank funds that must be loaned or used for credit enhancement for purposes limited to highway construction under title 23 or transit capital projects under title 49.

[(9) LEVERAGE.—The term ''leverage'' means a financial structure used to increase State Infrastructure Bank funds through debt issuance. A State Infrastructure Bank is considered leveraged if its total potential liabilities exceed its equity.

[(b) PILOT PROGRAM.—

[(1) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may enter into cooperative agreements with up to five States, including States that entered into cooperative agreements under section 1511 of the Transportation Equity Act for the 21st Century, as amended, for the establishment of State infrastructure banks for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

[(2) APPLICATION.—To participate in the pilot program, a State shall submit an application to the Secretary.

[(3) SELECTION CRITERIA.—In evaluating applications for participation in the pilot program, the Secretary shall establish selection criteria that shall include—

[(A) the State's ability to provide non-Federal funds to capitalize the bank;

[(B) the existence of State enabling legislation that clearly allows for full State Infrastructure Bank participation;

[(C) the State's strategy for encouraging non-Federal repayment sources from project sponsors;

[(D) the amount of Federal funds the State will commit to the State Infrastructure Bank as a percentage of its Federal-aid apportionments;

[(E) the State's eligibility under section 1511 of the Transportation Equity Act for the 21st Century, as amended; and

[(F) the State's past experience with a State Infrastructure Bank, including the program established under section 1511 of the Transportation Equity Act for the 21st Century, as amended, or comparable financing mechanisms.

[(4) TERMINATION OF COOPERATIVE AGREEMENT.—If a State that has been selected for this pilot program does not fund its State Infrastructure Bank within 90 days after execution of the cooperative agreement, the Secretary may terminate the cooperative agreement and may select another State to participate in the pilot program in accordance with this subsection.

[(c) INTERSTATE COMPACTS.—Congress grants consent to 2 or more of the States, entering into a cooperative agreement under subsection (b)(1) with the Secretary for the establishment of a multi-state infrastructure bank, to enter into an interstate compact establishing such bank in accordance with this section.

[(d) FUNDING.—

[(1) HIGHWAY ACCOUNT.—Subject to subsection (i), the Secretary may permit a State entering into a cooperative agreement under this section to contribute not to exceed—

[(A) 10 percent of the funds apportioned to the State for each of fiscal years 2004 through 2009 under each of sections 104(b)(1), 104(b)(3), 104(b)(4), and 144, of title 23, United States Code, and

[(B) 10 percent of the funds allocated to the State for each of such fiscal years under section 105 of such title into the highway account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the highway account of the infrastructure bank.

[(2) TRANSIT ACCOUNT.—Subject to subsection (i), the Secretary may permit a State entering into a cooperative agreement under this section, and any other Federal transit grant recipient, to contribute not to exceed 10 percent of the funds made available to the State or other Federal transit grant recipient in each of fiscal years 2004 through 2009 for capital projects under sections 5307, 5309, and 5311 of title 49, United States Code, into the transit account of the infrastructure bank established by the State. Federal funds contributed to such account under this paragraph shall constitute for purposes of this section a capitalization grant for the transit account of the infrastructure bank.

[(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are attributed to urbanized areas of States with urbanized populations of over 200,000 under section 133(d)(2) of title 23, as amended by this Act, may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.

[(4) DISCONTINUANCE OF FUNDING.—If the Secretary determines that a State is not implementing the State Infrastructure Bank in accordance with the cooperative agreement, the Secretary may prohibit a State from contributing additional Federal funds to its State Infrastructure Bank.

[(e) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An infrastructure bank established under this section may make loans or provide other credit assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other credit assistance provided for such project may be subordinated to any other debt financing for the project. Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section may not be made in the form of a grant

[(f) QUALIFYING PROJECTS.—Subject to paragraph (e), funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under title 23, United States Code, for capital projects (as defined in section 5302 of title 49, United States Code), or for any other project related to surface transportation that the Secretary determines to be appropriate.

[(g) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, each State establishing the bank shall—

[(1) contribute, at a minimum, into each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank, except that if the contribution is into the highway account of the bank and the State has a lower non-Federal share under section 120(d) of title 23, as amended by this Act, such percentage shall be adjusted by the Secretary to correspond with such lower non-Federal

share. The non-Federal share must be in the form of cash;

[(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank;

[(3) ensure that investment income generated by funds contributed to an account of the bank will be—

[(A) credited to the account;

[(B) available for use in providing loans and other assistance to projects eligible for assistance from the account; and

[(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

[(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make feasible the project that is the subject of the loan;

[(5) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

[(6) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan under paragraph (5); and

[(7) require the bank to make an annual report to the Secretary on its status, and to make such other reports as the Secretary may require by guidelines.

[(h) SECRETARIAL REQUIREMENTS.—In administering this section,the Secretary shall—

[(1) issue guidelines to ensure that all requirements of title 23, United States Code, or title 49, United States Code, that would otherwise apply to funds made available under such title and projects assisted with such funds apply to—

[(A) funds made available under such title and contributed to an infrastructure bank established under this section; and

[(B) projects assisted by the bank through the use of such funds; except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of title 23 and section 5333 of title 49), is not consistent with the objectives of this section; and

[(2) specify procedures and guidelines for establishing, operating, and providing assistance from the bank.

[(i) APPLICABILITY OF FEDERAL LAW TO REPAYMENTS.—The requirements of title 23 and title 49, United States Code, shall apply to projects financed from repayments to an infrastructure bank from projects assisted by the bank. Such repayments shall be considered to be Federal funds for the purpose of this subsection.

[(j) UNITED STATES NOT OBLIGATED.—The contribution of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt-financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

[(k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

[(l) PROGRAM ADMINISTRATION.—For each of fiscal years 2004 through 2009, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank. This limitation shall not apply to non-Federal funds.

[SEC. 1304. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT (TIFIA) AMENDMENTS.

[(a) DEFINITIONS.—Section 181 of title 23, United States Code is amended—

[(1) in paragraph (3), by striking ''category'' and ''offered into the capital markets'';

[(2) by striking paragraph (7) and redesignating paragraphs (8) through (15) as paragraphs (7) through (14) respectively;

[(3) by amending paragraph (8)(D), as redesignated, to read as follows—

[''(D) a public or private freight rail facility; an intermodal freight transfer facility; access to such facilities; and service improvements for such facilities including capital investment for Intelligent Transportation Systems; or a group of such projects with the common objective of improving the flow of goods, except that projects located within the boundaries of port terminals shall only include the transportation infrastructure modifications necessary to facilitate direct intermodal access into and out of such port. Such a project may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements.''; and

[(4) in paragraph (10), as redesignated, by striking ''bond'' and inserting ''credit''.

[(b) DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.—Section 182 of such title is amended—

[(1) in subsection (a)—

[(A) by striking paragraphs (1) and (2) and inserting the following:

[''(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.

[''(2) APPLICATION.—A State, a local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application to the Secretary.'';

[(B) in paragraph (3)(A)(i), by striking ''$100,000,000'' and inserting ''$50,000,000''; and

[(C) in paragraph (4), by striking ''Project financing'' and inserting ''The Federal credit instrument'' and by adding at the end of the sentence ''that also secure the project obligations''; and

[(2) in subsection (b)(1), by striking ''criteria'' after ''eligibility'' and inserting ''requirements'' and in subsection (b)(2)(B) by inserting '', which may be the Federal credit instrument,'' after ''obligations''.

[(c) SECURED LOANS.—Section 183 of such title is amended—

[(1) in subsection (a)—

[(A) by striking ''of any project selected under section 182.'' at the end of paragraph (1);

[(B) by inserting ''of any project selected under section 182'' after ''costs'' in paragraphs (1)(A) and (1)(B); and

[(C) in paragraph (4), by striking ''funding'' and inserting ''execution'' and by inserting a period in place of the comma after ''receiving an investment grade rating'' and striking all that follows to the end of the paragraph;

[(2) in subsection (b)—

[(A) by inserting ''the lesser of'' after ''exceed'' and ''or the amount of the senior project obligations'' after ''costs'';

[(B) by inserting ''that also secure the senior project obligations'' in paragraph (3)(A)(i) after ''sources''; and

[(C) by striking ''marketable'' in paragraph (4); and

[(3) in subsection (c), by striking paragraph (3) and redesignating paragraphs (4) and (5) as paragraphs (3) and (4) respectively;

[(d) LINES OF CREDIT.—Section 184 of such title is amended—

[(1) in subsection (b)—

[(A) in paragraph (3), by striking the comma after ''interest'' and by striking ''any debt service reserve fund, and any other available reserve'', and by inserting ''but not including reasonably required financing reserves'';

[(B) in paragraph (4), by striking ''marketable''; by striking ''on which'' after ''date'' and inserting ''of execution of''; and by striking ''is obligated'' after ''credit'' and inserting ''agreement''; and

[(C) in paragraph (5)(A)(i), by inserting ''that also secure the senior project obligations'' after ''sources''; and

[(2) in subsection (c)—

[(A) in paragraph (2) by striking ''scheduled'', by inserting ''be scheduled to'' after ''shall'', and by striking ''be fully repaid, with interest,'' and inserting ''to conclude, with full repayment of principle and interest,''; and

[(B) by striking paragraph (3).

[(e) PROGRAM ADMINISTRATION.—Section 185 of such title is amended to read as follows:

[''§ 185. Program administration

[''(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this subchapter.

[''(b) FEES.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal government of servicing the Federal credit instruments.

[''(c) SERVICER.—The Secretary may identify a financial entity to assist the Secretary in servicing the Federal credit instruments. The servicer—

[''(1) shall act as the agent for the Secretary; and

[''(2) shall receive a servicing fee, subject to approval by the Secretary.

[''(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.''.

[(f) FUNDING.—Section 188 of such title is amended to read as follows:

[''§ 188. Funding

[''(a) FUNDING.—

[''(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $130,000,000 for each of fiscal years 2004 through 2009 to carry out this subchapter.

[''(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this subchapter, not more than $3,000,000 for each of fiscal years 2004 through 2009.

[''(3) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

[''(b) CONTRACT AUTHORITY.—

[''(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit investment.

[''(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

[''(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 2004 through 2009, principal amounts of Federal credit instruments made available shall be limited to $2,600,000,000.''.

[(g) Section 189 of such title is repealed.

[(h) CONFORMING AMENDMENTS.—The analysis of chapter 1 of title 23 is amended by—

[(1) revising the item relating to section 185 to read as follows:

[''185. Program administration.'';

and

[(2) striking the item relating to section 189.

[SEC. 1305. INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT FACILITATION.

[The Secretary may provide assistance to any State that is participating in the International Registration Plan and International Fuel Tax Agreement, as provided in sections 31704 and 31705 of title 49, United States Code, and that serves as a base jurisdiction for motor carriers that are domiciled in Mexico, to help the State with administration needs resulting from serving as a base jurisdiction for motor carriers from Mexico.

[SEC. 1306. COMMERCIALIZED REST AREA PILOT PROJECTS.

[(a) IN GENERAL.—The Secretary shall permit the States to conduct pilot projects to acquire, construct, operate, convert, and maintain rest areas along Interstate highways in their States in accordance with subsection (b).

[(b) COMMERCIAL OPERATIONS.—

[(1) ELIGIBILITY.—Notwithstanding section 111 of title 23 United States Code, and the project agreements required by section 111(a) and executed between the States and the Federal Highway Administration, the Secretary shall permit the rest areas in the pilot projects to include commercial operations that provide goods, services, and information that benefit the traveling public and the commercial motor carrier industry, and as deemed appropriate by the States, including—

[(A) commercial advertising and displays if such advertising and media displays are—

[(i) exhibited solely within any facility constructed in the rest area; and

[(ii) not legible from the main traveled way;

[(B) programs to provide commercial vehicle operators with special services designed to enhance motor carrier and highway safety; and

[(C) State promotional or tourism-oriented items.

[(2) PRIVATE OPERATORS.—The States may permit such commercial operations to be run by a private operator.

[(c) PARTICIPATION.—Participation in this pilot project is limited to those proposals submitted to the Secretary for approval during the one year period after the date of enactment of this Act.

[(d) PROPOSALS.—

[(1) The State proposals shall at a minimum—

[(A) describe the types of goods, services and information to be provided;

[(B) demonstrate that the proposed project(s) helps implement the strategies developed in the ''Study of Adequacy of Parking Facilities'' prepared pursuant to section 4027 of the Transportation Equity Act for the 21st Century;

[(C) contain a review and update of the individual State action plans for addressing commercial truck parking shortages; and

[(D) prepare a plan for evaluating the results of the pilot project(s) in that State.

[(2) The Secretary must determine that commercial rest area projects being advanced under this pilot program will meet all of the design standards applicable to rest areas on the Interstate system.

[(e) LIMITATION ON USE OF REVENUES.—Any revenues received by a State from the commercial operations in a rest area under this section that are in excess of amounts required for the proper operation and maintenance of the rest area shall be used by the State for projects eligible under title 23, United States Code.

[(f) CONSIDERATIONS.—The Secretary shall consider the benefit to the traveling public and the impact on local businesses in carrying out this section.

[(g) VENDING MACHINES.—If vending machines are placed in a pilot project, the State shall give priority to vending machines operated through the State licensing agency designated under the Randolph-Sheppard Act.

[SEC. 1307. HIGHWAY USE TAX EVASION PROJECTS.

[(a) ELIGIBLE ACTIVITIES.—Section 143(b) of title 23, United States Code, is amended as follows:

[(1) INTERGOVERNMENTAL ENFORCEMENT EFFORTS.—Paragraph (2) is amended by inserting a comma after ''Secretary'' and adding ''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) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—Paragraph (3) is amended by inserting a comma after ''subsection'' and adding ''except as otherwise provided in this section''.

[(3) LIMITATION ON USE OF FUNDS.—Paragraph (4) is amended—

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

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

[(C) by adding at the end the following:

[''(H) to support efforts between States and tribes to address issues related to state motor fuel taxes; and–

[''(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel.''.

[(4) REPORTS.—The following new paragraph is added at the end:

[''(9) REPORTS.—The Internal Revenue Service and States shall submit to the Secretary annual reports that describe the projects, examinations, and criminal investigations funded by and carried out under this section. The reports must specify the annual yield estimated for each project funded under this section.''.

[(b) EXCISE FUEL REPORTING SYSTEM.—Section 143(c) of such title is amended—

[(1) in paragraph (1) by striking ''Not later than August 1, 1998,'' and inserting ''Not later than 90 days after enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003,''; by striking ''development'' and inserting ''completion, operation,''; by striking ''an excise fuel reporting system'' and inserting ''the excise summary terminal activity reporting system''; and 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'';

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

[(D) by striking the period at the end of subparagraph (C) and inserting ''; and''; and

[(E) by adding at the end the following new subparagraph:

[''(D) the Commissioner of the Internal Revenue Service shall submit 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 amending paragraph (3) to read as follows:

[''(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 as amended by this Act is further amended by adding at the end the following new subsections:

[''(d) PIPELINE, VESSEL, AND BARGE REGISTRATION SYSTEM.—

[''(1) IN GENERAL.—Not later than 90 days after enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, 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 such 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 and maintain the registration system through contracts;

[''(B) the Commissioner of the Internal Revenue Service shall submit 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 a registration system for pipelines, vessels, and barges, and operators of such pipelines, vessels, and barges, that make bulk transfers of taxable fuel in accordance with this subsection.

[''(e) HEAVY VEHICLE USE TAX PAYMENT DATABASE.—

[''(1) IN GENERAL.—Not later than 90 days after enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the establishment, operation, and maintenance of an electronic database of 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 establish 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 an electronic database of heavy vehicle highway use tax payments in accordance with this subsection.

[''(f) REPORTS.—By March 30 and September 30 of each year, the Internal Revenue Service shall provide reports to the Secretary on the status of the Internal Revenue Service projects funded under this section related to the excise summary terminal activity reporting system; the pipeline, vessel, and barge registration system; and the heavy vehicle use tax electronic database.''.

[(d) ALLOCATIONS.—Of the amounts authorized to be appropriated under section 1101(a)(14) of this Act for Highway Use Tax Evasion Projects for each of fiscal years 2004 through 2009, $4,500,000 shall be allocated to the States, and for fiscal year 2004, $20,050,000 shall be allocated to the Internal Revenue Service, of which $10,500,000 shall be dedicated to the excise summary terminal activity reporting system, for each of fiscal years 2005 and 2006, $48,000,000 shall be allocated to the Internal Revenue Service, of which $4,500,00 shall be dedicated to the excise summary terminal activity reporting system, for fiscal year 2007, $38,000,000 shall be allocated to the Internal Revenue Service, of which $4,500,00 shall be dedicated to the excise summary terminal activity reporting system, and 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.

[Subtitle D—Program Efficiencies and Improvements—Safety

[SEC. 1401. NATIONAL HIGHWAY SAFETY GOAL; NATIONAL BLUE RIBBON COMMISSION ON HIGHWAY SAFETY.

[(a) NATIONAL HIGHWAY SAFETY GOAL.—Section 101 of title 23, United States Code, is amended by adding at the end the following new subsection:

[''(f) It is hereby declared to be in the national interest that the number of deaths attributable to traffic accidents on America's highways be significantly reduced. To achieve this goal, a national initiative targeted at saving lives through improved engineering, education, enforcement, and emergency response in cooperation with new and existing State and local safety programs is hereby authorized.''.

[(b) NATIONAL BLUE RIBBON COMMISSION ON HIGHWAY SAFETY.—

[(1) ESTABLISHMENT.—The Secretary shall establish a National Blue Ribbon Commission on Highway Safety (hereinafter in this section referred to as ''the Commission'').

[(2) MEMBERSHIP.—

[(A) COMPOSITION.—The Commission shall be composed of 15 members as follows—

[(i) the Secretary or the Secretary's delegate;

[(ii) the Administrators of the Federal Highway Administration; the National Highway Traffic Safety Administration; the Federal Motor Carrier Safety Administration; and the Federal Railroad Administration, or the Administrators' delegates; and

[(iii) 10 members appointed by the Secretary from among individuals who represent the interests of States and political subdivisions of States, the safety community, public health, and State and local law enforcement agencies, and who have been nominated by the Committee on Environment and Public Works and the Committee on Commerce, Science and Transportation of the United States Senate and the Committee on Transportation and Infrastructure of the United States House of Representatives.

[(B) APPOINTMENT.—The Secretary shall select the individuals to be appointed under this subsection on the basis of their knowledge, expertise, or experience related to highway safety. Half of the appointments shall be made from nominees submitted by the Committee on Environment and Public Works and the Committee on Commerce, Science and Transportation of the Senate and the other half from the nominees submitted by the Committee on Transportation and Infrastructure of the House of Representatives. Each of these committees shall nominate 20 individuals qualified to serve on the Commission.

[(C) TERMS.—The term of each member of the Commission shall be 6 years. Any vacancy shall be filled in the manner the original appointment was made. The vacancy does not affect the Commission's powers.

[(3) FUNCTION.—The Commission, to carry out the direction of Congress, under section 101(f) of title 23, United States Code as amended by this Act, that the number of deaths attributable to traffic accidents on America's highways be significantly reduced, shall—

[(A) oversee a comprehensive study evaluating the Nation's highway safety needs over the next three decades in the areas of engineering, education, enforcement, and emergency response and, based on such study, make specific recommendations to the Secretary for an achievable national goal for the reduction of highway fatalities and for the funding necessary to achieve such goal;

[(B) assist in developing a national consensus in support of such goal; and

[(C) advise, consult with, and make recommendations to, the Secretary to assist in identifying specific measures for achieving the national highway safety goal.

[(4) SPECIFIC MATTERS TO BE ADDRESSED.—The national highway safety goal study conducted by the Commission shall examine the roles of highway infrastructure, drivers, and vehicles in fatalities on all public roads; identify high risk areas and activities associated with the greatest numbers of highway fatalities; examine the roles of various levels of government agencies and non-governmental organizations in reducing highway fatalities and recommend ways to strengthen highway safety partnerships; and identify measures that will save the most lives both long term and short term. The study shall consider, among other things, the findings, conclusions, and recommendations of highway safety studies and research conducted by the Transportation Research Board, including studies related to implementation of the American Association of State Highway and Transportation Officials' Strategic Highway Safety Plan.

[(5) REPORTS TO CONGRESS.—

[(A) INITIAL REPORT.—Not later than September 30, 2006, the Commission shall transmit to Congress an initial report on the results of the national highway safety goal study, including recommendations and such legislative recommendations as the President judges necessary and expedient for an achievable national goal for the reduction of highway fatalities and for preliminary strategies to be implemented to achieve such goal.

[(B) FINAL REPORT.—Not later than February 1, 2009, the Commission shall transmit to Congress a final report on the results of the national highway safety goal study, including recommendations and such legislative recommendations as the President judges necessary and expedient for a comprehensive plan with specific strategies to achieve the fatality reduction goal recommended in the initial report and for the level of funding necessary to implement such fatality reduction plan and strategies.

[(6) TERMINATION OF COMMISSION.—The Commission shall terminate on the 180th day following the date of transmittal of the final report to Congress under paragraph (5)(B) of this subsection. By the 180th day, all records and papers of the Commission shall be delivered to the Administrator of the General Services Administration for deposit in the National Archives.

[(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) up to $3,000,000 for fiscal year 2004, $1,000,000 for fiscal year 2005, $1,000,000 for fiscal year 2006, $1,000,000 for fiscal year 2007, $500,000 for fiscal year 2008, and $500,000 for fiscal year 2009 for the purposes of carrying out this subsection.

[(8) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of the study and the Commission under this section shall be 100 percent, and such funds shall remain available until expended.

[SEC. 1402. HIGHWAY SAFETY IMPROVEMENT PROGRAM; FLEXIBILITY FOR SAFETY INITIATIVES.

[(a) ESTABLISHMENT OF PROGRAM.—Chapter 1 of title 23, United States Code, is amended by inserting the following new section after section 149:

[''§ 150. Highway Safety Improvement Program

[''(a) ESTABLISHMENT.—The Secretary shall establish and implement a highway safety improvement program in accordance with this section, in order to significantly reduce fatalities and serious injuries on the Nation's roadway system.

[''(b) PROGRAM.—

[''(1) STATE RESPONSIBILITIES.—To receive funds under this section, each State shall have a process in place that identifies and analyzes highway safety problems and opportunities and will produce a program of projects for funding under this section based on this analysis. Such process and program of projects shall be known as the Highway Safety Improvement Program. The statewide program shall identify hazardous locations, sections, and elements including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads that may constitute a danger to motorists, bicyclists, pedestrians, and other highway users. States shall also have crash data systems and the ability to perform safety problem identification and countermeasure analysis.

[''(2) PROGRAM ADMINISTRATION.—The Secretary shall establish implementing guidelines for this program, which shall include at a minimum the following components:

[''(A) STRATEGIC APPROACH TO HIGHWAY SAFETY.—Each State shall, as appropriate, adopt strategic and performance-based goals for its Highway Safety Improvement Program. This statewide program shall address safety problems and opportunities on all roadways within the State, focus resources on areas of greatest need, and be complementary to the programs developed in response to section 402 of this title.

[''(B) DATA IMPROVEMENT PROGRAM.—Each State shall, as appropriate, advance its capabilities for traffic records data collection, analysis, and integration with other sources of safety data such as roadway inventories. Such a data improvement program shall be

complementary to the programs supported by sections 402 and 412 of this title; include all public roads; and contain provisions to identify hazardous locations, sections, and elements on these public roads that constitute a danger to motorists, bicyclists, and pedestrians.

[''(C) PROGRAM OF IMPROVEMENTS.—Each State shall determine priorities for the correction of hazardous roadway locations, sections, and elements, including railway-highway crossing improvements, as identified through crash data analysis; identify opportunities for preventing the development of such hazardous conditions; and establish and implement a schedule of safety improvement projects for hazard correction and hazard prevention.

[''(D) EVALUATION.—Each State shall, as appropriate, establish an evaluation process to analyze and assess results achieved by safety improvement projects carried out in accordance with procedures and criteria established by this section, and such information shall be used in setting priorities for safety improvement projects.

[''(c) REPORTS.—Each State shall report to the Secretary on progress being made to implement safety improvement projects under this section and the effectiveness of such improvements. The Secretary shall establish the content and schedule for such reports.

[''(d) ELIGIBLE PROJECTS.—

[''(1) IN GENERAL.—A State may obligate funds apportioned to it under this section for any safety improvement project on any public road or publicly-owned bicycle or pedestrian pathway or trail.

[''(2) SAFETY IMPROVEMENT PROJECT.—For purposes of this section the term 'safety improvement project' means a project that corrects or improves a hazardous roadway location or feature, or proactively addresses highway safety problems, including: intersection improvements, pavement and shoulder widening, installation of rumble strips and other warning devices, improving skid resistance, improvements for pedestrian or bicyclist safety, railway-highway crossing safety, traffic calming, elimination of roadside obstacles, improving highway signage and pavement marking, installing priority control systems for emergency vehicles at signalized intersections, installing traffic control or warning devices at locations with high accident potential, safety conscious planning, and improving crash data collection and analysis.

[''(e) FUNDING.—Sums authorized to be appropriated to carry out this section shall be apportioned in accordance with section 104(b)(5).

[''(f) FEDERAL SHARE.—The Federal share payable on account of any project carried out under this section shall be 90 percent of the cost thereof.

[''(g) USE OF FUNDS.—Beginning in fiscal year 2005 and for each fiscal year thereafter, 10 percent of the funds available to a State to carry out the highway safety improvement program established in accordance with this section shall be obligated for projects under section 402 of this title, unless by October 1 of the fiscal year in which funds become available to a State the State has enacted a primary safety belt law or the State demonstrates that the safety belt use rate in that State meets or exceeds 90 percent. A State subject to the provisions of this subsection must have in place or adopt a strategic highway safety plan in accordance with section 151 of this title. Activities funded under this subsection shall be consistent with such a plan.

[''(h) USE OF OTHER FUNDING FOR SAFETY.—Nothing in this section shall be interpreted to prohibit the use of funds made available under other sections of this title for highway safety improvement projects, and States are to be encouraged to address the full scope of their safety needs and opportunities by using other funds unless provisions exist that prohibit such use.''.

[(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104 of such title is amended—

[(1) by inserting in subsection (a) ''the Highway Safety Improvement Program under section 150,'' after ''section 204,'';

[(2) by inserting in subsection (b) ''the Highway Safety Improvement Program,'' after ''Improvement Program,''; and

[(3) by adding at the end of subsection (b) the following new paragraph:

[''(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

[''(A) IN GENERAL.—For the Highway Safety Improvement Program, in accordance with the following formula:

[''(i) 25 percent of the apportionments in the ratio that—

[''(I) the total lane miles of Federal-aid highways in each State; bears to

[''(II) the total lane miles of Federal-aid highways in all States.

[''(ii) 40 percent of the apportionments in the ratio that—

[''(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

[''(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

[''(iii) 35 percent of the apportionments 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.

[''(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.''.

[(c) FLEXIBILITY FOR SAFETY INITIATIVES.—Chapter 1 of such title, as amended by this Act, is further amended—

[(1) by repealing section 152;

[(2) by redesignating section 151 as section 152; and

[(3) by inserting the following new section 151 after section 150:

[''§ 151. Flexibility for safety initiatives

[''(a) IN GENERAL.—As provided in this section, a State that develops and implements a strategic highway safety plan and comprehensive safety planning process shall have the flexibility to use funds available under section 150 of this title, the Highway Safety Improvement Program, for title 23 safety purposes not otherwise eligible under such section, including funding for public awareness, education, and enforcement.

[''(b) STRATEGIC HIGHWAY SAFETY PLAN.—To qualify for flexible safety funding as provided under this section, the State strategic highway safety plan must—

[''(1) be based on a collaborative process that includes the State Department of Transportation, the Governor's Representative for Highway Safety, persons responsible for administering section 130 of this title at the State level, and other major State and local safety stakeholders, including Operation Lifesaver;

[''(2) address engineering, education, enforcement, and emergency services elements of highway safety;

[''(3) consider the results of existing State transportation and highway safety planning processes; and

[''(4) be certified by the Secretary, in consultation with the Federal Highway Administration and the National Highway Traffic Safety Administration, as based on a comprehensive, collaborative process, and effective analyses of State crash data.

[''(c) SAFETY ACTIVITIES CONSISTENT WITH PLAN.—To qualify for the flexible use of funds available under sections 150 and 402(k) in accordance with this section, activities must be consistent with the State strategic highway safety plan.

[''(d) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this section shall require a State to revise existing State processes, plans, or programs.

[''(e) FLEXIBLE FUNDING.—A State that receives funds under section 150 shall use such funds for projects eligible under such section, except that up to 50 percent of such funds may be used for activities eligible for assistance under section 402 of this title that are consistent with the State's strategic highway safety plan and not otherwise eligible for assistance under section 150.''.

[(d) ELIMINATION OF SURFACE TRANSPORTATION PROGRAM SET-ASIDE.—Section 133(d) of such title is amended by striking paragraph (1) and by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

[(e) CONFORMING AMENDMENTS.—

[(1) The analysis for chapter 1 of such title is amended—

[(A) by striking the item relating to section 152;

[(B) by renumbering ''151. National bridge inspection program.'' as ''152''; and

[(C) by inserting after the item relating to section 149 the following:

[''150. Highway Safety Improvement Program.

[''151. Flexibility for safety initiatives.''.

[(2) Section 130 of such title is amended—

[(A) by striking subsections (e) and (f) and redesignating subsections (g) through (j) as (e) through (h), respectively; and

[(B) in subsection (f), as redesignated by this Act, by striking ''authorized to be appropriated to carry out this section'' and inserting ''made available as provided under section 150 of this title to carry out this section''.

[(3) Section 154(c)(3) of such title is amended by striking ''152'' and inserting ''150''.

[(4) Section 164(b)(3) of such title is amended by striking ''152'' and inserting ''150''.

[(5) Section 409 of such title is amended by striking ''152'' and inserting ''150''.

[SEC. 1403. OPERATION LIFESAVER.

[Section 104(d)(1) of title 23, United States Code, is amended by striking ''$500,000'' and inserting ''$600,000''.

[SEC. 1404. HIGHWAY SAFETY PROGRAMS; CERTIFICATION OF PUBLIC ROAD MILEAGE.

[Section 402(c) of title 23, United States Code, is amended by striking in the fifth sentence ''the Governor of''.

[Subtitle E—Program Efficiencies and Improvements—Planning

[SEC. 1501. METROPOLITAN PLANNING.

[Section 134 of title 23, United States Code, is amended by striking subsections (a) through (o) and inserting the following:

[''Metropolitan planning shall be carried out in accordance with section 5203 of title 49, United States Code.''.

[SEC. 1502. STATEWIDE PLANNING.

[Section 135 of title 23, United States Code, is amended by striking subsections (a) through (i) and inserting the following:

[''Statewide planning shall be carried out in accordance with section 5204 of title 49, United States Code.''.

[SEC. 1503. STATE PLANNING AND RESEARCH.

[(a) STATE PLANNING AND RESEARCH.—Chapter 5 of title 23, United States Code, is amended by striking section 505.

[(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is amended by striking the item related to section 505.

[(c) APPORTIONMENT.—Section 104 of title 23, United States Code, is amended—

[(1) by redesignating subsections (i), (j), (k), and (l) as subsections (k), (l), (m), and (n), respectively; and

[(2) by inserting after subsection (h) the following:

[''(i) STATE PLANNING AND RESEARCH.—

[''(1) IN GENERAL.—Two and ½ percent of the sums apportioned to a State for each fiscal year under this section (other than subsections (f) and (h)) and under sections 105 and 144 of this title shall be available for expenditure by the State, in consultation with the Secretary, only for the following purposes:

[''(A) Engineering and economic surveys and investigations.

[''(B) The planning of future highway and local public transportation systems, the planning of the financing of such systems, and metropolitan and statewide planning under sections 134 and 135 of this title, including freight planning, safety planning, transportation systems management and operations planning, transportation-related land use planning, and transportation-related growth management activities within these planning processes and planning capacity building activities described in section 104(j) of this title.

[''(C) Development and implementation of infrastructure management and traffic monitoring systems under section 303 of this title and for asset management activities.

[''(D) Studies of the economy, safety, and convenience of highway and local public transportation systems and the desirable regulation and equitable taxation of their use.

[''(E) Research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, maintenance, regulation, and taxation of the use of highway, local public transportation, and intermodal transportation systems.

[''(F) Study, research, and training on the engineering standards and construction materials, including accreditation of inspection and testing, for highway, local public transportation, and intermodal transportation systems.

[''(2) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

[''(A) IN GENERAL.—Subject to subparagraph (B), not less than 20 percent of the funds subject to paragraph (1) for a fiscal year shall be expended by the State for research, development, and technology transfer activities described in paragraph (1), relating to highway, local public transportation, and intermodal transportation systems.

[''(B) WAIVERS.—The Secretary may waive the application of subparagraph (A) with respect to a State for a fiscal year if the State certifies to the Secretary for the fiscal year that the funds described in subparagraph (A) are not needed for research, development, and technology transfer and the Secretary accepts such certification.

[''(C) NONAPPLICABILITY OF ASSESSMENT.—Funds expended under subparagraph (A) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

[''(3) MINIMUM EXPENDITURES FOR IMPROVING THE QUALITY OF COLLECTION AND REPORTING OF STRATEGIC SURFACE TRANSPORTATION DATA.—

[''(A) IN GENERAL.—Subject to subparagraph (B), not less than 20 percent of the funds subject to paragraph (1) for a fiscal year shall be expended by the State to improve the collection and reporting of strategic surface transportation data to provide critical information about the extent, condition, use, performance, and financing of the Nation's highways (including intermodal connectors) for passenger and freight movement.

[''(B) WAIVERS.—The Secretary may waive the application of subparagraph (A) with respect to a State for a fiscal year if the State certifies to the Secretary for the fiscal year that the State is collecting and reporting strategic data consistent with quality assurance guidelines developed cooperatively with the States and the Secretary approves such certification. If such waiver is approved, the funds may be used for the activities described in paragraph (1) of this subsection.

[''(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to paragraph (1) shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

[''(5) ADMINISTRATION OF SUMS.—Funds subject to paragraph (1) shall be combined and administered by the Secretary as a single fund and shall be available for obligation for the same period as funds apportioned under section 104(b)(1).''.

[SEC. 1504. CRITICAL REAL PROPERTY ACQUISITION.

[Section 108 of title 23, United States Code, is amended by adding at the end the following:

[''(d) CRITICAL REAL PROPERTY ACQUISITION.—

[''(1) Subject to paragraph (2), funds apportioned to a State under this title may be used to participate in the payment of costs incurred in the acquisition of real property that is deemed critical, as determined under paragraph (2), for any project proposed for funding under this title, prior to the completion of any required environmental reviews for property acquisition.

[''(2) The Federal share payable of the costs described in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title if, prior to acquisition, the State demonstrates to the Secretary, and the Secretary determines, that the property is offered for sale on the open market, that the State will comply fully with the Uniform Relocation Assistance and Real Property Acquisition Policies Act in acquiring the property, and that immediate acquisition of the property is critical because either—

[''(A) normal appraisal techniques show that the property's value is increasing significantly;

[''(B) there is an imminent threat of development or redevelopment of the property; or

[''(C) the property is necessary for the implementation of the goals as stated in the project proposal.

[''(3) An acquisition undertaken pursuant to this section shall be considered to be an exempt project under section 176 of the Clean Air Act and its implementing regulations.

[''(4) No project development activity may be undertaken on property acquired in accordance with paragraph (2) until any required environmental reviews for the project have been completed.

[''(5) The number of critical acquisitions associated with a project shall be limited and shall not affect the consideration of project alternatives during the environmental review process.

[''(6) Section 156 (c) of this title shall not apply to the sale, use or lease of any property acquired in accordance with paragraph (2).''.

[SEC. 1505. PLANNING CAPACITY BUILDING INITIATIVE.

[Section 104 of title 23, United States Code, is amended by inserting after subsection (i), as added by this Act, the following:

[''(j) PLANNING CAPACITY BUILDING INITIATIVE.—

[''(1) IN GENERAL.—The Secretary shall establish a planning capacity building initiative to support enhancements in transportation planning, in order to—

[''(A) strengthen metropolitan and statewide transportation planning under chapter 52 of title 49;

[''(B) enhance tribal capacity to conduct joint transportation planning under Chapter 2 of this title; and

[''(C) participate in the metropolitan and statewide transportation planning programs under chapter 52 of title 49.

[''(2) PRIORITY.—The Secretary shall give priority to planning practices and processes that support homeland security planning, performance based planning, safety planning, operations planning, freight planning, and integration of environment and planning.

[''(3) USE OF FUNDS.—Funds authorized for this program may be used for research, program development, information collection and dissemination, and technical assistance. The Secretary may use these funds independently or make grants to, or enter into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education, to carry out the purposes of this subsection.

[''(4) SET-ASIDE.—On October 1 of each fiscal year, the Secretary, after making the deductions authorized by subsections (a) and (f) of section 104 of this title, shall set aside $20,000,000 of the remaining funds authorized for the Surface Transportation Program to carry out the requirements of this subsection.

[''(5) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using such funds shall be up to 100 percent, and such funds shall remain available until expended.

[''(6) ADMINISTRATION.—This initiative shall be administered by the Federal Highway Administration in cooperation with the Federal Transit Administration.''.

[Subtitle F—Program Efficiencies and Improvements—Environment

[SEC. 1601. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

[(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

[(1) in the first paragraph, by inserting ''and, the project or program will reduce emissions to contribute to the attainment or maintenance of the National Ambient Air Quality Standard for which the area is or was designated nonattainment,'' after ''December 31, 1997,'';

[(2) in subsection (1)(A), by striking ''(other than clause (xvi) of such section)'';

[(3) in paragraph (1)(A)(ii), by inserting ''by providing new or enhanced transportation facilities or services to further reduce emissions'' after ''area'';

[(4) in paragraph (1)(B), by inserting ''or'' at the end after ''section;'';

[(5) in paragraph (2), by inserting ''or program'' after ''and the project'', and by striking ''have air quality benefits;'' and inserting ''reduce emissions; or'';

[(6) in paragraph (3), by—

[''(A) inserting ''if'' after ''(3)'';

[''(B) striking ''contribute to the attainment of a national ambient air quality standard'' and inserting ''reduce emissions'';

[''(C) striking the comma after ''traveled'' and inserting ''or''; and

[''(D) inserting ''through technological improvements such as anti-idling equipment and diesel retrofits for trucks, school buses, transit buses and other vehicles'' after ''consumption,'';

[(7) in paragraph (4), by inserting ''if the project or program is'' after ''(4)'', and by striking ''contribute to the attainment of a national ambient air quality standard'' and inserting ''reduce emissions'';

[(8) in paragraph (5), by striking ''that are eligible for assistance under this section on the day before the date of enactment of this paragraph'' and inserting ''that will reduce emissions''; and

[(9) in the final unnumbered paragraph, by striking the second sentence.

[(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of such title is amended in paragraphs (1) and (2) by inserting ''OR MAINTENANCE'' after ''NONATTAINMENT'' in the heading of each paragraph.

[(c) SELECTION OF PROJECTS.—Section 149 of such title is amended by adding at the end the following new paragraph:

[''(f) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emissions reductions from proposed congestion mitigation and air quality improvement programs and projects.''.

[(d) EVALUATION AND ASSESSMENT OF PROJECTS.—Section 149 of such title is amended by adding at the end the following new paragraph:

[''(g) EVALUATION AND ASSESSMENT OF PROJECTS.—

[''(1) EVALUATION AND ASSESSMENT.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the Congestion Mitigation and Air Quality Improvement Program for their actual impact on emissions, and congestion levels and to assure effective program implementation. Using appropriate assessments of CMAQ-funded projects, and results from other research, the Secretary shall maintain a cumulative database on these impacts for broad dissemination.

[''(2) FUNDING.—Funds set aside under section 104(o) of this title shall be available to carry out this subsection.''.

[(e) FUNDING FOR EVALUATION AND ASSESSMENT OF PROJECTS.—Section 104 of such title is amended by adding at the end the following new subsection:

[''(o) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM EVALUATION AND ASSESSMENT OF PROJECTS.—Before making apportionments under subsection (b)(2) of this section for a fiscal year, the Secretary shall deduct 0.5 percent from the amount to be apportioned for such fiscal year for the purpose of carrying out the requirements of section 149(g) of this title.''.

[(f) APPORTIONMENTS.—Section 104(b) of such title 23 is amended—

[(1) in paragraph (2)(B), by striking ''or'' after ''ozone'' and inserting a comma, and by inserting '', or fine particulate matter (PM–2.5)'' after ''carbon monoxide'';

[(2) by amending paragraph (2)(B)(i) to read as follows:

[''(i) 1.0 if at the time of the apportionment, the area is a maintenance area;'';

[(3) in paragraph (2)(B)(vi), by striking ''or'' after the semicolon;

[(4) in paragraph (2)(B)(vii), by inserting ''for ozone'' after ''maintenance area'', and striking ''for ozone'' after ''section 149(b)'' and inserting ''or for PM–2.5'';

[(5) by adding at the end of paragraph (2)(B) two new clauses to read as follows:

[''(viii) 1.0 if, at the time of apportionment, any county, not designated as a nonattainment or maintenance area under the 1-hour ozone standard, is designated as nonattainment under the 8-hour ozone standard; or

[''(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but is an area designated nonattainment under the PM–2.5 standard.'';

[(6) by amending paragraph (2)(C) to read as follows:

[''(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.2.''; and

[(7) by redesignating paragraphs (2)(D) and (2)(E) as (2)(E) and (2)(F) and inserting after paragraph (2)(C) a new paragraph (2)(D) to read as follows:

[''(D) ADDITIONAL ADJUSTMENT FOR PM 2.5 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone, carbon monoxide or both as described in section 149(b), any county within the area was also designated under the PM–2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.''.

[SEC. 1602. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.

[(a) POLICY AND PURPOSE.—

[(1) POLICY.—The Enlibra principles, as initially developed by the Western Governors Association and adopted by the National Governors Association, represent a sound basis for interaction among the Federal, State, local governments, and tribes on environmental matters and should be followed to the maximum extent practicable in the development of highway construction and public transit improvements. These principles are:

[(A) Assign responsibilities at the right level.

[(B) Use collaborative processes to break down barriers and find solutions.

[(C) Move to a performance-based system.

[(D) Separate subjective choices from objective data gathering.

[(E) Pursue economic incentives whenever appropriate.

[(F) Ensure environmental understanding.

[(G) Make sure environmental decisions are fully informed.

[(H) Use appropriate geographic boundaries for environmental problems.

[(2) PURPOSE.—The purpose of this section is to reduce delays in the delivery of highway construction and public transit projects arising from the environmental review process, while continuing to ensure the protection of the human and natural environment.

[(b) COORDINATED ENVIRONMENTAL REVIEW PROCESS.—

[(1) DEVELOPMENT AND IMPLEMENTATION.—The Secretary shall develop and implement a coordinated environmental review process for highway construction and public transit projects that require—

[(A) the preparation of an environmental impact statement or environmental assessment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), except that the Secretary may decide not to apply this section to the preparation of an environmental assessment under such Act; or

[(B) the conduct of any other environmental review or analysis, rendering of an opinion, or issuance of an environmental permit, license, or approval under Federal law.

[(2) MEMORANDUM OF UNDERSTANDING.—

[(A) IN GENERAL.—The coordinated environmental review process may be specified for a particular project, class of projects, or program and shall ensure that, whenever practicable (as specified in this section), all environmental reviews, analyses, opinions, and any permits, licenses, or approvals that must be issued or made by any Federal agency for the project concerned shall be conducted concurrently and completed within a cooperatively determined time period. Such process for a project, class of projects, or program may be incorporated into a memorandum of understanding between the Department of Transportation and affected Federal agencies (and, where appropriate, State and local agencies and federally recognized tribes).

[(B) ESTABLISHMENT OF TIME PERIODS.—In establishing the time period referred to in subparagraph (A), and any time periods for review within such period, the Department and all such agencies shall take into account their respective resources and statutory commitments.

[(c) ELEMENTS OF COORDINATED ENVIRONMENTAL REVIEW PROCESS.—For each project, the coordinated environmental review process established under this section shall provide, at a minimum, for the following elements:

[(1) FEDERAL AGENCY IDENTIFICATION.—The Secretary shall, at the earliest possible time, identify all potential Federal agencies that—

[(A) have jurisdiction by law over or special expertise related to environmental-related issues that may be affected by the project 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

[(B) may be required by Federal law to independently—

[(i) conduct an environmental-related review or analysis for the project;

[(ii) determine whether to issue a permit, license, or approval for the project; or

[(iii) render an opinion on the environmental impact of the project.

[(2) TIME LIMITATIONS AND CONCURRENT REVIEW.—If requested by the project sponsor, the Secretary and the head of each Federal agency identified under paragraph (1)—

[(A)(i) shall jointly develop and establish time periods for review for—

[(I) all Federal agency comments with respect to any environmental documents required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the project; and

[(II) all other independent Federal agency environmental analyses, reviews, opinions, and decisions on any permits, licenses, and approvals that must be issued or made for the project; such that each such Federal agency's review shall be undertaken and completed within such established time periods for review; or

[(ii) may enter into an agreement to establish such time periods for review with respect to a class of projects or programs; and

[(B) shall ensure, in establishing such time periods for review, that the conduct of any such analysis or review, rendering of such

opinion, and the issuance of such decision is undertaken concurrently with all other environmental reviews for the project, including the reviews required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); except that such review may not be concurrent if the affected Federal agency can demonstrate that such concurrent review would result in a significant adverse impact to the environment or substantively alter the operation of Federal law or would not be possible without information developed as part of the environmental review process.

[(3) FACTORS TO BE CONSIDERED.—Time periods for review established under this section shall be consistent with the time periods established by the Council on Environmental Quality under sections 1501.8 and 1506.10 of title 40, Code of Federal Regulations.

[(4) EXTENSIONS.—The Secretary shall extend any time periods for review under this section if, upon good cause shown, the Secretary and any Federal agency concerned determine that additional time for analysis and review is needed. Any memorandum of understanding shall be modified to incorporate any mutually agreed-upon extensions.

[(d) CLARIFICATION REGARDING ENVIRONMENTAL IMPACT STATEMENTS PREPARED BY STATE AND LOCAL TRANSPORTATION AGENCIES.—Any project sponsor that is a State or local governmental entity eligible to receive funds under this Act, chapter I of title 23, United States Code; or chapter 53 of title 49, United States Code, may, at the discretion of the Secretary, serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, et seq.), and may prepare any such environmental documents required in support of any action or approval by the Secretary, provided that the Department furnishes guidance in such preparation and independently evaluates such document, and provided that the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding. The Secretary shall ensure that the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in such environmental document, or that the document is appropriately supplemented if project changes become necessary. Any such environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.

[(e) DISPUTE RESOLUTION.—When the Secretary determines that a Federal agency which is subject to a time period under this section for its environmental review has failed to complete its review, analysis, opinion, or decision on issuing any permit, license, or approval within the established time period or within any agreed-upon extension to such time period, the Secretary may, after notice and consultation with such agency, close the record on the matter before the Secretary. If the Secretary finds, after timely compliance with this section, that an environmental issue related to the project over which an affected Federal agency has jurisdiction under Federal law has not been resolved, the Secretary and the head of the Federal agency shall resolve the matter not later than 30 days after the date of the finding by the Secretary. The dispute resolution procedures established pursuant to this subsection may be initiated by the Secretary or by the Governor of any State in which a highway construction or public transit project is located, or by the head of any Federal agency subject to the time period under this subsection.

[(f) PARTICIPATION OF STATE AGENCIES.—For any project eligible for assistance under chapter 1 of title 23, United States Code, a State, under State law, may require that all State agencies that have jurisdiction by State or Federal law over environmental-related issues that may be affected by the project, or that are required to issue any environmental-related reviews, analyses, opinions, or determinations on issuing any permits, licenses, or approvals for the project, be subject to the coordinated environmental review process established under this section unless the Secretary determines that a State agency's participation would not be in the public interest. If a State wishes to participate in the review process, the State must require all such State agencies with jurisdiction by law to be subject to and comply with the review process to the same extent as a Federal agency.

[(g) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

[(1) IN GENERAL.—The Secretary may approve a request by a State to provide funds made available under chapter 1 of title 23, United States Code, or for a public transit project made available under chapter 53 of title 49, United States Code, to the State for the project, class of projects, or program subject to the coordinated environmental review process established under this section, to affected Federal agencies, including the Department of Transportation, to State agencies participating in the coordinated environmental review process, and to federally recognized tribes, to provide the resources necessary to meet any time limits established under this section. The Secretary also may use funds made available under section 204 of title 23, United States Code, for the purposes specified under this subsection.

[(2) AMOUNTS.—Such requests under paragraph (1) shall be approved only—

[(A) for the additional amounts that the Secretary determines are necessary for the affected Federal agencies to meet the time limits for environmental review; and

[(B) if such time limits are less than the customary time necessary for such review.

[(h) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

[(1) JUDICIAL REVIEW.—Except as set forth under subsection (i), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States.

[(2) SAVINGS CLAUSE.—Nothing in this section shall affect the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

[(i) LIMITATIONS ON CLAIMS.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway construction or public transit project shall be barred unless it is filed within one hundred eighty days after the permit, license, or approval is final pursuant to the statute under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

[(j) REPEAL.—Section 1309 of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 232; June 9, 1998) is repealed.

[SEC. 1603. ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

[(a) GENERAL.—Section 138 of title 23, United States Code, is repealed and the following new section is inserted:

["§ 138. Assumption of responsibility for categorical exclusions

["(a) CATEGORICAL EXCLUSION DETERMINATIONS.—Upon mutual agreement, the Secretary may assign and a State may assume responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality, or other successor law or regulation. Such determinations shall be made by a State pursuant to criteria established by the Secretary and only for types of activities specifically designated by the Secretary. Such criteria shall include provision for public availability of information consistent with the Freedom of Information Act (5 U.S.C. 552).

["(b) OTHER APPLICABLE FEDERAL LAWS.—Upon mutual agreement, the Secretary may assign and the State may assume some or all of the Department's responsibilities for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, if the State also assumes decision-making authority under this section. The State shall assume this responsibility subject to the same procedural and substantive requirements as would be required if that responsibility was carried out by the Department. When a State assumes such responsibility under a Federal law, it shall be solely responsible and solely liable for complying with and carrying out that law in lieu of the Department.

["(c) AGREEMENTS.—The Secretary and the State shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which such assignments are to be made. Such memorandums of understanding shall be established for periods of no more than three years. In the memorandum of understanding the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary it may assume. The Secretary shall monitor the State department of transportation's compliance with the memorandum of understanding as well as the effectiveness of the delegation, and will take into account the State's performance in deciding whether and under what conditions to renew a memorandum of understanding.

["(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under this section upon a determination that a State is not adequately carrying out its assigned responsibilities.

["(e) STATE SUBJECT TO FEDERAL LAWS.—For purposes of assuming theSecretary's responsibilities under this section, the State agency signing the agreement in subsection (c) is deemed to be a Federal agency to the extent the State is carrying out the Secretary's responsibilities under the National Environmental Policy Act, under this title, and under any other Federal law.''.

[(b) CONFORMING AMENDMENT.—The analysis of chapter 1 of title 23 is amended by striking ''Preservation of parklands'' in the item relating to section 138 and inserting ''Assumption of responsibility for categorical exclusions.''.

[SEC. 1604. SECTION 4(f) POLICY ON LANDS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

[Section 303 of title 49, United States Code, is amended to read as follows:

["§ 303. Policy on lands, wildlife and waterfowl refuges, and historic sites

["(a) It is the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

["(b) The Secretary of Transportation shall cooperate and consult, when appropriate, with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.

["(c)(1) The Secretary of Transportation may approve a transportation program or project requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of a historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge or site) only if—

["(A) there is no feasible and prudent alternative to using that land, and

["(B) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

["(2) In making approvals under this subsection, the Secretary shall apply the following standards:

["(A) The Secretary may eliminate an alternative as infeasible if the Secretary finds that the alternative cannot be implemented as a matter of sound engineering.

["(B) The Secretary shall consider the following when determining whether it would be prudent to avoid the use of land of a resource subject to preservation under this section:

["(i) The relative significance of the land of the resource being protected.

["(ii) The views of the official or officials with jurisdiction over the land.

["(iii) The relative severity of the adverse effects on the protected activities, attributes, or features that qualify a resource for protection.

["(iv) The ability to mitigate adverse effects.

["(v) The magnitude of the adverse effects that would result from the selection of an alternative that avoids the use of the land of the resource.

["(C) A mitigation measure or mitigation alternative under paragraph (c)(1)(B) of this section is possible if it is feasible and prudent. In evaluating the feasibility and prudence of a mitigation measure or mitigation alternative under paragraph (c)(1)(B) of this section, the Secretary shall be governed by the standards of paragraphs (c)(2)(A) and (B) of this subsection.

["(d) The requirements of this section do not apply to—

["(1) a project for a park road, parkway, or refuge road under section 204 of title 23; or

["(2) a highway project on land administered by an agency of the Federal government, when the purpose of the project is to serve or enhance the values for which the land would otherwise be protected under this section, as jointly determined by the Secretary of Transportation and the head of the appropriate Federal land managing agency.

["(e) 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.

["(f)(1) The Secretary 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 303 of title 49 and under section 470f of title 16, United States Code.

["(2) 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) Such requests under paragraph (1) shall be approved only 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 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.''.

[SEC. 1605. NATIONAL SCENIC BYWAYS PROGRAM.

[(a) IN GENERAL.—Section 162 of title 23, United States Code, is amended—

[(1) in subsection (a)(1), by inserting a comma after ''Byways'' and by striking ''or All-American Roads'' and inserting ''All-American Roads, or one of America's Byways'';

[(2) in subsection (b)(1)(A), by inserting a comma after ''Byways'' and by striking ''or All-American Roads,'' and inserting ''All-American Roads, or one of America's Byways,'';

[(3) in subsection (b)(2)(A), by inserting a comma after ''Byway'' and by striking ''or All-American Road'' and inserting ''All-American Road, or one of America's Byways'';

[(4) in subsection (b)(2)(B), by inserting a comma after ''Byway'' and by striking ''or All-American Road'' and inserting ''All-American Road, or one of America's Byways''; and

[(5) in subsection (c)(4), by striking ''passing lane,''.

[(b) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—Section 162 of such title is further amended—

[(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

[(2) by inserting after subsection (c) the following new subsection:

["(d) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—

["(1) IN GENERAL.—The Secretary may carry out research, technical assistance, marketing, and promotion with respect to State scenic byways, National Scenic Byways, All-American Roads, or America's Byways.

["(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may make grants to or enter into contracts, cooperative agreements, and other transactions with any Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person, including the center for national scenic byways in Duluth, Minnesota, to carry out the provisions of this subsection.

["(3) FUNDS.—The Secretary may use funds made available for the National Scenic Byways Program to carry out projects and activities under this subsection.

["(4) PRIORITY.—The Secretary shall give priority to partnerships that leverage private, Federal , or other public funds for research, technical assistance, marketing and promotion.''; and

[(3) by adding the following at the end of subsection (g): ''The Federal share of the cost of projects or activities under subsection (d) may be up to 100 percent.''.

[SEC. 1606. RECREATIONAL TRAILS PROGRAM.

[(a) RECREATIONAL TRAILS PROGRAM FORMULA.—Section 104(h)(1) of title 23, United States Code, is amended by striking ''research and technical assistance under the recreational trails program and for the administration of the National Recreational Trails Advisory Committee'' and inserting ''research, technical assistance, and training under the recreational trails program''.

[(b) RECREATIONAL TRAILS PROGRAM ADMINISTRATION.—Section 206 of title 23, United States Code, is amended—

[(1) by striking subsection (c) and inserting the following:

["(c) STATE RESPONSIBILITIES.—

["(1) ELIGIBILITY.—To be eligible for apportionments under this section—

["(A) the Governor of the State shall designate the State agency or agencies that will be responsible for administering apportionments made to the State under this section; and

["(B) the State shall establish a State recreational trail committee that—

["(i) has not less than 30 percent of its voting membership representing nonmotorized recreational trail users,

["(ii) has not less than 30 percent of its voting membership representing motorized recreational trail users,

["(iii) must meet not less than once per Federal fiscal year in a publicly announced public meeting, and

["(iv) must be used to develop statewide trail program policy and to rate, rank, and recommend recreational trails program projects for funding.

["(2) OBLIGATION REQUIREMENT.—If a State does not meet the committee requirements within a fiscal year, it is not eligible for an apportionment in the following fiscal year.'';

[(2) by striking subsection (d)(2) and inserting the following:

["(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

["(A) maintenance and restoration of existing recreational trails;

["(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

["(C) purchase and lease of recreational trail construction and maintenance equipment;

["(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal lands, construction of the trails shall be—

["(i) permissible under other law;

["(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.) and that is in effect;

["(iii) approved by the administering agency of the State designated under subsection (c)(1)(A); and

[''(iv) approved by each Federal agency having jurisdiction over the affected lands under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et. seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et. seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et. seq.);

[''(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

[''(F) assessment of trail conditions for accessibility and maintenance;

[''(G) use of trail crews, youth conservation or service corps, or other appropriate means to carry out activities under this section;

[''(H) operation of educational programs to promote safety and environmental protection as those objectives relate to the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

[''(I) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section.'';

[(3) by striking subsection (d)(3)(C) and inserting the following:

[''(C) USE OF YOUTH CONSERVATION OR SERVICE CORPS.—A State shall make available not less than 10 percent of its apportionments for grants, cooperative agreements, or contracts with qualified youth conservation or service corps to perform recreational trails program activities.'';

[(4) in subsection (d)(3)(D), by striking ''(2)(F)'' and inserting ''(2)(I)'';

[(5) by amending subsection (f)—

[(A) in paragraph (1)—

[(i) by inserting ''and the Federal share of the administrative costs of a State'' after ''project''; and

[(ii) by striking ''not exceed 80 percent'' and inserting in its place ''be determined in accordance with section 120(b)'';

[(B) in paragraph (2)(A), by striking ''80 percent of'' and inserting ''the amount determined in accordance with section 120(b) for'';

[(C) in paragraph (2)(B), by inserting ''sponsoring the project'' after ''Federal agency'';

[(D) by striking paragraph (5);

[(E) by redesignating paragraph (4) as paragraph (5), and by striking ''80 percent'' and inserting in its place ''the Federal share as determined in accordance with section 120(b)''; and

[(F) by inserting after paragraph (3)—

[''(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used toward the non-Federal matching share for other Federal program funds that are—

[(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

[(B) expended on a project that is eligible for assistance under this section.'';

[(6) by inserting after subsection (h)(1)(B) the following:

[''(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—A project funded under subsections (d)(2)(A) through (H) may allow pre-approval planning and environmental compliance costs to be credited toward the non-Federal share in accordance with subsection (f), limited to costs incurred less than 18 months prior to project approval.''; and

[(7) by striking paragraph (h)(2) and inserting the following:

[''(2) WAIVER OF HIGHWAY PROGRAM REQUIREMENTS.—A project funded under this section is intended to enhance recreational opportunity and is not considered a highway project. Projects funded under this section are not subject to sections 112, 113, 114, 116, 134, 135, 217, or 301 of this title; or section 303 of title 49.''.

[SEC. 1607. EXEMPTION OF THE INTERSTATE SYSTEM.

[Subsection 103(c) of title 23, United States Code, is amended by inserting the following after paragraph (4):

[''(5) EXEMPTION OF THE INTERSTATE SYSTEM.—The Interstate Highway System, or any portion thereof, as designated pursuant to subsection 103(c) of this title, shall not be considered an historic site of national, State or local significance for purposes of 49 U.S.C. 303, 16 U.S.C. 470f, or 16. U.S.C. 470h–2 by virtue of being listed as a resource on, or eligible for listing in, the National Register of Historic Places. At the discretion of the Secretary, with the advice of the Department of the Interior, individual elements of the Interstate Highway System may receive the protection of section 106 or section 110 of the National Historic Preservation Act (16 U.S.C. 470f and 470h–2).''.

[SEC. 1608. MODIFICATION TO NHS/STP FOR INVASIVE SPECIES, WETLANDS, BROWNFIELDS, AND ENVIRONMENTAL RESTORATION.

[(a) MODIFICATIONS TO THE NHS FOR INVASIVE SPECIES, WETLANDS, BROWNFIELDS, AND ENVIRONMENTAL RESTORATION.—

[(1) TECHNICAL CORRECTIONS.—Section 103 (b)(6) of title 23, United States Code, is amended in subparagraph (M)—

[(A) by striking ''1990'' and inserting ''2000''; and

[(B) by striking ''101–640'' and inserting ''106–541''.

[(2) STATE RESPONSIBILITY.—Section 103 (b)(6) is further amended in subparagraph (M) by inserting ''as determined by the State'' after ''to the maximum extent practicable''.

[(3) ELIGIBLE PROJECTS FOR NHS.—Section 103 (b)(6) is further amended by adding at the end the following new subparagraphs:

[''(Q) Environmental restoration and pollution abatement to minimize or mitigate impacts of any transportation project funded under this title (including the retrofit or construction of storm water treatment systems to meet State and Federal National Pollutant Discharge Elimination System requirements under Section 402 of the Clean Water Act) to address water pollution or environmental degradation caused or contributed to by transportation facilities. When transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.

[''(R) In accordance with all applicable Federal law (including applicable Federal regulations), participation in the control of invasive plant species and the establishment of native species related to projects funded under this title, which may include participation in statewide inventories of both invasive and desirable plant species and regional native plant habitat conservation and mitigation, and restoration plans. Contributions to the measures described in the preceding sentence may take place concurrent with or in advance of project construction; except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including applicable Federal regulations) and State transportation planning processes.

[''(S) Remediation associated with the construction of a project funded under this title on a brownfield site, as defined in 42 U.S.C. 9601.''.

[(b) MODIFICATIONS TO THE SURFACE TRANSPORTATION PROGRAM FOR INVASIVE SPECIES, WETLANDS, BROWNFIELDS, AND ENVIRONMENTAL RESTORATION.—

[(1) TECHNICAL CORRECTIONS.—Section 133 (b)(11) of title 23, is amended—

[(A) by striking ''1990'' and inserting ''2000''; and

[(B) by striking ''101–640'' and inserting ''106–541'';

[(2) STATE RESPONSIBILITY.—Section 133 (b)(11) is further amended by inserting ''determined by the State'' after ''to the maximum extent practicable''.

[(3) ELIGIBLE PROJECTS FOR SURFACE TRANSPORTATION PROGRAM.—

[(A) ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT.—Section 133 of title 23, United States Code, is amended by striking (b)(14) and inserting the following:

[''(14) Environmental restoration and pollution abatement to minimize or mitigate impacts of any transportation project funded under this title (including the retrofit or construction of storm water treatment systems to meet State and Federal National Pollutant Discharge Elimination System requirements under Section 402 of the Clean Water Act) to address water pollution or environmental degradation caused or contributed to by transportation facilities. When transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.''.

[(B) INVASIVE SPECIES CONTROL AND BROWNFIELDS REMEDIATION EFFORTS.—Section 133(b) of such title, as amended by this Act, is further amended by adding at the end the following new paragraphs:

[''(16) In accordance with all applicable Federal law (including regulations), participation in the control of invasive plant species and the establishment of native species related to projects funded under this title, which may include participation in statewide inventories of both invasive and desirable plant species and regional native plant habitat conservation and mitigation, and restoration plans. Contributions to the measures described in the preceding sentence may take place concurrent with or in advance of project construction; except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

[''(17) Remediation associated with the construction of a project funded under this title on a brownfield site, as defined in 42 U.S.C. 9601.''.

[SEC. 1609. STANDARDS.

[(a) IN GENERAL.—Section 109(a) of title 23 of the United States Code is amended by—

[(1) striking ''and'' at the end of paragraph (1);

[(2) striking the period at the end of paragraph (2) and inserting ''; and''; and

[(3) adding the following paragraph at the end of subsection (a):

[''(3) consider the preservation, historic, scenic, natural environment, and community values.''.

[(b) CONTEXT SENSITIVE DESIGN.—Section 109 of such title is amended by striking subsection (p) and inserting the following:

[''(p) CONTEXT SENSITIVE DESIGN.—

[''(1) The Secretary shall encourage States to design projects funded under title 23 to—

[''(A) allow for the preservation of environmental, scenic, community, and/or historic values;

[''(B) ensure safe use of the facility for both passenger and freight movement;

[''(C) provide for consideration of the context of the locality;

[''(D) encourage access for other modes of transportation; and

[''(E) comply with subsection (a).

[''(2) Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to achieve the criteria of subparagraphs (A) through (E).''.

[SEC. 1610. USE OF HOV LANES.

[Section 102 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

[''(a) HIGH OCCUPANCY VEHICLE (HOV) PASSENGER REQUIREMENTS.—

[''(1) IN GENERAL.—A State transportation department or other responsible local agencies shall establish the occupancy requirements of vehicles operating in HOV facilities; except that no fewer than 2 occupants per vehicle may be required, unless otherwise provided in paragraph (2).

[''(2) EXCEPTIONS TO HOV OCCUPANCY REQUIREMENTS.—

[''(A) MOTORCYCLES.—Motorcycles shall not be considered single occupant vehicles and shall be allowed to use HOV facilities, except that upon certification by the responsible agency to the Secretary, the agency may restrict such use by motorcycles if such use would create a safety hazard.

[''(B) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

[''(i) Responsible agencies shall have the option of allowing qualifying low emission and energy-efficient vehicles to use HOV facilities if they do not satisfy the established occupancy requirements.

[''(ii) Responsible agencies that allow qualifying low emission and energy-efficient vehicles to use HOV facilities shall—

[''(I) establish a program that addresses how such qualifying vehicles are selected and certified;

[''(II) establish requirements for labeling qualifying vehicles and procedures for enforcing such vehicles;

[''(III) continuously monitor, evaluate, and report on performance; and

[''(IV) establish the policies and procedures that will limit or restrict the use of such vehicles as necessary, to ensure that the performance of individual facilities or the entire system does not become seriously degraded.

[''(iii) As used in this subparagraph, the term ''low emission and energy-efficient vehicles'' means vehicles that have been certified—

[''(I) by the Administrator of the Environmental Protection Agency to have a 45-mile-per-gallon or greater fuel economy highway rating; or are defined as an alternative fuel vehicle under section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)); and

[''(II) as meeting 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 (42 U.S.C. 7521(i)) for that make and model year vehicle.

[''(C) BICYCLES.—Responsible agencies shall have the option of allowing bicycles on surface street HOV facilities when there is insufficient space within the roadway or public right-of-way to establish and designate a bicycle lane.

[''(D) TOLLING OF VEHICLES.—Responsible agencies may permit vehicles, in addition to those vehicles described in paragraphs (A), (B), and (E) that do not satisfy the established occupancy requirements, to use an HOV facility only if they charge such vehicles a toll. The authority of an agency to impose a toll shall be subject to section 129 of this title. Any agency electing to toll such vehicles shall also—

[''(i) establish a program that addresses how motorists can enroll and participate;

[''(ii) develop, manage, and maintain a system that will automatically collect the tolls that vehicles must pay;

[''(iii) continuously monitor, evaluate, and report on performance;

[''(iv) establish the policies and procedures for varying the toll that is charged to manage the demand to use the subject facilities and enforcing violations; and

[''(v) establish procedures that will limit or restrict the use of such vehicles as necessary, to ensure that the performance of individual facilities or the entire system does not become seriously degraded.

[''(E) DESIGNATED PUBLIC TRANSPORTATION VEHICLES.—

[''(i) In this subparagraph, the term ''designated public transportation vehicles'' means vehicles that provide designated public transportation, as defined under section 12141 of title 42, and that are owned or operated by a public entity or that are operating under contract to a public entity.

[''(ii) Responsible agencies may permit designated public transportation vehicles to use HOV facilities if they do not satisfy the established occupancy requirements.

[''(iii) Any agency that permits designated public transportation vehicles to use HOV facilities if they do not satisfy the established occupancy requirements shall—

[''(I) establish requirements for clearly and identifiably labeling vehicles operating under contract to the public entity with the name of the public entity on all sides of the vehicle;

[''(II) establish the policies and procedures to ensure that vehicles operating under contract to the public entity are in compliance with the labeling requirement under subclause (I) of this clause;

[''(III) continuously monitor, evaluate, and report on performance; and

[''(IV) establish the policies and procedures that will limit or restrict the use of such vehicles as necessary, to ensure that the performance of individual facilities or the entire system does not become seriously degraded.

[''(3) HOV FACILITY MANAGEMENT, OPERATION, AND MONITORING.—Agencies that permit any of the exceptions specified in paragraph (a)(2) shall be responsible for the following:

[''(A) PERFORMANCE MONITORING, EVALUATION, AND REPORTING.—Responsible agencies shall be required to establish, manage, and support a performance monitoring, evaluation, and reporting program if they permit any of the exceptions specified in paragraph (a)(2). This program shall continuously monitor, assess, and report on the impacts that any of these specific types of allowed vehicles may have on the operation of individual HOV facilities and the entire HOV system.

[''(B) OPERATION OF HOV FACILITY OR SYSTEM.—Responsible agencies shall limit or discontinue permitting any of the exceptions specified in paragraph (a)(2), if the presence of any of these specific types of allowed vehicles seriously degrades the operation of individual HOV facilities or the entire HOV system. For purposes of this section, ''seriously degraded'' means that an HOV facility located on a freeway, or similar type of roadway, fails to maintain a minimum average operating speed of at least 45 miles per hour 90 percent of the time over a consecutive six-month period during weekday peak travel periods. For HOV facilities on other types of roadways, the minimum average operating speed, performance threshold, and associated time period shall be established based on the conditions unique to each roadway and agreed to by the responsible agencies.''.

[SEC. 1611. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

[(a) IN GENERAL.—Section 217 of title 23, United States Code, is amended—

[(1) in subsection (a), by inserting ''pedestrian and'' after ''safe'';

[(2) in subsection (e), by striking ''bicycles'' each time it appears and inserting ''pedestrians or bicyclists'' in each instance;

[(3) by striking subsection (f) and inserting the following:

[''(f) FEDERAL SHARE.—The Federal share of the construction of bicycle transportation facilities and pedestrian walkways and for carrying out nonconstruction projects related to safe pedestrian and bicycle use shall be determined in accordance with section 120(b).'';

[(4) in subsection (j), by inserting after paragraph (4) the following:

[''(5) SHARED USE PATH.—The term ''shared use path'' means a multi-use trail or other path, physically separated from motorized vehicular traffic by an open space or barrier, either within a highway right-of-way or within an independent right-of-way, and usable for transportation purposes. Shared use paths may be used by pedestrians, bicyclists, skaters, equestrians, and other nonmotorized users.''; and

[(5) by adding after subsection (j) the following:

[''(k) USER FEES.—At the option of each State, a shared use path funded under this section is not subject to the provisions of 23 U.S.C. 301, provided that the shared use path is not within a highway right-of-way, and the income received from user fees is used for ongoing maintenance and operation of shared use paths within the State.

[''(l) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

[''(1) IN GENERAL.—The Secretary shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety to—

[''(A) operate a national bicycle and pedestrian clearinghouse;

[''(B) develop information and educational programs; and

[''(C) disseminate techniques and strategies for improving bicycle and pedestrian safety.

[''(2) FUNDING.—Funds provided under section 104(p) of this title shall be available to carry out the provisions of this section.

[''(3) APPLICABILITY OF TITLE 23.—Funds authorized by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.''.

[(b) SET-ASIDE.—Section 104 of title 23, United States Code, is amended by adding, after subsection (o), as added by this Act, the following:

[''(p) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—On October 1 of each fiscal year for fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set-aside $500,000 of the remaining funds authorized to be apportioned under subsection (b)(3) for carrying out the Bicycle and Pedestrian Safety Grants under section 217 of this title.''.

[SEC. 1612. TRANSPORTATION, ENERGY, AND ENVIRONMENT.

[(a) IN GENERAL.—As part of the National Climate Change Technology Initiative and the Climate Change Research Initiative, the Secretary shall establish and carry out a multimodal energy and climate change program to study the relationship of transportation, energy, and climate change.

[(b) CONTENTS.—The program to be carried out under this section shall include, but not be limited to, research designed to—

[(1) identify, develop and evaluate strategies to improve energy efficiency and reduce greenhouse gas emissions from transportation sources; and

[(2) identify and evaluate the potential effects of climate changes on the nation's transportation systems, and strategies to address these effects;

[(c) PROJECT SELECTION.—Activities to be undertaken in this program will be determined by an internal steering committee established by the Secretary of Transportation. This intermodal committee shall include representatives from the Office of the Secretary and operating administrations within the Department of Transportation as designated by the Secretary.

[(d) GRANTS, COOPERATIVE AGREEMENTS AND CONTRACTS.—The Secretary may carry out this program independently or by making grants to, or entering into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local agency, authority, association, nonprofit or for-profit corporation, or institution of higher education.

[(e) FUNDING.—

[(1) HIGHWAY ACCOUNT.—

[(A) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,600,000 for fiscal year 2004, $2,200,000 for fiscal year 2005, $2,200,000 for fiscal year 2006, $2,200,000 for fiscal year 2007, $2,700,000 for fiscal year 2008, and $2,700,000 for fiscal year 2009.

[(B) CONTRACT AUTHORITY.—Funds authorized from the Highway Trust Fund (other than the Mass Transit Account) 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, except that the Federal share of the cost of a project or activity carried out using such funds shall not exceed 100 percent and such funds shall remain available until expended.

[(2) MASS TRANSIT ACCOUNT.—

[(A) FUNDING.—There is authorized to be appropriated from the Mass Transit Account of the Highway Trust Fund to carry out this section $400,000 for fiscal year 2004, $300,000 for fiscal year 2005, $300,000 for fiscal year 2006, $300,000 for fiscal year 2007, $300,000 for fiscal year 2008, and $300,000 for fiscal year 2009.

[(B) CONTRACT AUTHORITY.—A grant or contract that is financed with amounts paid under this subparagraph from the Mass Transit Account is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

[(3) AIRPORT AND AIRWAY TRUST FUND.—There is authorized to be appropriated from the Airport and Airway Trust Fund to carry out this section $500,000 for fiscal year 2005, $500,000 for fiscal year 2006, and $500,000 for fiscal year 2007.

[SEC. 1613. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.

[Section 111 of Title 23 of the United States Code is hereby amended by adding at the end the following:

[''(d) IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.—Notwithstanding the prohibition on commercial establishments set forth in subsection (a), any State may permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in such State, and may charge, or permit charges for the use of such facilities. The exclusive purpose of such facilities or technologies shall be to enable operators of such vehicles to turn off their engines while parked and still have heating, air conditioning, electricity, and communication services in the vehicle.''.

[SEC. 1614. APPROPRIATION FOR TRANSPORTATION PURPOSES OF LANDS OR INTEREST IN LANDS OWNED BY THE UNITED STATES.

[(a) IN GENERAL.—Section 317 of title 23, United States Code, is amended to read as follows:

["§ 317. Appropriation for transportation purposes of lands or interest in lands owned by the United States

[''(a) IN GENERAL.—If the Secretary determines that any part of the lands or interests in land owned by the United States are reasonably necessary for any project administered under this title or as a source for materials for such a project, the Secretary is authorized to file with the Secretary of the Department supervising the administration of such lands or interests in lands a description and a map showing the portion of such lands or interests in lands which it is necessary to appropriate. The Secretary of such Department shall have a period of up to four months to review the proposed appropriation and to designate reasonable mitigation measures necessary to protect the adjacent federal lands from adverse environmental impacts, or to certify that the proposed appropriation is contrary to the purposes for which such lands or materials have been reserved. If no such certification is received, the Secretary may appropriate and transfer such lands or interests in lands to the State transportation department, or its nominee, subject to such reasonable mitigation measures designated above. If at any time the need for such lands or materials for transportation purposes shall no longer exist, notice of the fact shall be given by the State transportation department to the Secretary and the Secretary of the Department from which they had been appropriated. Such lands or materials may, at the discretion of the Secretary of the Department from which they had been appropriated or its designee, revert to the United States, under the control of such Secretary, or its designee. Unless otherwise instructed by the Secretary, prior to any such reversion the State transportation department shall restore the land to its former condition.

[''(b) PRIOR RESTRICTIONS OR ENCUMBRANCES.—Notwithstanding any other provision of law, the acquisition and use of land under this section may proceed irrespective of any prior deed restrictions or other encumbrances that were imposed as a condition on the receipt of Federal funds.''.

[(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of such title is revised by amending the item relating to section 317 to read as follows:

[''317. Appropriation for transportation purposes of lands or interest in lands owned by the United States.''.

[SEC. 1615. TOLL PROGRAMS.

[(a) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Sec. 1216(b) of the Transportation Equity Act for the 21st Century is amended—

[(1) in paragraph (1), by striking ''that could not otherwise be adequately maintained or functionally improved without the collection of tolls'';

[(2) in paragraph (3), by striking subparagraph (C) and inserting the following:

[''(C) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under this pilot program is the most efficient, economical, or expeditious way to advance the project.''; and

[(3) in paragraph (4),

[(A) by striking subparagraph (A) and inserting the following:

[''(A) the State's analysis showing that financing the reconstruction or rehabilitation of this facility with the collection of tolls under this program is the most efficient, economical, or expeditious way to advance the project is reasonable;'';

[(B) by striking subparagraph (B) and inserting the following:

[''(B) the facility needs reconstruction or rehabilitation;'';

[(C) by striking subparagraph (C); and

[(D) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively.

[(b) VARIABLE TOLL PRICING PROGRAM.—

[(1) ESTABLISHMENT.—The Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State or public authority to toll any highway, bridge, or tunnel, including facilities on the Interstate System, to manage existing high levels of congestion or reduce emissions in a nonattainment area or maintenance area.

[(2) BASIC PROGRAM.—The following conditions apply to any variable toll pricing program established under this section:

[(A) LIMITATION ON USE OF REVENUES.—All toll revenues received from the operation of the toll facility shall be used first for debt service, reasonable return on investment of any private financing, and the costs necessary for proper operation and maintenance of the toll facility (including reconstruction, resurfacing, restoration, and rehabilitation). If the State or public authority certifies annually that the tolled facility is being adequately maintained, then the State or public authority may use any excess toll revenues for projects eligible for Federal assistance under title 23, United States Code.

[(B) AGREEMENT.—Before the Secretary may permit tolling under this subsection, and for each facility that may be tolled, the Secretary and the State or public authority must enter into an agreement providing for the conditions in subparagraphs (A) and (C) of this paragraph. The agreement shall terminate upon the decision of the State or public authority to discontinue its variable tolling program for that facility. If there is any debt outstanding on the facility at the time the decision is made to discontinue the program, the facility may continue to be tolled in accordance with the terms of the agreement until the debt is retired.

[(C) REQUIREMENTS.—

[(i) VARIABLE PRICE REQUIREMENT.—The Secretary shall require, for each facility that may be tolled under this subsection, that the tolls vary in price according to time of day, as appropriate, to manage congestion or to improve air quality.

[(ii) HOV PASSENGER REQUIREMENTS.—In addition to the exceptions to the high occupancy vehicle passenger requirements established under section 102(a)(2) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

[(D) LIMITATION ON FEDERAL SHARE.—The Federal share payable for projects on the

tolled facility, including projects to install toll collection facilities, shall be a percentage determined by the State but shall not exceed 80 percent.

[(3) ELIGIBILITY.—To be eligible to participate in the program, a State or public authority shall provide to the Secretary—

[(A) a description of the congestion or air quality problems sought to be addressed under this program;

[(B) an identification of the goals sought to be achieved and the performance measures that would be used to gauge the success made toward reaching those goals; and

[(C) such other information as the Secretary may require.

[(4) DEFINITIONS.—

[(A) MAINTENANCE AREA.—The term ''maintenance area'' has the same meaning given the term under section 101 of title 23, United States Code.

[(B) NONATTAINMENT AREA.—The term ''nonattainment area'' has the same meaning given the term under section 7501 of title 42, United States Code.

[(c) REPEAL.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act, as amended by section 1216(a) of the Transportation Equity Act for the 21st Century, is repealed. Notwithstanding the repeal of section 1012(b), the Secretary shall monitor and allow any value pricing program established under a cooperative agreement in effect on the date of enactment of this Act to continue.

[SEC. 1616. OZONE STANDARDS, PARTICULATE MATTER STANDARDS, AND REGIONAL HAZE PROGRAM.

[(a) TITLE.—The heading of title VI of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 463; June 9, 1998) is amended to read as follows:

["TITLE VI—OZONE STANDARDS, PARTICULATE MATTER STANDARDS, AND REGIONAL HAZE PROGRAM"

[(b) FINDINGS AND PURPOSE.—Section 6101 of such Act is amended to read as follows:

["§ 6101. Findings and Purpose

[''(a) The Congress finds that—

[''(1) the fine particle (PM–2.5) standards promulgated by the Administrator of the Environmental Protection Agency (referred to in this title as ''Administrator'') in July 1997 were established to protect the public health and welfare;

[''(2) there is a continuing need for PM–2.5 air quality monitoring data;

[''(3) with three years of PM–2.5 air quality monitoring data for all areas expected to be available by 2003 it is important to move forward to designate areas as attainment or nonattainment and proceed with implementation of these standards;

[''(4) it will be beneficial to States to develop and submit implementation plans for the PM–2.5 standards and the regional haze program at the same time; and

[''(5) Western States that participated in the Grand Canyon Visibility Transport Commission should be permitted to submit plans in 2003 to implement recommendations set forth in the Commission's report.

[''(b) The purposes of this title are—

[''(1) to ensure the availability of PM–2.5 air quality monitoring data;

[''(2) to establish a deadline for the designation of areas for the PM–2.5 standards; and

[''(3) to ensure that States are able to develop PM–2.5 and regional haze implementation plans at the same time for all areas within a State, while continuing to allow nine Western States the option of submitting regional haze plans in 2003 to implement regional haze requirements based on the 1996 recommendations of the Grand Canyon Visibility Transport Commission.''.

[(c) PARTICULATE MATTER AND REGIONAL HAZE.—

[(1) The heading of section 6102 of the Transportation Equity Act for the 21st Century is amended to read as follows:

["§ 6102. Particulate matter and regional haze programs"

[(2) Section 6102(c) of such Act is amended to read as follows:

[''(c)(1) The Governors shall be required to submit designations referred to in section 107(d)(1) of the Clean Air Act (42 U.S.C. 7407(d)(1)) for each area following promulgation of the July 1997 PM–2.5 national ambient air quality standard by September 30, 2003, based on air quality monitoring data collected in accordance with any applicable Federal reference methods for the relevant areas. Only data from the monitoring network designated in subsection (a) and other Federal reference method PM–2.5 monitors shall be considered for such designations. Nothing in the previous sentence shall be construed as affecting the Governor's authority to designate an area initially as nonattainment, and the Administrator's authority to promulgate the designation of an area as nonattainment, under section 107(d)(1) of the Clean Air Act, based on its contribution to ambient air quality in a nearby nonattainment area.

[''(2)(A) Each State shall submit, for the entire State, the State implementation plan revisions to meet the requirements promulgated by the Administrator under section 169B(e)(1) of the Clean Air Act (42 U.S.C. 7492(e)(1)) (hereinafter in this paragraph referred to as 'the regional haze requirements') by 3 years after the date the Administrator promulgates the designations referred to in subsection (d) for such State.

[''(B) The provisions of subparagraph (A) of this paragraph shall not preclude the implementation of the agreements and recommendations set forth in the Grand Canyon Visibility Transport Commission Report dated June 1996. These provisions shall not preclude the submission of State implementation plan revisions by the States of Arizona, California, Colorado, Idaho, Nevada, New Mexico, Oregon, Utah, or Wyoming by December 31, 2003, for implementation of the regional haze requirements as they apply to such States. Each of the aforementioned States submitting such plan revisions shall also submit statewide implementation plan revisions, as required under subparagraph (A), to address, as necessary, any additional mandatory Class I Federal areas not addressed by the revisions submitted pursuant to the preceding sentence.''.

[(3) Section 169B(e)(2) of the Clean Air Act (42 U.S.C. 7492(e)(2)) is repealed.

[(4) Section 6102(d) of the Transportation Equity Act for the 21st Century is amended to read as follows:

[''(d) Notwithstanding any other provision of law, the Administrator shall promulgate the designations referred to in subsection (d) of section 107 of the Clean Air Act for each area of each State for the July 1997 PM–2.5 national ambient air quality standards by December 31, 2004.''.

[(d) CONFORMING AMENDMENT.—Section 1(b) of the Transportation Equity Act for the 21st Century is amended in the Table of Contents—

[(1) in the heading for title VI, by striking ''OZONE AND PARTICULATE MATTER STANDARDS'' and inserting ''OZONE STANDARDS, PARTICULATE MATTER STANDARDS, AND REGIONAL HAZE PROGRAM''; and

[(2) in the item relating to section 6102, by striking ''monitoring program'' and inserting ''and regional haze programs''.

[SEC. 1617. INDEMNIFICATION ON CERTAIN RAILBANKED PROJECTS.

[Where, pursuant to a final judgment, a Federal court finds the United States liable by operation of section 8(d) the National Trails System Act (enacted by section 208 of Pub. L. 98–11, 97 Stat. 48) (16 U.S.C. 1247(d)), for a taking of property under the Fifth Amendment to the United States Constitution, a State that has received funds, after the date of enactment of this Act, under a Federal-aid highway program established under title 23, United States Code, and that has used a portion of those funds to acquire, develop, maintain or improve a railroad right-of-way that is the subject of the judgment, shall indemnify the United States up to the lesser amount of the judgment awarded (including attorney fees) or the Federal-aid highway program funds received in connection with that railroad right-of-way.

[Subtitle G—Program Efficiencies and Improvements—Operations

[SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.

[(a) DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended—

[(1) in paragraph (3)—

[(A) by inserting ''and intermodal operations to enhance security'' after ''program'' in the first sentence; and

[(B) in subparagraph (G), by striking ''traffic control systems,'';

[(2) in paragraph (18), as redesignated by this Act, by inserting ''costs incurred by transportation agencies attributed to operation of technology used to monitor critical transportation infrastructure for security purposes,'' after ''rent,'' and by inserting ''transportation systems management and operations and'' after ''with'';

[(3) in paragraph (19)(A)(i), as redesignated by this Act, by inserting—

[(A) ''transportation system management and operations, including,'' after ''for'';

[(B) ''and transportation security'' after ''installation of traffic''; and

[(C) ''equipment and programs for transportation response to manmade and natural disasters,'' after ''incident management programs,'';

[(4) by redesignating paragraphs (39) and (40), as redesignated by this Act, as paragraphs (40) and (41), respectively; and

[(5) by inserting new paragraph (39) after paragraph (38), as follows:

[''(39) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term 'transportation systems management and operations' means an integrated program to optimize the performance of existing infrastructure through the implementation of multi- and intermodal, cross-jurisdictional systems, services, and projects designed to preserve capacity and improve security, safety, and reliability of Federal-aid highways. Transportation systems management and operations includes regional operations collaboration and coordination activities between transportation and public safety agencies, and improvements 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.''.

[(b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5) of such title is amended by inserting ''improve transportation systems management and operations,'' after ''intersections,''.

[(c) SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.—Section 133(b) of such title, as amended by section 1608 of this Act, is further amended by adding at the end the following:

[''(17) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.''.

[(d) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—Chapter 1 of such title, as amended by this Act, is further amended by inserting the following new section after section 164:

[''§ 165. Transportation systems management and operations

[''(a) AUTHORITY.—To ensure efficient and effective transportation systems management and operations on Federal-aid highways, through collaboration, coordination, and real-time information sharing, at a regional level, between transportation system managers and operators, public safety officials, and the general public, and to manage and operate Federal-aid highways in a coordinated manner to preserve the capacity and maximize the performance of existing highway and transit facilities for travelers and carriers, the Secretary of Transportation may—

[''(1) encourage transportation system managers, operators, public safety officials, and transportation planners within an urbanized area, who are actively engaged in and responsible for conducting the day-to-day management, operations, public safety, and planning of transportation facilities and services, to collaborate and coordinate on a regional level in a continuous and sustained manner, for improved transportation systems management and operations, including, at a minimum—

[''(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants for how the regions' systems should be managed, operated, and measured;

[''(B) sharing of information among operators, service providers, public safety officials, and the general public; and

[''(C) guiding in a regionally-coordinated manner, the implementation of regional transportation system management and operations initiatives including emergency evacuation and response, traffic incident management, technology deployment, and traveler information systems delivery, in a manner consistent with and integrated into the ongoing Metropolitan and Statewide transportation planning processes and regional intelligent transportation system architecture, if required; and

[''(2) encourage States to establish a system of basic real-time monitoring capability for the surface transportation system and provide the capability and means to share that data among agencies (highways, transit, public safety), jurisdictions (including states, cities, counties, metropolitan planning organizations), private-sector entities; and the traveling public.

[''(b) EXECUTION.—To support the successful execution of transportation systems management and operations activities, the Secretary may undertake the following:

[''(1) Assist and cooperate with other Federal departments and agencies, State and local governments, metropolitan planning organizations, private industry, and other interested parties to improve regional collaboration and real-time information sharing between transportation system managers and operators, public safety officials, emergency managers, and general public to increase security, safety, and reliability of our Federal-aid highways.

[''(2) Issue, if necessary, new guidance or regulations for the procurement of transportation system management and operations facilities, equipment, and services, including but not limited to equipment procured in preparation for manmade or natural disasters and emergencies, system hardware, software, and software integration services. In developing such guidelines, the Secretary may consider innovative procurement methods that support the timely and streamlined execution of transportation system management and operations programs and projects.

[''(3) Approve for Federal financial assistance from funds apportioned under section 104(b)(3) of this title support for regional operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and congestion relief.''.

[(e) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by inserting after the item relating to section 164 the following:

[''165. Transportation systems management and operations.''.

[SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.

[(a) GOALS AND PURPOSES.—

[(1) GOALS.—The goals of the real-time system management information program are to provide the nationwide capability to monitor, in real-time, the traffic and travel conditions of our nation's major highways and to widely share that information to improve the security of the surface transportation system, address congestion problems, support improved response to weather events, and facilitate national and regional traveler information.

[(2) PURPOSES.—The purposes of the real-time system management information program are to—

[(A) establish a nationwide system of basic real-time information for managing and operating our surface transportation system;

[(B) identify longer range real-time highway and transit monitoring needs and develop plans and strategies for meeting those needs; and

[(C) provide the capability and means to share that data with state and local governments, and the traveling public.

[(b) DATA EXCHANGE FORMATS.—Within one year of enactment of this Act, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems, including statewide incident reporting systems can readily be exchanged across jurisdictional boundaries, facilitating nationwide availability of information.

[(c) STATEWIDE INCIDENT REPORTING SYSTEM.—Within 2 years of enactment of this legislation, each State shall establish a statewide incident reporting system.

[(d) REGIONAL INTELLIGENT TRANSPORTATION SYSTEM ARCHITECTURE.—

[(1) As State and local governments develop or update their regional ITS architectures, as specified in section 940.9 of title 23, Code of Federal Regulations (Regional ITS Architecture), they shall explicitly address their real-time highway and transit information needs and the systems needed to meet those needs. This specific incorporation of information needs should address coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing this information.

[(2) States are encouraged to incorporate the data exchange formats developed by the Secretary to ensure that the data provided by highway and transit monitoring systems can readily be exchanged across state and local governments, and with the traveling public.

[(e) ELIGILIBITY.—

[(1) USE OF SURFACE TRANSPORTATION PROGRAM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(3) of title 23, United States Code, for activities related to the planning and deployment of real-time monitoring elements.

[(2) USE OF NATIONAL HIGHWAY SYSTEM FUNDS.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under section 104(b)(1) of title 23, United States Code, for activities related to the planning and deployment of real-time monitoring elements.

[(3) USE OF STATE PLANNING AND RESEARCH FUNDS.—Subject to project approval by the Secretary, a State may obligate funds available under section 104(i) of title 23, United States Code, as amended by section 1503 of this Act, for activities related to the planning of real-time monitoring elements.

[(f) DEFINITION.—In this section, the term ''statewide incident reporting system'' means a statewide system for facilitating the real-time electronic reporting of incidents to a central location for use in monitoring the event, providing accurate traveler information, and responding to the incident as appropriate.

[SEC. 1703. INTELLIGENT TRANSPORTATION SYSTEMS PERFORMANCE INCENTIVE PROGRAM.

[(a) IN GENERAL.—The Secretary shall establish a comprehensive incentive program to accelerate the integration and interoperability of intelligent transportation systems in order to improve the performance of the surface transportation system in metropolitan and rural areas.

[(b) DEFINITIONS.—

[(1) INTELLIGENT TRANSPORTATION SYSTEMS.—The term ''intelligent transportation systems'' has the meaning given the term under section 5507 of this Act.

[(2) NATIONAL HIGHWAY SYSTEM.—The term ''National Highway System'' means the Federal-aid highway system described in section 103(b) of title 23, United States Code.

[(3) REGION.—The term ''region'' means any geographic area that identifies the boundaries of the regional Intelligent Transportation Systems architecture and is defined by the needs of the participating agencies and their stakeholders for the purposes of improving surface transportation operations. A region may include a metropolitan planning area, a corridor, a State, or multiple states.

[(c) GOAL.—The goal of the intelligent transportation systems performance incentive program is to reduce traffic congestion, improve transportation system reliability, provide better customer service to users of the highway system, and improve safety and security by providing financial incentives to transportation agencies to invest in proactively monitoring and managing the performance of the transportation system.

[(d) PURPOSE.—The purpose of the intelligent transportation systems performance incentive program is to support the deployment and integration of intelligent transportation systems based on the performance of these systems in improving the management and operation of their surface transportation systems.

[(e) REGULATIONS.—

[(1) ISSUANCE.—The Secretary of Transportation shall issue regulations establishing a funding formula for the distribution of funds under this section.

[(2) BASIS FOR FUNDING FORMULA.—The funding formula shall be based on criteria that reflect each State's—

[(A) reductions in delay due to incidents;

[(B) improvements in the operation and safety of signalized intersections;

[(C) reductions in delay and improvements in safety of work zones on the National Highway System;

[(D) improvements in the efficiency and reliability of transit services;

[(E) overall improvement in integrated regional transportation operations;

[(F) improvements in the quality and availability of traveler information;

[(G) improved crash notification; and

[(H) improvements in the safety and productivity of commercial vehicle operations on the National Highway System.

[(3) EFFECTIVE DATE.—The funding formula shall take effect in the fiscal year established by the Secretary in the regulations.

[(4) APPORTIONMENT PHASE-IN.—The funding formula shall provide for the apportionment of funds in the following manner:

[(A) FIRST FISCAL YEAR.—In the first fiscal year that the funding formula is in effect, 50 percent of the sums authorized to be appropriated for expenditure on the intelligent transportation systems performance incentive program for that fiscal year shall be apportioned according to the funding formula developed under this subsection and 50 percent of the amount shall be apportioned in accordance with the formula set forth in section 104(b)(1)(A)(i) through (iv) of title 23, United States Code.

[(B) SECOND FISCAL YEAR.—In the second fiscal year the funding formula is in effect, 75 percent of the sums authorized to be appropriated for expenditure on the intelligent transportation systems performance incentive program for that fiscal year shall be apportioned according to the funding formula developed under this subsection and 25 percent of the amount shall be apportioned in accordance with the formula set forth in section 104(b)(1)(A)(i) through (iv) of title 23, United States Code.

[(C) THIRD AND SUBSEQUENT FISCAL YEARS.—In the third and subsequent fiscal years, the sums authorized to be appropriated for expenditure on the intelligent transportation systems performance incentive program shall be apportioned according to the funding formula developed under this subsection.

[(f) FUNDING.—

[(1) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated under section 1101(a)(13) of this Act shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

[(2) FEDERAL SHARE.—The Federal share payable under section 120(b) of title 23, United States Code, shall apply to any project carried out under this section.

[(g) APPORTIONMENTS.—The Secretary shall apportion the sums authorized to be appropriated for expenditure on the intelligent transportation systems performance incentive program among the States in accordance with the formula set forth in section 104(b)(1)(A)(i) through (iv) of title 23, United States Code, until the fiscal year established by the regulation under subsection (e)(3).

[(h) USE OF FUNDS.—Amounts apportioned under this section shall be used for projects involving planning, deployment, integration, and operation of intelligent transportation systems, or any other project or activity designed to further improve system operations. Funds apportioned to each State under this section should be made available for projects in metropolitan planning areas, corridors, and other regions as appropriate to improve operations.

[SEC. 1704. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.

[(a) IN GENERAL.—The Secretary shall carry out a Commercial Vehicle Information Systems and Networks program to—

[(1) improve the safety and productivity of commercial vehicles and drivers; and

[(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

[(b) PURPOSE.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

[(c) CORE DEPLOYMENT GRANTS.—

[(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of Commercial Vehicle Information Systems and Networks.

[(2) ELIGIBILITY.—To be eligible for a core deployment grant under this section, a State—

[(A) shall have a Commercial Vehicle Information Systems and Networks program plan and a top level system design approved by the Secretary;

[(B) shall certify to the Secretary that its Commercial Vehicle Information Systems and Networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications, are consistent with the national intelligent transportation systems and Commercial Vehicle Information Systems and Networks architectures and available standards, and promote interoperability and efficiency to the extent practicable; and

[(C) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for Commercial Vehicle Information Systems and Networks.

[(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this section for the core deployment of Commercial Vehicle Information Systems and Networks may not exceed $2,500,000 million, including funds received under sections 4001(e) and 5001(a)(5) and (6) of the Transportation Equity Act for the 21st Century for the core deployment of Commercial Vehicle Information Systems and Networks.

[(4) USE OF FUNDS.—Funds from a grant under this subsection may only be used for the core deployment of Commercial Vehicle Information Systems and Networks. Eligible States that have either completed the core deployment of Commercial Vehicle Information Systems and Networks or complete such deployment before core deployment grant funds are expended, may use the remaining core deployment grant funds for the expanded deployment of Commercial Vehicle Information Systems and Networks in their State.

[(d) EXPANDED DEPLOYMENT GRANTS.—

[(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (c) of this section, the Secretary may make grants to each eligible State, upon request, for the expanded deployment of Commercial Vehicle Information Systems and Networks.

[(2) ELIGIBILITY.—Each State that has completed the core deployment of Commercial Vehicle Information Systems and Networks is eligible for an expanded deployment grant.

[(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1 million per State.

[(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of Commercial Vehicle Information Systems and Networks.

[(e) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible sources shall not exceed 80 percent.

[(f) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated under section 1101(a)(15) of this Act shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.

[(g) DEFINITIONS.—In this section, the following definitions apply:

[(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term ''Commercial Vehicle Information Systems and Networks'' means the information systems and communications networks that provide the capability to—

[(A) improve the safety of commercial vehicle operations;

[(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

[(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

[(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

[(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

[(2) COMMERCIAL VEHICLE OPERATIONS.—The term ''commercial vehicle operations''—

[(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

[(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

[(3) CORE DEPLOYMENT.—The term ''core deployment'' means the deployment of systems in a State necessary to provide the State with the following capabilities:

[(A) Safety information exchange to—

[(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

[(ii) connect to the Safety and Fitness Electronic Records (SAFER) system for access to interstate carrier and commercial vehicle data, summaries of past safety performance, and commercial vehicle credentials information; and

[(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records (SAFER) for access to interstate carrier and commercial vehicle data.

[(B) Interstate credentials administration to—

[(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the International Registration Plan (IRP) and International Fuel Tax Agreement

(IFTA) credentials and extend this processing to other credentials, including intrastate, titling, oversize/overweight, carrier registration, and hazardous materials;

[(ii) connect to the International Registration Plan (IRP) and International Fuel Tax Agreement (IFTA) clearinghouses; and

[(iii) have at least 10 percent of the transaction volume handled electronically and have the capability to add more carriers and to extend to branch offices where applicable.

[(C) Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of one fixed or mobile inspection sites and to replicate this screening at other sites.

[(4) EXPANDED DEPLOYMENT.—The term ''expanded deployment'' means the deployment of systems in a State that exceed the requirements of an core deployment of Commercial Vehicle Information Systems and Networks, improve safety and the productivity of commercial vehicle operations, and enhance transportation security.

[Subtitle H—Program Efficiencies and Improvements—Federal-Aid Stewardship

[SEC. 1801. SURFACE TRANSPORTATION SYSTEM PERFORMANCE PILOT PROGRAM.

[(a) ESTABLISHMENT.—

[(1) IN GENERAL.—The Secretary shall establish and implement a Surface Transportation System Performance Pilot Program. Subject to this section, a State may assume some or all, as the Secretary and State may agree, of the Secretary's responsibilities under title 23, United States Code, or assume all or some, as they may agree, of the Secretary's responsibilities under any Federal law, for projects constructed with Federal funds under this pilot program.

[(2) OBLIGATION OF FUNDS.—States participating in this pilot program may obligate funds under sections 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5), 105, and 144(e) of title 23, United States Code, for any purpose for which Federal funds may be obligated by a State under title 23. However, the State shall reserve 10 percent of the funds apportioned under section 104(b)(3) in each fiscal year for transportation enhancement activities as specified in section 133(d)(1), as amended by this Act.

[(3) PURPOSE.—The purpose of this performance pilot program is to demonstrate the benefits of performance-based management and to determine how such an approach can be best incorporated into an effective Federally-assisted, State administered Federal-aid highway program. The Secretary shall work closely with potential pilot States to determine ways to build into program-level oversight performance measures that reflect both State and national interests and to apply them with specific measurement of program effectiveness.

[(b) STATE PARTICIPATION.—

[(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit up to five States to participate in the performance pilot program established under subsection (a).

[(2) APPLICATION.—To participate in the performance pilot program, a State shall submit an application to the Secretary that contains, at a minimum, the following:

[(A) A description of the State's long-term and short-term transportation goals.

[(B) A description of how the State will address any areas of national strategic importance, as may be determined by the Secretary, in reaching its goals. The areas of national strategic importance must include the following: national security, interstate commerce, mobility, safety, and environmental stewardship.

[(C) A description of the performance measures under which the State's progress and success toward reaching its goals would be measured.

[(D) A description of how funding will be distributed equitably across the State, including to urbanized areas with populations in excess of 200,000. This would include addressing how local units of government would be consulted in the process of program development and implementation.

[(E) Evidence of the State's notice and solicitation of public comment and copies of comments received from such solicitation.

[(F) Such other information as the Secretary may require.

[(3) PUBLIC NOTICE.—Each State that submits an application under this subsection, shall give public notice of its intent to participate in the pilot program at least 20 days prior to submitting its application to the Secretary. The State shall provide notice and solicit public comment by publishing the entire application in accordance with the State's public notice law.

[(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if the application demonstrates how the State plans to address the areas of national strategic importance as identified in subsection (b)(2)(B). The Secretary will prioritize the selection of applications based on the degree to which the applicant's proposed goals address the areas of national strategic importance, the State's ability to manage and monitor its programs on a performance basis, the State's commitment to conduct the required evaluations, and the degree to which the application otherwise proposes to achieve the purposes of this section.

[(c) PROGRAM ELEMENTS.—

[(1) STATE AGREEMENT TO ASSUME SECRETARY'S RESPONSIBILITIES.—

[(A) ASSIGNMENT AND ASSUMPTION OF RESPONSIBILITIES.—The Secretary and a State may agree, as provided in this section, that the Secretary will assign and the State will assume some or all of the responsibilities of the Secretary under any Federal law or requirement, except for the responsibilities relating to Federally recognized tribes, with respect to any project constructed with federal funds under this pilot program. The State shall assume these responsibilities subject to the same procedural and substantive requirements as would be required if such responsibilities were carried out by the Secretary. When a State assumes such responsibilities under a Federal law, the State shall be solely responsible and solely liable for complying with and carrying out that law in lieu of the Secretary and shall submit a certification as provided in subsection (f)(1).

[(B) FEDERAL ROLE OF STATE.—For purposes of assuming the Secretary's responsibilities under a Surface Transportation System Performance Pilot Program, to the extent the State is carrying out the Secretary's responsibilities under the National Environmental Policy Act, title 23, United States Code, or any other Federal law, the State shall be deemed to be a Federal agency under such laws, and shall agree that its transportation department, or any other State agency carrying out a responsibility of the Secretary under this section, shall be subject to such Federal laws to the same extent that a Federal agency would be subject to such laws.

[(C) STATE CERTIFICATION OF ASSUMPTION OF RESPONSIBILITIES.—Whenever a State assumes any of the Secretary's responsibilities under a Federal law, the State shall certify that it has laws and regulations that—

[(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

[(ii) are comparable to the Federal Freedom of Information Act and that any decision regarding the public availability of a document under those laws is reviewable by a court of competent authority.

[(2) OTHER FEDERAL AGENCY VIEWS.—If a State assumes a responsibility of the Secretary under paragraph (1) of this subsection that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of such Federal agency prior to entering into or renewing any program agreement.

[(3) MAINTENANCE OF EFFORT.—The Secretary shall not make any apportionment to a State participating in this performance pilot program in any fiscal year under sections 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5), 105, and 144(e) of title 23, United States Code, unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures in any fiscal year at or above the average level of such expenditures for the preceding three fiscal years.

[(4) FEDERAL SHARE PAYABLE.—The Federal share payable under this performance pilot program for a project funded with apportionments under sections 104(b)(1), 104(b)(3), 104(b)(4), 104(b)(5), 105, and 144(e) of title 23, United States Code, may be up to 100 percent; except that, the Federal share payable for transportation enhancements under section 133(d)(1), shall be determined in accordance with title 23, United States Code.

[(d) PROGRAM AGREEMENT.—

[(1) IN GENERAL.—Each year prior to making any apportionments to a participating State, the Secretary shall enter into an agreement with the State establishing its performance goals and performance measures.

[(2) AGREEMENT CONCERNING PARTICIPATING STATE'S RESPONSIBILITIES.—The Secretary shall enter into one or more agreements with a State selected for participation in this pilot program concerning which, if any, Federal laws or requirements the State will carry out under subsection (c). The program agreement between the Secretary and the State shall specify management responsibilities, including the role of the State in relation to other Federal agencies.

[(3) GOALS.—The Secretary and participating State shall agree, based on the State's priorities and the areas of national strategic importance as determined by the Secretary, on the long-term and short-term goals to be achieved using the State's apportionments under the program.

[(4) PERFORMANCE MEASURES.—The Secretary and the State shall mutually establish the performance measures that the State must meet relating to the goals identified in paragraph (3) of this subsection. Continued participation in the pilot program is contingent on the State meeting these performance measures. If a State fails to meet the agreed upon performance measures in two consecutive years, the Secretary shall terminate a State's participation in the pilot program.

[(5) COMPLIANCE.—If a participating State fails to comply with any provision of this section, the Secretary shall take such actions as necessary to ensure compliance. Corrective actions may include termination of the State's participation in the pilot program.

[(e) LIMITATIONS ON AGREEMENTS.—

[(1) CIVIL RIGHTS.—Nothing in this section shall be construed as relieving the Secretary from any of the Secretary's responsibilities under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.).

[(2) MAJOR PROJECTS.—Nothing in this section shall be construed as relieving the Secretary from any of the Secretary's responsibilities with respect to major projects

under section 106(h) of title 23, United States Code.

[(3) STATEWIDE AND METROPOLITAN PLANNING.—Nothing in this section shall be construed as relieving the Secretary from any of the Secretary's responsibilities under the Statewide and metropolitan planning requirements of sections 134 and 135 of title 23, United States Code.

[(4) REGULATORY RESPONSIBILITIES.—Nothing in this section shall be construed to allow a State to assume any of the Secretary's rulemaking authority under any Federal law.

[(f) STATE REPORTING AND ACCOUNTABILITY.—A State participating in this pilot program shall make the following reports to the Secretary. A State may combine reports as appropriate.

[(1) STATE CERTIFICATION PRIOR TO OBLIGATION OF FUNDS.—As a prerequisite to the Secretary's agreement that a State will fulfill or assume any of the Secretary's responsibilities, and prior to the obligation of any money under this pilot program in any fiscal year, the participating State shall provide, and annually renew, a certification that—

[(A) is in a form acceptable to the Secretary;

[(B) is executed by the Governor or the State's top-ranking transportation official charged with the responsibility for highway construction;

[(C) specifies that the State will fully carry out any of the responsibilities it may assume;

[(D) specifies that the State consents to assume the status of the Secretary under any responsibility it may assume; and

[(E) expressly consents on behalf of the State and himself or herself to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary it may assume.

[(2) END OF FISCAL YEAR STATE CERTIFICATION.—At the end of each fiscal year in which a State obligates funds under this pilot program, the State shall certify that it obligated such funds only for projects that would otherwise be eligible for assistance under title 23. Such certification shall also specify that the State reserved for obligation the amounts specified in section 133(d)(1) of such title as amended by this Act.

[(3) FISCAL ACCOUNTABILITY.—Each State shall provide an annual accounting for the obligations in a manner determined by the Secretary in such a way as to provide a basis for evaluating the effect of the pilot program expenditures.

[(4) ANNUAL STATE ASSESSMENT.—Each State will provide to the Secretary a narrative report at the end of each year describing the benefits of the pilot program to the State and any suggestions for improving the pilot program.

[(g) TERMINATION.—This pilot program shall terminate six years following enactment of this Act. Funding obligated under the pilot program shall continue to be administered under the terms of the pilot program until those funds have been expended.

[SEC. 1802. STEWARDSHIP AND OVERSIGHT.

[(a) Section 106 of title 23, United States Code, is amended—

[(1) by striking subsection (e) and inserting the following:

[''(e) VALUE ENGINEERING ANALYSIS.—

[''(1) ANALYSIS.—For all projects on the National Highway System with an estimated total cost of $25,000,000 or more, and any project the Secretary deems appropriate, the State shall provide a value engineering analysis or other cost reduction analysis. For major projects as identified in subsection (h) of this section, more than one such analysis may be required.

[''(2) DEFINITION.—In this subsection, the term ''value engineering analysis'' means a systematic process of review and analysis of a project during its design phase by a multidisciplined team of persons not involved in the project in order to provide suggestions for reducing the total cost of the project and providing a project of equal or better quality. Such suggestions may include combining or eliminating otherwise inefficient use of expensive parts of the original proposal design for the project and total redesign of the proposed project using different technologies, materials, or methods so as to accomplish the original purpose of the project.''; and

[(2) by striking subsections (g) and (h) and inserting the following:

[''(g) OVERSIGHT PROGRAM.—

[''(1) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized by this title. At a minimum, the program shall be responsive to all areas related to financial integrity and project delivery.

[''(2) FINANCIAL INTEGRITY.—

[''(A) FINANCIAL MANAGEMENT SYSTEMS.—The Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a). Risk assessment procedures shall be used to identify review areas.

[''(B) PROJECT COSTS.—The Secretary shall develop minimum standards for estimating project costs, and shall periodically evaluate the States' practices for estimating project costs, awarding contracts, and reducing project costs.

[''(C) RESPONSIBILITY OF THE STATES.—The States are responsible for determining that subrecipients of Federal funds have sufficient accounting controls to properly manage Federal funds. The Secretary shall periodically review the States' monitoring of subrecipients.

[''(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of the States' project delivery system, which includes one or more activities that are involved in the life cycle of a project from its conception to its completion. Risk assessment procedures will be used to identify review areas.

[''(4) RESPONSIBILITY OF THE STATES.—The States are responsible for determining that subrecipients of Federal funds have adequate project delivery systems for projects approved under this section. The Secretary shall periodically review the States' monitoring of subrecipients.

[''(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law. In addition, the Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.).

[''(h) MAJOR PROJECTS.—

[''(1) IN GENERAL.—Notwithstanding any other provision in this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $1,000,000,000 or more, or any other project in the discretion of the Secretary, shall submit to the Secretary a project management plan and an annual financial plan.

[''(2) PROJECT MANAGEMENT PLAN.—The project management plan shall document the procedures and processes in place to provide timely information to the project decision makers to effectively manage the scope, costs, schedules, and quality, and the Federal requirements of the project, and the role of the agency leadership and management team in the delivery of the project.

[''(3) FINANCIAL PLAN.—The financial plan shall be based on detailed estimates of the cost to complete the project. Annual updates shall be submitted based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

[''(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title that receives $100,000,000 or more in Federal assistance for such project, and that is not covered by subsection (h) of this section, shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the Secretary's request.''.

[(b) Section 114(a) of such title is amended—

[(1) in the first sentence by striking ''highways or portions of highways located on a Federal-aid system'' and inserting ''Federal-aid highway or portion thereof''; and

[(2) by striking the second sentence and inserting ''The Secretary shall have the right to inspect and take any corrective action as the Secretary may deem appropriate.''.

[(c) Section 117 of such title is amended by striking subsection (d) and redesignating subsections (e), (f), (g), and (h) as subsections (d), (e), (f), and (g), respectively.

[(d) Section 307 of title 49, United States Code, is amended to read as follows:

[''§ Sec. 307. Contractor suspension and debarment policy; sharing fraud monetary recoveries

[''(a) MANDATORY ENFORCEMENT POLICY.—

[''(1) Notwithstanding any other provision of law, the Secretary shall—

[''(A) debar any contractor or subcontractor convicted of criminal or civil offenses involving fraud related to projects receiving Federal highway or transit funds. The debarment period shall be determined by the Secretary, as appropriate; and

[''(B) suspend any contractor or subcontractor upon their indictment for criminal or civil offenses involving fraud, subject to the approval of the Attorney General. The Secretary shall have authority to exclude non-affiliated subsidiaries of the debarred business entity, subject to the approval of the Attorney General.

[''(2) Upon a finding that mandatory debarment or suspension of a contractor or subcontractor under subsection (1), above, would be contrary to the national security interests of the U.S., the Secretary may waive the debarment or suspension.

[''(b) SHARING OF MONETARY RECOVERIES.—

[''(1) Notwithstanding any other provision of law, monetary judgments accruing to the Federal government from judgments in Federal criminal prosecutions and civil judgments pertaining to fraud in highway and transit programs shall be shared with the State or local transit agency involved. The State or local transit agency shall use these funds for transportation infrastructure and oversight activities related to programs authorized under titles 23 and 49.

[''(2) The amount of recovered funds to be shared with the affected State or local transit agency shall be determined by the Attorney General in consultation with the Secretary. These funds shall be considered Federal funds, to be used in compliance with other relevant Federal transportation laws and regulations. —

[''(3) The requirement for sharing of funds described in subparagraph (1), above, shall not be in effect in circumstances wherein the State or local transit agency is found by the Department of Justice, in consultation with

the Secretary, to have been involved or negligent with respect to the fraudulent activities.''.

[(e) The analysis for chapter 3 of title 49 is amended by revising the entry for item 307 to read as follows:

[''307. Contractor suspension and debarment policy; sharing fraud monetary recoveries.''.

[SEC. 1803. EMERGENCY RELIEF.

[Section 125(c)(1) of title 23, United States Code, is amended by striking ''$100,000,000'' and inserting ''$200,000,000''.

[SEC. 1804. FEDERAL LANDS HIGHWAYS PROGRAM.

[(a) DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended—

[(1) in paragraph (7), by striking ''public lands highway'' and inserting ''recreation roads, public Forest Service roads'';

[(2) by striking paragraph (8) and inserting the following:

[''(8) NATIONAL FOREST SYSTEM ROADS AND TRAILS.—The term 'National Forest System roads and trails' means forest roads or trails under the jurisdiction of the Forest Service.'';

[(3) by striking paragraph (10) and inserting the following:

[''(10) FOREST ROAD OR TRAIL.—The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving National Forest System lands that is necessary for the protection, administration, use, and development of its resources. There are four types of forest roads:

[''(A) CLASSIFIED FOREST ROAD.—The term 'classified forest road' means a forest road that the Forest Service determines to be needed for long-term motor vehicle access, including State roads, county roads, privately owned roads, National Forest System roads, and other roads authorized by the Forest Service.

[''(B) UNCLASSIFIED FOREST ROAD.—The term 'unclassified forest road' means a forest road not managed by the Forest Service as part of the forest transportation system.

[''(C) TEMPORARY FOREST ROAD.—The term 'temporary forest road' means a forest road that is authorized by the Forest Service through contract, permit, lease, other written authorization, or emergency operation not intended to be a part of the forest transportation system and not necessary for long-term resource management.

[''(D) PUBLIC FOREST SERVICE ROAD.—The term 'Public Forest Service Road' means a classified forest road that is open to public travel for which title and maintenance responsibility is vested in the United States government and which has been designated a public road by the Forest Service.'';

[(4) in paragraph (26), as redesignated by this Act, by striking ''unappropriated or unreserved''; and

[(5) by striking paragraph (27), as redesignated by this Act, by redesignating paragraph (28) as (27), and by inserting the following new paragraph:

[''(28) RECREATION ROADS.—The term 'recreation roads' means those public roads that provide access to museums, lakes, reservoirs, visitors centers, gateways to major wilderness areas, public uses areas, recreation and historic sites and for which title is vested in the United States Government.''.

[(b) FEDERAL SHARE PAYABLE.—

[(1) Section 120(k) of such title is amended by striking ''Federal-aid highway''.

[(2) Sections 120(k) and 120(l) of such title are amended by striking ''section 104'' each time it appears, and inserting in its place ''this title and chapter 53 of title 49''.

[(c) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-AID PROJECTS.—Section 132 of such title is amended by striking the first two sentences and inserting the following: ''Where a proposed Federal-aid project is to be undertaken by a Federal agency pursuant to an agreement between a State and such Federal agency, the State may (1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency, or (2) make a deposit with or payment to such Federal agency as may be required in fulfillment of the State's obligation under such agreement for the work undertaken or to be undertaken by such Federal agency; the Secretary, upon execution of a project agreement with such State for the proposed Federal-aid project, may reimburse the State out of the appropriate appropriations for the estimated Federal share, under the provisions of this title, of the State's obligation so deposited or paid by such State.''.

[(d) ALLOCATIONS.—Section 202 of such title is amended—

[(1) in subsection (a), by inserting ''and grasslands'' after ''national forests'' in the first sentence;

[(2) by striking subsection (b) and inserting the following:

[''(b) On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for forest highways, after making the transfer of funds provided for in subsection 204(g) of this title, for each fiscal year as is provided in section 134 of the Federal-Aid Highway Act of 1987, and with respect to these allocations the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through renewable resource and land use planning and the impact of such planning on existing transportation facilities.''; and

[(3) in subsection (d)—

[(A) in paragraph (1), by striking ''1999'' in the heading and within paragraph (1) and inserting ''2005'';

[(B) in paragraph (2), by striking ''2000'' in the heading and within paragraphs (2)(A), (2)(B), and (2)(D) and inserting ''2005'', and by striking ''1999'' in paragraph (2)(B) and inserting ''2004'' at each place it appears;

[(C) in paragraph (3)(A), by inserting ''this chapter and section 125(e) of'' after ''under'', and by adding ''and the approved Indian reservation road transportation improvement program'' after ''Act''; and

[(D) in paragraph (4)(D), by striking the sentence after ''Approval Requirement.'' and inserting: ''Funds for preliminary engineering for Indian reservation road bridge projects under this subsection may be made available by the Secretary upon request by a tribe or by the Secretary of the Interior. Funds for construction and construction engineering shall be made available only after approval of the plans, specifications, and estimates by the Secretary.''.

[(e) PLANNING AND AGENCY COORDINATION.—Section 204 of such title is amended—

[(1) in subsection (a), by inserting ''refuge roads,'' after ''parkways,'';

[(2) in subsection (b), by striking ''appropriate contracts'' in the second sentence and inserting ''appropriate agreements'';

[(3) in subsection (k)—

[(A) by striking ''(2), (5),'' and inserting ''(2), (3), (5),'';

[(B) by striking ''and'' after the semicolon at the end of paragraph (1)(B);

[(C) by striking the period after ''improvements'' at the end of paragraph (1)(C) and inserting a semicolon;

[(D) by adding after paragraph (1)(C) the following new subparagraphs:

[''(D) maintenance of public roads in National Fish hatcheries under Fish and Wildlife Service jurisdiction;

[''(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, but such expenditures on trails are limited to 5 percent of available funding per fiscal year.''.

[(f) SAFETY.—

[(1) ALLOCATIONS.—Section 202 of such title is amended by adding at the end the following:

[''(f) SAFETY.—On October 1 of each fiscal year, the Secretary shall allocate the sums authorized to be appropriated for such fiscal year for safety as follows: 10 percent to the Bureau of Reclamation, 15 percent to the Bureau of Indian Affairs, 15 percent to the Bureau of Land Management, 15 percent to the Forest Service, 5 percent to the Fish and Wildlife Service, 15 percent to Military Traffic Management Command, 15 percent to the National Park Service, and 10 percent to the U.S. Army Corps of Engineers. The Secretary, from time to time, may adjust the percentage of safety funds allocated to the Federal agencies listed above based on the outputs of agency safety management systems, other safety need analyses or/studies, and the use of previously allocated safety funds.''.

[(2) AVAILABILITY OF FUNDS.—Section 203 of such title is amended in the first sentence by inserting ''safety,'' after ''refuge roads,'' at each place it appears.

[(3) USE OF FUNDING.—Section 204 is amended by adding at the end the following:

[''(l) SAFETY ACTIVITIES.—

[''(1) IN GENERAL.—Not withstanding any other provision of this title, funds made available for safety shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of transportation safety improvement projects, elimination of high accident locations, protection or elimination of at-grade railway-highway crossings, collection of safety information, transportation planning, bridge inspections, development and operation of safety management systems, highway safety education programs, and other eligible safety activities authorized in Chapter 4 of this title.

[''(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency, as appropriate, may enter into contracts or agreements with a State, subdivision of a State, or Indian tribe.

[''(3) EXCEPTION.—Funds allocated to the Bureau of Reclamation for the purposes described in this subsection are exempted from the cost-share requirements of Public Law 89–72, The Federal Water Recreation Act.''.

[(g) RECREATION ROADS.—

[(1) AUTHORIZATIONS.—Section 201 of such title is amended by striking ''public lands highways'' and inserting ''recreation roads''.

[(2) ALLOCATIONS.—Section 202 of such title, as amended by this section, is further amended by adding at the end the following:

[''(g) RECREATION ROADS.—On October 1 of each fiscal year, the Secretary, after making the transfer provided for in subsection 204(i) of this title, shall allocate the sums authorized to be appropriated for such fiscal year for recreation roads as follows: 6 percent to the Bureau of Reclamation, 6 percent to the U.S. Army Corps of Engineers, 10 percent to the Bureau of Land Management, 10 percent to the Military Traffic Management Command, and 68 percent to the Forest Service. Recreation road funds shall be allocated to projects and activities according to the relative needs of each area served by these roads as indicated in the approved transportation improvement programs for each agency. The Secretary, from time to time, may adjust the percentage of recreation road funds allocated to the Federal agencies listed above based on the outputs of agency

management systems, other need analyses/or studies, and the use of previously allocated recreation road funds.''.

[(3) AVAILABILITY OF FUNDS.—Section 203 of such title is amended by striking ''public lands highways'' and inserting ''recreation roads'' at each place it appears.

[(4) USE OF FUNDING.—Section 204 of such title, as amended by this section, is further 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 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 paragraphs (1), (2), (3), (5), and (6) of subsection (h) that are located in or adjacent to Federal land areas under the jurisdiction of the Departments of Agriculture, Defense, or the Interior;

[''(C) transportation planning and administrative costs associated with such 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 areas under the jurisdiction of the Departments of Agriculture, Defense, or the Interior.

[''(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency, as appropriate, may enter into contracts or agreements with a State or civil subdivision of a State or Indian tribe as is determined advisable.

[''(3) NEW ROADS.—No funds 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.—Maintenance and improvement projects which are funded under this subsection and are consistent with or have been identified in a land use plan for the Federal area do not require any additional environmental reviews or assessments under the National Environmental Policy Act if the Federal agency that promulgated the land use plan analyzed the specific proposal under the National Environmental Policy Act and there are no significant changes to the proposal bearing on environmental concerns and no significant new information.

[''(5) EXCEPTION.—Funds allocated to the Bureau of Reclamation for the purposes described in this subsection are exempted from the cost-share requirements of Public Law 89–72, The Federal Water Recreation Act.''.

[(h) CONFORMING AMENDMENTS.—

[(1) Sections 120(e) and 125(e) of title 23, United States Code, are amended by inserting ''recreation roads,'' after ''public lands highways,'' each place the words appear.

[(2) Sections 120(e), 125(e), 201, 202(a), 203, section 205 in the heading and in subsections (a) and (d), and the analysis for chapter 2 of such title are amended by striking ''forest development roads'' and inserting ''National Forest System roads'' each place the words appear.

[(3) Section 204(a)(1) is amended by striking ''public lands highways'' and inserting ''recreation roads, forest highways'', section 204(b) is amended by striking ''public lands highways'' and inserting ''recreation roads'', and section 204(i) is amended by striking ''public lands highways'' and inserting ''recreation roads and forest highways'' each place the words appear.

[(4) Section 217(c) is amended by striking ''public lands highways'' and inserting ''refuge roads''.

[SEC. 1805. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

[(a) APPORTIONMENT.—The Secretary shall apportion funds made available by section 1101(a)(7) of this Act for fiscal years 2004 through 2009 among the States based on the latest available cost to complete estimate for the Appalachian development highway system under section 201 of the Appalachian Regional Development Act of 1965 prepared by the Appalachian Regional Commission. Such funds shall be available to construct highways and access roads under section 201 of the Appalachian Regional Development Act of 1965.

[(b) APPLICABILITY OF TITLE 23.—Funds authorized by section 1101(a)(7) of this Act for the Appalachian development highway system shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this section shall be determined in accordance with such section 201 and such funds shall remain available until expended.

[(c) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code is amended by adding ''and the Appalachian development highway system program under section 201 of the Appalachian Regional Development Act of 1965'' following ''(other than the emergency relief program authorized by section 125''.

[SEC. 1806. MULTI-STATE CORRIDOR PLANNING PROGRAM.

[(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and implement a program to support and encourage multi-state transportation planning, provide for streamlined transportation project development, and facilitate transportation decision-making.

[(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations are eligible to receive and administer funds provided under this program.

[(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for multi-state highway and multi-state multi-modal planning studies.

[(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All studies 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 select projects based on—

[(1) the existence and significance of signed and binding multi-jurisdictional agreements;

[(2) endorsement of the study by elected State and local representatives;

[(3) prospects for early completion of the study; and

[(4) whether the projects to be studied are located on corridors identified by section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991, as amended (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 multi-modal and multi-jurisdictional transportation decision-making; and

[(2) give priority to studies that emphasize multi-modal 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 payable, using funds from all Federal sources, for any study carried out under this section shall not exceed 80 percent of the total cost of such study, except that the share of funds from the Highway Trust Fund (other than the Mass Transit Account) shall not exceed 50 percent of the total cost of such study.

[(h) APPLICABILITY OF TITLE 23 U.S.C.—Funds authorized to be appropriated under section 1101(a)(10) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

[SEC. 1807. BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.

[(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and implement a program to support coordination and improvement in bi-national transportation planning, operations, efficiency, information exchange, safety, and security for the United States borders with Canada and Mexico.

[(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations at or near an international land border in the States of Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Texas, Vermont and Washington, are eligible to receive and administer funds allocated under this program.

[(c) ELIGIBLE ACTIVITIES.—

[(1) IN GENERAL.—The Secretary shall make allocations under the program established in this section for activities at or near international land borders in the States listed in subsection (b).

[(2) SPECIFIC ACTIVITIES.—The activities eligible for funding under this program are—

[(A) highway and multi-modal planning or environmental studies;

[(B) cross-border Port of Entry and safety inspection improvements, including operational enhancements and technology applications;

[(C) technology and information exchange activities; and

[(D) right-of-way acquisition, design, and construction, where needed to add the enhancements or applications described in subparagraphs (B) and (C), or to decrease air pollution emissions from vehicles or inspection facilities at border crossings.

[(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All studies and projects 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. All regionally significant projects that are part of such applications must be on the transportation plans and program required by sections 134 and 135 of title 23, United States Code.

[(e) SELECTION CRITERIA.—The Secretary shall select projects based on——

[(1) expected benefits, including air quality benefits, of the project in relation to its costs;

[(2) prospects for early completion of the study or project;

[(3) endorsement of the project by formally constituted bi-national organizations with both Federal and State or provincial representation;

[(4) the existence and significance of signed and binding multi-jurisdictional agreements;

[(5) contributions of other title 23 funds and non-title 23 funds above the minimum required; and

[(6) the extent to which the project benefits are multi-modal.

[(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall emphasize multi-modal planning; infrastructure improvements; and operational improvements that increase safety, security,

freight movement, or highway access to rail, marine, and air services while enhancing the environment.

[(g) FEDERAL SHARE.—The Federal share payable on account of any project carried out under this section shall not exceed 80 percent of the total cost of such project.

[(h) APPLICABILITY OF TITLE 23 U.S.C.—Funds authorized to be appropriated under section 1101(1)(11) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

[(i) ALLOCATION OF FUNDS.—No individual project whose scope of work is limited to information exchange shall receive an allocation greater than $500,000 in a single year.

[(j) PROJECTS IN CANADA OR MEXICO.—Projects in Canada or Mexico proposed by one 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 the border region(s) of such State(s), may be constructed using funds allocated under this program provided that, prior to the obligation of such funds, Canada or Mexico, or the political subdivision thereof responsible for the operation of the facility to be constructed, has provided assurances satisfactory to the Secretary that any facility constructed under this subsection will be constructed to standards equivalent to those in the United States and properly maintained and used over the useful life of the facility for the purpose for which the Secretary allocated funds to such project.

[(k) SET-ASIDE.—The Secretary shall set-aside $47,000,000 of the funds authorized for fiscal year 2004 under section 1101(a)(11) of this Act for construction of State border safety inspection facilities in the States of Arizona, California, New Mexico, and Texas.

[(l) TRANSFER OF FUNDS TO THE GENERAL SERVICES ADMINISTRATION.—

[(1) STATE FUNDS.—At the request of a State, funds allocated under this section may be transferred to the General Services Administration for the purpose of funding a specific project or projects if the Secretary determines, after consultation with the State transportation department as appropriate, that the General Services Administration should carry out the project or projects and the General Services Administration agrees to accept the transfer of funds and to administer those funds. The State shall provide the 20 percent non-Federal share of the project cost, as required under subsection (g) of this section, directly to the General Services Administration. Funds so transferred or provided shall not be deemed to be an augmentation of the General Services Administration's appropriations and shall be administered under that agency's procedures, except the transferred funds shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code. Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the allocated funds transferred for the projects.

[(2) DIRECT TRANSFER OF AUTHORIZED FUNDS.—In addition to allocations to States and metropolitan planning organizations as provided in subection (b), the Secretary may transfer funds made available to carry out this section to the General Services Administration for construction of transportation infrastructure projects at or near the border in the States identified in subsection (b), if the Secretary determines that such transfer is necessary to effectively carry out the purposes of this program and the General Services Administration agrees to accept the transfer of funds and to administer those funds. Funds so transferred shall not be deemed to be an augmentation of the General Services Administration's appropriations and shall be administered under that agency's procedures, except the transferred funds shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code. Section 120 of title 23, United States Code, shall not apply to funds so transferred. Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds transferred.

[SEC. 1808. TERRITORIAL HIGHWAY PROGRAM AMENDMENTS.

[(a) DEFINITIONS.—Section 101(a) of title 23, United States Code, as amended by this Act, is further amended—

[(1) by redesignating paragraphs (36) through (38) as paragraphs (37) through (39) respectively, and

[(2) by adding the following new paragraph after paragraph (35):

[''(36) TERRITORIAL HIGHWAY SYSTEM.—The term 'territorial highway system' means the system of arterial highways, collector roads, and necessary inter-island connectors in the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands that have been designated by the Governor and approved by the Secretary as provided in section 215 of this title.''.

[(b) FUNDING.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking ''to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands'' and inserting ''for the territorial highway program authorized under section 215 of this title''.

[(c) ELIGIBLE PROJECTS.—Section 103(b)(6)(P) of title 23, United States Code, is amended to read as follows:

[''(P) Projects eligible for assistance under the territorial highway program as provided in section 215 of this title.''.

[(d) TERRITORIAL HIGHWAY PROGRAM.—Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:

[''§ 215. Territorial highway program

[''(a) IN GENERAL.—Recognizing the mutual benefits that will accrue to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and to the United States from the improvement of highways in such territories of the United States, the Secretary is authorized to assist each such territorial government in a program for the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors designated by the Governor of such territory and approved by the Secretary. Federal financial assistance shall be granted under this section in accordance with section 120(h) of this title.

[''(b) TECHNICAL ASSISTANCE.—In order to continue a long-range highway development program, the Secretary is authorized to provide technical assistance to the territorial governments to enable them to, on a continuing basis, engage in highway planning, conduct environmental evaluations, administer right-of-way acquisition and relocation assistance programs, and design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors. The technical assistance to be provided and the terms for sharing information among the territories shall be set forth in the agreement required by subsection (d) of this section.

[''(c) APPLICABILITY OF CHAPTER 1.—The provisions of chapter 1 of this title (other than provisions related to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the territorial highway program, except as determined by the Secretary to be inconsistent with the needs of the territories and the intent of the territorial highway program. The specific sections of chapter 1 that are applicable to each territory and the extent of their applicability shall be identified in the agreement provided for in subsection (d) of this section.

[''(d) AGREEMENT.—

[''(1) Except as provided in paragraph (3) of this subsection, no part of the appropriations authorized for the territorial highway program shall be available for obligation or expenditure with respect to any territory until the Governor enters into a new agreement with the Secretary, within 12 months after the effective date of this Act, providing that the government of such territory shall—

[''(A) implement the territorial highway program in accordance with the appropriate provisions of chapter 1 of this title, as provided for in subsection (c) of this section;

[''(B) design and construct a system of arterial and collector highways, including necessary interisland connectors, built in accordance with standards appropriate for each territory and approved by the Secretary;

[''(C) provide for the maintenance of facilities constructed or operated under provisions of this section in a condition to adequately serve the needs of present and future traffic; and

[''(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

[''(2) The new agreement required by paragraph (1) of this subsection also shall specify the kind of technical assistance to be provided, include appropriate provisions regarding information sharing among the territories, and delineate the oversight role and responsibilities of the territories and the Secretary. The agreement shall be re-evaluated every two years and modified as appropriate.

[''(3) Agreements in effect on the effective date of this Act shall continue in force until replaced, as required by paragraph (1) of this subsection, and appropriations authorized for the program shall be available for obligation or expenditure while the agreements are in place.

[''(e) PERMISSIBLE USES OF FUNDS.—

[''(1) Funds made available for the territorial highway program may be used only for—

[''(A) eligible surface transportation program projects described in section 133(b) of this title;

[''(B) cost effective preventive maintenance consistent with the requirements of section 116 of this title;

[''(C) ferry boats, terminal facilities, and approaches, as provided for in section 129(b) and (c) of this title;

[''(D) engineering and economic surveys and investigations for the planning of future highway programs and the financing thereof;

[''(E) studies of the economy, safety, and convenience of highway usage and the desirable regulation and equitable taxation thereof; and

[''(F) research and development, necessary in connection with the planning, design, and maintenance of the highway system, and the regulation and taxation of their use.

[''(2) None of the appropriations authorized for the territorial highway program shall be obligated or expended for routine maintenance.

[''(f) LOCATION OF PROJECTS.—Except as provided in subsection (b)(1) of section 133 of this title, territorial highway projects (other than those described in subsection (b)(3) and

(4) of section 133 of this title) may not be undertaken on roads functionally classified as local.''.

[(h) CONFORMING AMENDMENTS.—The analysis of chapter 2 of title 23 is amended by revising the item relating to section 215 to read as follows:

[''215. Territorial highway program.''.

[SEC. 1809. FUTURE INTERSTATE SYSTEM ROUTES.

[(a) WRITTEN AGREEMENT OF STATES.—Section 103(c)(4)(B)(ii) of title 23, United States Code, is amended by striking ''12'' and inserting ''25''.

[(b) REMOVAL OF DESIGNATION.—Section 103(c)(4)(B)(iii)(I) of such title is amended—

[(1) by striking ''in the agreement between the Secretary and the State or States''; and

[(2) by adding at the end the following: ''An agreement entered into under clause (ii) prior to the enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 shall be deemed to include the 25 year time limitation, notwithstanding an earlier construction completion date in that agreement.''.

[SEC. 1810. DONATIONS AND CREDITS.

[Section 323 of title 23, United States Code, is amended by—

[(1) inserting ''or a local government from offering to donate funds, materials or services performed by local government employees,'' after ''services'' in the first sentence of subsection (c); and

[(2) striking subsection (e).

[SEC. 1811. DISADVANTAGED BUSINESS ENTERPRISES.

[(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

[(b) DEFINITIONS.—In this section, the following definitions apply:

[(1) SMALL BUSINESS CONCERN.—The term ''small business –concern'' has the meaning such term has under section 3 of the Small Business –Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $17,420,000, as adjusted by the Secretary for inflation.

[(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term ''socially and economically disadvantaged individuals'' has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

[(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

[(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include, but not be limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

[(e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

[SEC. 1812. HIGHWAY BRIDGE PROGRAM.

[(a) PROGRAM NAME.—Section 144 of title 23, United States Code, is amended in the section heading by striking ''replacement and rehabilitation''.

[(b) IN GENERAL.—Section 144(a) of such title is amended to read as follows:

[''(a) Congress hereby finds and declares it to be in the vital interest of the Nation that a highway bridge program be established to enable the several States to improve the condition of their bridges through replacement, rehabilitation, and systematic preventative maintenance on highway bridges over waterways, other topographical barriers, other highways, or railroads when the States and the Secretary find that a bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.''.

[(c) SCOUR COUNTERMEASURES.—Section 144(d) of such title is amended to read as follows:

[''(d) Whenever any State or States make application to the Secretary for assistance in replacing or rehabilitating a highway bridge which the priority system established under subsections (b) and (c) of this section shows to be eligible, the Secretary may approve Federal participation in replacing such bridge with a comparable facility or in rehabilitating such bridge. Whenever any State makes application to the Secretary for assistance in painting, seismic retrofit, or preventative maintenance of, or installing scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, such structure. The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based upon the unsafe highway bridges in such State, except that a State may carry out a project for preventative maintenance on a bridge, seismic retrofit of a bridge, or installing scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.''.

[(d) APPORTIONMENT FORMULA.—Section 144(e) of such title is amended—

[(1) in the third sentence by striking ''square footage'' and inserting ''area'';

[(2) in the fourth sentence by striking ''by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and,'' and by striking ''1997'' and inserting ''2003''; and

[(3) by striking ''the Federal-aid primary system'' and inserting ''Federal-aid highways''.

[(e) DISCRETIONARY BRIDGE PROGRAM.—Section 144(g) of such title is amended—

[(1) by striking ''SET ASIDES.'' in the heading of (g) and all that follows through paragraph (2)(B);

[(2) by striking ''(3)'' and redesignating paragraph (3) as subsection (g); and

[(3) in subsection (g), as redesignated, by—

[(A) striking ''nor more than 35 percent'';

[(B) striking ''1987'' and inserting ''2004'';

[(D) striking ''2003'' and inserting ''2009''; and

[(E) striking ''paint'' and inserting ''perform systematic preventative maintenance''.

[(f) INVENTORIES AND REPORTS.—Section 144(i) of such title is amended—

[(1) in paragraph (3), by striking ''and'';

[(2) in paragraph (4), by striking ''section.'' and inserting ''section; and''; and

[(3) after paragraph (4), by striking ''Such reports shall be submitted to such committees biennially at the same time as the report required by section 307(f)(1) of this title is submitted to Congress.'' and inserting the following:

[''(5) submit reports required by this subsection to such committees biennially at the same time as the report required by section 502(g) of this title.''.

[(g) OFF-SYSTEM BRIDGE PROGRAM.—Section 144(n) of such title is amended by inserting ''general engineering'' between ''all'' and ''standards''.

[(h) HISTORIC BRIDGE PROGRAM.—Section 144(o) of such title is amended—

[(1) in paragraph (3), by striking ''title (including this section)'' and inserting ''section'' and by inserting ''200 percent of'' after ''shall not exceed''; and

[(2) in paragraph (4), by inserting ''200 percent of'' after ''not to exceed'', and by striking ''title'' at the end of the paragraph and inserting ''section''.

[(i) WATER RESOURCES PROJECTS.—Section 144 of such title is further amended by adding at the end the following:

[''(r) Notwithstanding any other provision of law, any bridge funded under this title shall not be considered a 'water resources project' as that term is used in the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287).''.

[(j) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23 is amended in the item relating to section 144 by striking ''replacement and rehabilitation''.

[SEC. 1813. DESIGN-BUILD.

[Section 112(b)(3) of title 23, United States Code, is amended by striking subparagraph (C) and inserting the following in its place:

[''(C) QUALIFIED PROJECTS.—A qualified project is a project under this chapter for which the Secretary has approved the use of design-build contracting under criteria specified in regulations issued by the Secretary.''.

[SEC. 1814. INTERNATIONAL FERRIES.

[Section 129(c)(5) of title 23, United States Code, is amended—

[(1) by striking ''and'' the first place it appears in the first sentence, and inserting a comma;

[(2) by adding '', and the islands that comprise a territory of the United States'' after ''Puerto Rico'' in the first sentence; and

[(3) by adding ''operations between the islands which comprise a territory of the United States,'' after ''Puerto Rico,'' in the second sentence.

[SEC. 1815. ASSUMPTION OF RESPONSIBILITY FOR TRANSPORTATION ENHANCEMENTS, RECREATIONAL TRAILS, AND TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM PROJECTS.

[(a) IN GENERAL.—Chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting the following new section after section 165:

[“§ 166. Assumption of responsibility for transportation enhancements, recreational trails, and transportation, community, and system preservation program projects

[“(a) ASSUMPTION OF SECRETARY’S RESPONSIBILITIES UNDER APPLICABLE FEDERAL LAWS.—

[“(1) IN GENERAL.—Upon mutual agreement the Secretary may assign, and the State may assume, any of the Secretary’s responsibilities (except responsibilities relating to Federally recognized tribes) for environmental reviews, consultation, decision-making or other actions under any Federal law applicable to projects that—

[“(A) are funded under section 104(h) or section 167 of this title; or

[“(B) meet the definition of a transportation enhancement activity as set forth in section 101(a)(38) of this title.

[“(2) LIMITATIONS.—The State shall assume these responsibilities subject to the same procedural and substantive requirements as would be required if such responsibilities were carried out by the Secretary. When a State assumes any responsibility under a Federal law pursuant to this section, it assents to Federal jurisdiction and shall be solely responsible and solely liable for complying with and carrying out that law in lieu of the Secretary.

[“(b) AGREEMENTS.—The Secretary and the State shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which such assignments are to be made. In the memorandum of understanding the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary it may assume. Such memoranda of understanding shall be established for periods of no more than three years. The Secretary shall review and determine compliance with the memorandum of understanding and the laws assigned by it to the State on an annual basis for the first three years of the agreement and, subsequently, on a periodic basis to be determined by mutual agreement but no longer than every three years.

[“(c) TERMINATION.—The Secretary may terminate any assignment of responsibility under this section upon a determination that a State is not adequately meeting the terms and conditions of the memorandum of understanding.

[“(d) STATE DEFINED.—For the recreational trails program, ‘‘State’’ means the State agency designated by the Governor of the State in accordance with section 206(c)(1) of this title.

[“(e) PRESERVATION OF PUBLIC INTEREST CONSIDERATION.—Nothing contained in this section shall be construed to limit the requirements under any applicable law providing for the consideration and preservation of the public interest, including public participation and community values in transportation decision-making.

[“(f) STATE SUBJECT TO FEDERAL LAWS.—For purposes of assuming the Secretary’s responsibilities under this section, the State agency signing the agreement in subsection (c) is deemed to be a Federal agency to the extent the State is carrying out the Secretary’s responsibilities under the National Environmental Policy Act, under this title, and under any other Federal law.’’.

[(b) 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 165 the following:

[‘‘166. Assumption of responsibility for transportation enhancements, recreational trails, and transportation and community and system preservation program projects.’’.

[SEC. 1816. TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.

[(a) TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.—Chapter 1 of title 23, United States Code, as amended by this Act, is further amended by inserting the following new section after section 166:

[“§ 167. Transportation, community, and system preservation program

[“(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a comprehensive program to investigate and address the relationships between transportation and community and system preservation and identify private sector-based initiatives. Through this program, the Secretary shall facilitate the planning, development, and implementation of strategies by States, metropolitan planning organizations, federally-recognized tribes, and local governments to integrate transportation, community, and system preservation plans and practices that address one or more of the following:

[“(1) Improve the efficiency of the transportation system.

[“(2) Reduce the impacts of transportation on the environment.

[“(3) Reduce the need for costly future investments in public infrastructure.

[“(4) Provide efficient access to jobs, services, and centers of trade.

[“(5) Examine development patterns and identify strategies to encourage private sector development patterns which achieve the goals identified in paragraphs (1) through (4).

[“(b) FUNDING.—Funds authorized to be apportioned under section 104(q) of this title shall be available to carry out the provisions of this section.’’.

[(b) Section 104 of such title is amended by adding after subsection (p), as added by this Act, the following:

[“(q) TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.—

[“(1) SET-ASIDE.—On October 1 of each fiscal year for fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $26,000,000 of the remaining funds authorized to be apportioned under subsection (b)(3) for carrying out the Transportation, Community, and System Preservation Program under section 167 of this chapter.

[“(2) APPORTIONMENT.—

[“(A) From amounts set aside under paragraph (1), the Secretary shall apportion $500,000 each fiscal year to each State, including the District of Columbia and Puerto Rico, to carryout the provisions of section 167.

[“(B) A State shall also make funds apportioned under this subsection available to metropolitan planning organizations, federally recognized tribes, and local governments in a manner and amounts to be determined by the State to carryout the provisions of section 167.’’.

[(c) 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 166 the following:

[‘‘167. Transportation, community, and system preservation program.’’.

[SEC. 1817. PROGRAM EFFICIENCES—FINANCE.

[Section 115 of title 23, United States Code, is amended—

[(1) by striking ‘‘(a)’’ and all that follows through subsection (a)(1)(B);

[(2) by striking subsection (b);

[(3) by redesignating subsection (c) as subsection (d);

[(4) by redesignating subsections (a)(2), (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1), and (c)(2) respectively; and

[(5) by inserting after the section heading the following:

[“(a) The Secretary may authorize a State to proceed with a project authorized under this title without the aid of Federal funds in accordance with all procedures and all requirements applicable to such a project, except insofar as such procedures and requirements limit the State to implementation of projects with the aid of Federal funds previously apportioned or allocated to it or limit a State to implementation of a project with obligation authority previously allocated to it.

[“(b) The Secretary, upon the request of the State and execution of a project agreement, may obligate the Federal share, or a portion of the Federal share, of the cost of a project authorized under this section from any category of funds for which the project is eligible.’’.

[Subtitle I—Technical Corrections to Title 23, United States Code

[SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.

[(a) LETTING OF CONTRACTS.—Section 112 of title 23, United States Code, is amended—

[(1) by striking subsection (f); and

[(2) by redesignating subsection (g) as subsection (f).

[(b) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking ‘‘on the Federal-aid urban system’’ and inserting ‘‘on a Federal-aid highway’’.

[(c) REPEAL OF OBSOLETE SECTIONS OF TITLE 23.—

[(1) PRIORITY PRIMARY ROUTES.—Section 147 of title 23, United States Code, is repealed.

[(2) DEVELOPMENT OF A NATIONAL SCENIC AND RECREATIONAL HIGHWAY.—Section 148 of title 23, United States Code, is repealed.

[(3) ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES.—Section 155 of title 23, United States Code, is repealed.

[(4) CONFORMING AMENDMENTS.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 147, 148, and 155.

[SEC. 1902. CLARIFICATION OF DATE.

[Section 109(g) of title 23, United States Code, is amended in the first sentence by striking ‘‘the day of enactment of the Federal-Aid Highway Act of 1970’’ and inserting ‘‘December 31, 1970,’’.

[SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.

[(a) IN GENERAL.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is—

[(1) transferred to title 23, United States Code;

[(2) redesignated as section 321;

[(3) moved to appear after section 320 of that title; and

[(4) amended by striking the section heading and inserting the following:

[“§ 321. Signs identifying funding sources”.

[(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 320 the following:

[‘‘321. Signs identifying funding sources.’’.

[SEC. 1904. INCLUSION OF “BUY AMERICA” REQUIREMENTS IN TITLE 23.

[(a) IN GENERAL.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is—

[(1) transferred to title 23, United States Code;

[(2) redesignated as section 313;

[(3) moved to appear after section 312 of that title; and

[(4) amended by striking the section heading and inserting the following:

["§ 313. Buy America".

[(b) CONFORMING AMENDMENTS.—

[(1) The analysis for chapter 3 of title 23,United States Code, is amended by inserting after the item relating to section 320 the following:

['‘313. Buy America.’’.

[(2) Section 313 of title 23, United States Code (as added by subsection (a)), is amended—

[(A) in subsection (a), by striking ‘‘any funds authorized to be appropriated by this Act or by any Act amended by this Act or, after the date of enactment of this Act, any funds authorized to be appropriated to carry out this Act, title 23, United States Code, or the Surface Transportation Assistance Act of 1978’’ and inserting ‘‘any funds authorized to be appropriated to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title’’;

[(B) in subsection (b), by redesignating paragraph (4) as paragraph (3);

[(C) in subsection (d), by striking ‘‘this Act, the Surface Transportation Assistance Act of 1978, or title 23, United States Code,’’ and inserting ‘‘the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title’’;

[(D) by striking subsection (e); and

[(E) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

[SEC. 1905. TECHNICAL AMENDMENTS TO 23 UNITED STATES CODE 140 (NON-DISCRIMINATION).

[(a) Section 140(a) of title 23, United States Code, is amended as follows:

[(1) At the beginning of the second sentence, strike the word ‘‘He’’ and insert in its place the words ‘‘The Secretary’’.

[(2) In the first sentence, strike ‘‘subsection (a) of section 105’’ and insert in its place ‘‘section 135’’.

[(3) In the third sentence, strike the phrase ‘‘where he considers it necessary’’ and insert in its place the phrase ‘‘where necessary’’.

[(4) The last sentence is amended to read as follows: ‘‘The Secretary shall periodically obtain from the Secretary of Labor and the respective State transportation departments information which will enable the Secretary to judge compliance with the requirements of this section and the Secretary of Labor shall render to the Secretary such assistance and information as the Secretary shall deem necessary to carry out the equal employment opportunity program required hereunder.’’.

[(b) Section 140(b) of title 23, United States Code, is amended as follows:

[(1) In the first sentence, strike the words ‘‘highway construction’’ and insert ‘‘surface transportation’’;

[(2) In the second sentence, strike the phrase ‘‘as he may deem necessary’’ and insert in its place the phrase ‘‘as necessary’’, and strike the phrase ‘‘not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and’’.

[(3) In the fourth sentence, strike the phrase ‘‘shall not be not be applicable to contracts’’ and insert in its place the phrase ‘‘shall not be applicable to contracts’’.

[(c) The second sentence of section 140(c) of title 23, United States Code, is amended by striking the phrase ‘‘the Secretary shall deduct such sums as he may deem necessary,’’ and inserting in its place the phrase ‘‘the Secretary shall deduct such sums as necessary,’’.

[(d) Section 140(d) of title 23, United States Code, is amended by striking from its catchline the words ‘‘and contracting’’.

[SEC. 1906. FEDERAL SHARE PAYABLE FOR PROJECTS FOR ELIMINATION OF HAZARDS OF RAILWAY-HIGHWAY CROSSINGS.

[Section 120(c) of title 23, United States Code, is amended by amending the first sentence of subsection (c) to read as follows: ‘‘The Federal share payable on account of any project for traffic control signalization; safety rest areas; pavement marking; commuter carpooling and vanpooling; rail-highway crossing closure; projects for elimination of hazards of railway-highway crossings, as identified in section 2604 of Public Law 106–246 (114 Stat. 511, 559); or installation of traffic signs, traffic lights, guardrails, impact attenuators, concrete barrier endtreatments, breakaway utility poles, or priority control systems for emergency vehicles or transit vehicles at signalized intersections may amount to 100 percent of the cost of construction of such projects; except that not more than 10 percent of all sums apportioned for all the Federal-aid systems for any fiscal year in accordance with section 104 of this title shall be used under this subsection.’’.

[TITLE II—HIGHWAY SAFETY

[SEC. 2001. HIGHWAY SAFETY PROGRAMS.

[(a) PERFORMANCE GRANTS.—Section 402 (k) of title 23, United States Code, is amended to read as follows:

['‘(k) PERFORMANCE GRANTS.—In addition to other grants authorized by this section, the Secretary shall make grants in accordance with this subsection. Funds authorized to carry out this subsection in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering this subsection.

['‘(1) GENERAL PERFORMANCE GRANTS.—On or before December 31, 2003, and on or before each December 31 thereafter through December 31, 2008, the Secretary shall make grants to States based upon the performance of their highway safety programs in the following categories: (i) motor vehicle crash fatalities; (ii) alcohol-related crash fatalities; and (iii) motorcycle, bicycle, and pedestrian crash fatalities.

['‘(A) DETERMINATIONS BY THE SECRETARY.—The Secretary, through a rulemaking proceeding, shall determine—

['‘(i) measures for calculating and scoring performance in each category under this paragraph, using the data for the most recent calendar year for which the data are available from—

['‘(I) fatality data provided by the National Highway Traffic Safety Administration; and

['‘(II) vehicle miles traveled determined by the Federal Highway Administration.

['‘(ii) goals for achievement and annual progress in each category under this paragraph that reflect the potential of each goal to save lives; and

['‘(iii) a weighting system for all of the goals that reflects the relative potential of each goal to save lives.

['‘(B) AMOUNT OF GRANTS.—The Secretary shall determine the amount of funds available to a State in a fiscal year for grants under this paragraph, based on the State's achievement or annual progress in each of the categories under this paragraph, using the measures, goals and weighting system established under this paragraph, the amount appropriated to carry out the grants for such fiscal year, and the ratio that the funds apportioned to the State under section 402(c) for such fiscal year bears to the funds apportioned under section 402(c) for such fiscal year to all the States that qualify for a grant for such fiscal year.

['‘(2) SAFETY BELT PERFORMANCE GRANTS.

['‘(A) PRIMARY SAFETY BELT USE LAW.—

['‘(i) For fiscal years 2004 and 2005, the Secretary shall make a grant to each State that enacted, and is enforcing, a primary safety belt use law for all passenger 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 paragraph (2)(A)(i) of this subsection, make a one-time grant to each State that either enacts for the first time after December 31, 2002, and has in effect a primary safety belt use law for all passenger motor vehicles, or, in the case of a State that does not have such a primary safety belt use law, has a State safety belt use rate in the preceding fiscal year of at least 90 percent, as measured under criteria determined by the Secretary.

['‘(iii) Of the funds authorized for grants under this subsection, $100,000,000 in each of fiscal years 2004 through 2009 shall be available for grants under this paragraph. The amount of a grant available to a State in each of fiscal years 2004 and 2005 under paragraph (2)(A)(i) of this subsection shall be equal to one-half of the amount of funds apportioned to the State under subsection (c) of this section for fiscal year 2003. The amount of a grant available to a State in fiscal year 2004 or in a subsequent fiscal year under paragraph (2)(A)(ii) of this subsection shall be equal to five times the amount apportioned to the State for fiscal year 2003 under subsection (c). Notwithstanding subsection (d) of this section, the Federal share payable for grants under this paragraph shall be 100 percent. If the total amount of grants under paragraph (2)(A)(ii) for a fiscal year exceeds the amount of funds available in the fiscal year, grants shall be made to each eligible State, in the order in which its primary safety belt use law became effective or its safety belt use rate reached 90 percent, until the funds for the fiscal year are exhausted. A State that does not receive a grant for which it is eligible in a fiscal year shall receive the grant in the succeeding fiscal year so long as its law remains in effect or its safety belt use rate remains at or above 90 percent. If the total amount of grants under this paragraph for a fiscal year is less than the amount available in the fiscal year, the Secretary shall use any funds that exceed the total amount for grants under paragraph (2)(B) of this subsection.

['‘(B) SAFETY BELT USE RATE.—

['‘(i) On or before December 31, 2003, and on or before each December 31 thereafter through December 31, 2008, the Secretary shall make grants to States based upon their safety belt use rate in the preceding fiscal year.

['‘(ii) The Secretary, through a rulemaking, shall determine measures for calculating and scoring the performance for safety belt use rates, using data for the most recent calendar year for which State safety belt use rate data are available from observational safety belt surveys conducted in accordance with criteria established by the Secretary.

['‘(iii) Of the funds authorized for grants under this subsection, $25,000,000 for fiscal year 2004, $27,000,000 for fiscal year 2005, $29,000,000 for fiscal year 2006, $31,000,000 for fiscal year 2007, $34,000,000 for fiscal year 2008, and $36,000,000 for fiscal year 2009 shall be available for safety belt use rate grants under this paragraph. The Secretary shall determine the amount of funds available to a State in a fiscal year based on the State's achievement or annual progress in its safety belt use rate, the amount appropriated to carry out the grants for such fiscal year, and the ratio that the funds apportioned to the State under section 402(c) for such fiscal year bears to the funds apportioned under section

402(c) for such fiscal year to all the States that qualify for a grant for such fiscal year. Notwithstanding subsection (d) of this section, the Federal share payable for grants under this paragraph shall be 100 percent.

[''(C) DEFINITION.—In this paragraph, passenger motor vehicle means a passenger car, pickup truck, van, minivan, or sport utility vehicle, with a gross vehicle weight rating of less than 10,000 pounds.

[''(3) USE OF GRANTS.—A State allocated an amount for a grant under paragraph (1)(A) of this subsection shall use the amount for activities eligible for assistance under this section, except that it may use up to 50 percent of the amount for activities eligible under section 150 of this title and consistent with the State's strategic highway safety plan under section 151 of this title that are not otherwise eligible for assistance under this section. A State allocated an amount for a grant under paragraph (2)(A) of this subsection may use the amount for activities eligible for assistance under this section or for activities eligible under section 150 of this title and consistent with the State's strategic highway safety plan under section 151 of this title that are not otherwise eligible for assistance under this section. A State allocated an amount for a grant under paragraph (2)(B) of this subsection, including any amount transferred under paragraph (2)(A) of this subsection, shall use the amount for safety belt use programs eligible for assistance under this section, except that it may use up to 50 percent of the amount for activities eligible under section 150 of this title and consistent with the State's strategic highway safety plan under section 151 of this title that are not otherwise eligible for assistance under this section.''.

[(b) IMPAIRED DRIVING GRANTS.—Section 402 of title 23, United States Code, is amended by adding at the end the following subsection:

[''(l)(1) IMPAIRED DRIVING GRANTS.—In addition to other grants authorized by this section and subject to the provisions of this subsection, the Secretary shall design and implement a discretionary grant program to develop, demonstrate, and evaluate comprehensive State programs to reduce impaired driving in States with a high number of alcohol-related fatalities and a high rate of alcohol-related fatalities relative to vehicle miles traveled and population.

[''(2) PROCEDURE.—The Secretary shall establish a procedure for submitting grant applications under this subsection, and shall select from among the applicants the States to participate in the program.

[''(3) USE OF GRANTS.—A grant to a State under this subsection shall be used only to carry out the State's program under paragraph (1).

[''(4) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this subsection in a fiscal year shall be subject to a deduction not to exceed 10 percent for the costs of evaluating the programs and administering the provisions of this subsection.

[''(5) FEDERAL SHARE.—Notwithstanding subsection (d) of this section, the Federal share payable for a grant under this subsection shall be—

[''(A) 100 percent in the first and second fiscal years in which the State receives a grant;

[''(B) 75 percent in the third and fourth fiscal years in which the State receives a grant; and

[''(C) 50 percent in the fifth and sixth fiscal years in which the State receives a grant.''.

[SEC. 2002. HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.

[Section 403(a) (Authority of the Secretary) of title 23, United States Code, is amended by adding the following paragraphs at the end:

[''(4) EMERGENCY MEDICAL SERVICES.—In addition to the authority provided under this subsection, the Secretary is authorized to use funds appropriated to carry out this section to enhance coordination among Federal agencies involved with State, local, tribal, and community-based emergency medical services. In exercising this authority, the Secretary may coordinate with State and local governments, the Bureau of Indian Affairs on behalf of Indian tribes, private industry, and other interested parties; collect and exchange emergency medical services data and information; examine emergency medical services needs, best practices, and related technology; and develop emergency medical services standards and guidelines, and plans for the assessment of emergency medical services systems.

[''(5) INTERNATIONAL COOPERATION.—In addition to the authority provided under this subsection, the Secretary is authorized to use funds appropriated to carry out this section to participate and cooperate in international activities to enhance highway safety by such means as exchanging safety information; conducting safety research; and examining safety needs, best practices, and new technology.

[''(6) NATIONAL MOTOR VEHICLE CRASH CAUSATION SURVEY.—In addition to the authority provided under this subsection, the Secretary is authorized to use funds appropriated to carry out this section to develop and conduct a nationally representative survey to collect on-scene motor vehicle crash causation data.''.

[SEC. 2003. EMERGENCY MEDICAL SERVICES.

[(a) FEDERAL COORDINATION AND ENHANCED SUPPORT OF EMERGENCY MEDICAL SERVICES.—Chapter 4 of title 23, United States Code, is amended by revising section 407 to read as follows:

["§ 407. Federal coordination and enhanced support of emergency medical services

[''(a) FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES.—

[''(1) IN GENERAL.—The Secretary of Transportation and the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, shall establish a Federal Interagency Committee on Emergency Medical Services (referred to as the 'Interagency Committee on EMS') that shall—

[''(A) assure coordination among the Federal agencies involved with State, local, tribal or regional emergency medical services and 9–1–1 systems;

[''(B) identify State, local, tribal or regional emergency medical services and 9–1–1 needs;

[''(C) recommend new or expanded programs, including grant programs, for improving State, local, tribal or regional emergency medical services and implementing improved EMS communications technologies, including wireless E9–1–1;

[''(D) identify ways to streamline the process through which Federal agencies support State, local, tribal or regional emergency medical services;

[''(E) assist State, local, tribal or regional emergency medical services in setting priorities based on identified needs; and

[''(F) advise, consult with and make recommendations on matters relating to the implementation of the coordinated State emergency medical services program established under subsection (b) of this section.

[''(2) MEMBERSHIP.—The membership of the Interagency Committee on EMS shall consist of the following officials, or their designees:

[''(A) Administrator, National Highway Traffic Safety Administration.

[''(B) Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security.

[''(C) Administrator, Health Resources and Services Administration.

[''(D) Director, Centers for Disease Control and Prevention.

[''(E) Administrator, United States Fire Administration, Emergency Preparedness and Response Directorate, Department of Homeland Security.

[''(F) Director, Center for Medicare and Medicaid Services.

[''(G) Undersecretary of Defense for Personnel and Readiness, Department of Defense.

[''(H) Assistant Secretary for Public Health Emergency Preparedness, Department of Health and Human Services.

[''(I) Director, Indian Health Service, Department of Health and Human Services.

[''(J) Chief, Wireless Telecom Bureau, Federal Communications Commission.

[''(K) A representative of any other Federal agency identified by the Secretary of Transportation or the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, as having a significant role in the purposes of the Interagency Committee on EMS.

[''(3) ADMINISTRATION.—The National Highway Traffic Safety Administration, in cooperation with the Director, Preparedness Division, Emergency Preparedness and Response Directorate, Department of Homeland Security, shall provide administrative support to the Interagency Committee on EMS, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.

[''(4) LEADERSHIP.—The members of the Interagency Committee on EMS shall select a chairperson of the Committee annually.

[''(5) MEETINGS.—The Interagency Committee on EMS shall meet as frequently as determined necessary by the chairperson of the Committee.

[''(6) ANNUAL REPORTS.—The Interagency Committee on EMS shall prepare an annual report to Congress on the Committee's activities, actions, and recommendations.

[''(b) COORDINATED NATIONWIDE EMERGENCY MEDICAL SERVICES PROGRAM.—

[''(1) GENERAL AUTHORITY.—The Secretary of Transportation, through the Administrator of the National Highway Traffic Safety Administration, is authorized and directed to cooperate with other Federal departments and agencies, and may assist State and local governments and EMS organizations, both fire-based and otherwise, private industry, and other interested parties, to ensure the development and implementation of a coordinated nationwide emergency medical services program designed to strengthen transportation safety and public health and to implement improved EMS communication systems including 9–1–1. For the purposes of this section, the term 'State' means any one of the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Secretary of the Interior on behalf of Indian Tribes.

[''(2) COORDINATED STATE EMERGENCY MEDICAL SERVICES PROGRAM.—Each State shall establish a program, approved by the Secretary, to coordinate the emergency medical services and resources deployed throughout the State, so as to ensure improved EMS

communication systems including 9–1–1, utilization of established best practices in system design and operations, implementation of quality assurance programs, and incorporation of data collection and analysis programs that facilitate system development and data linkages with other systems and programs useful to emergency medical services.

[''(3) ADMINISTRATION OF STATE PROGRAMS.—The Secretary may not approve a coordinated State emergency medical services program under this subsection unless the program—

[''(A) provides that the Governor of the State is responsible for its administration through a State office of emergency medical services that has adequate powers and is suitably equipped and organized to carry out such program and coordinates such program with the highway safety office of the State; and

[''(B) authorizes political subdivisions of the State to participate in and receive funds under such program, consistent with goal of achieving statewide coordination of emergency medical services and 9–1–1 activities.

[''(4) USE OF FUNDS; ADMINISTRATIVE EXPENSES; APPORTIONMENTS.—Funds authorized to be appropriated to carry out this subsection shall be used to aid the States in conducting coordinated emergency medical services and 9–1–1 programs that are in accordance with the provisions of paragraph (2). Such funds shall be subject to a deduction not to exceed 10 percent for the necessary costs of administering the provisions of this subsection, and the remainder shall be apportioned among the States. Such funds shall be apportioned as follows: 75 percent in the ratio that the population of each State bears to the total population of all the States, as shown by the latest available Federal census, and 25 percent in the ratio that the public road mileage in each State bears to the total public road mileage in all States. For the purpose of this subsection, a 'public road' means any road under the jurisdiction of and maintained by a public authority and open to public travel. Public road mileage as used in this subsection shall be determined as of the end of the calendar year prior to the year in which the funds are apportioned and shall be certified to by the Governor of the State and subject to approval by the Secretary. The annual apportionment to each State shall not be less than one-half of 1 percent of the total apportionment, except that the apportionment to the Secretary of the Interior on behalf of Indian tribes shall not be less than three-fourths of 1 percent of the total apportionment, and the apportionments to the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall not be less than one-quarter of 1 percent of the total apportionment.

[''(5) CONTRACT AUTHORITY.—The provisions contained in section 402(d) of this chapter shall apply to this subsection.

[''(6) FEDERAL SHARE.—The Federal share of the cost of a project or program funded under this subsection shall be 80 percent.

[''(7) APPLICATION IN INDIAN COUNTRY.—

[''(A) USE OF TERMS.—For the purpose of application of this subsection in Indian country, the terms 'State' and 'Governor of the State' include the Secretary of the Interior and the term 'political subdivisions of the State' includes an Indian tribe.

[''(B) INDIAN COUNTRY DEFINED.—In this subsection, the term 'Indian country' means—

[''(i) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent and including rights-of-way running through the reservation;

[''(ii) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

[''(iii) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.''.

[(b) The item relating to section 407 in the analysis of chapter 4 of title 23, United States Code, is amended to read as follows:

[''407. Federal coordination and enhanced support of emergency medical services.''.

[SEC. 2004. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

[(a) Chapter 4 of title 23, United States Code, is amended by adding the following section:

['' § 412. State traffic safety information system improvements

[''(a) GENERAL AUTHORITY.—

[''(1) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to—

[''(A) improve the timeliness, accuracy, completeness, uniformity, integration and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;

[''(B) evaluate the effectiveness of efforts to make such improvements;

[''(C) link these State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway and economic data; and

[''(D) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances. Recipient States may use such grants only to implement such programs.

[''(2) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements necessary to observe and analyze State and national trends in crash occurrences, rates, outcomes, and circumstances. In order to become eligible for a grant under this section, a State shall certify to the Secretary the State's adoption and use of such model data elements.

[''(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require ensuring that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of this Act.

[''(4) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a program of a State pursuant to paragraph (1) shall not exceed 80 percent.

[''(b) FIRST-YEAR GRANTS.—

[''(1) ELIGIBILITY.—To be eligible for a first-year grant under this section in a fiscal year, a State must demonstrate to the satisfaction of the Secretary that the State has—

[''(A) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and

[''(B) developed a multiyear highway safety data and traffic records system strategic plan that addresses existing deficiencies in the State's highway safety data and traffic records system and is approved by the highway safety data and traffic records coordinating committee and—

[''(i) specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;

[''(ii) prioritizes, based on the identified highway safety data and traffic records system deficiencies, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a)(1);

[''(iii) identifies performance-based measures by which progress toward those goals will be determined;

[''(iv) specifies how the grant funds and any other funds of the State will be used to address needs and goals identified in the multiyear plan; and

[''(v) includes a current report on the progress in implementing the multiyear plan that documents progress toward the specified goals.

[''(2) GRANT AMOUNTS.—The amount of a first-year grant to a State for a fiscal year shall equal an amount determined by multiplying—

[''(A) the amount appropriated to carry out this section for such fiscal year; by—

[''(B) the ratio that the funds apportioned to the State under section 402 of this chapter for fiscal year 2003 bears to the funds apportioned to all States under section 402 for fiscal year 2003;

except that no State eligible for a grant under this section shall receive less than $300,000.

[''(c) SUCCEEDING-YEAR GRANTS.—

[''(1) ELIGIBILITY.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State, to the satisfaction of the Secretary—

[''(A) submits an updated multiyear plan that meets the requirements of subsection (b)(1)(B);

[''(B) certifies that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;

[''(C) specifies how the grant funds and any other funds of the State will be used to address needs and goals identified in the multiyear plan;

[''(D) demonstrates measurable progress toward achieving the goals and objectives identified in the multiyear plan; and

[''(E) includes a current report on the progress in implementing the multiyear plan.

[''(2) GRANT AMOUNTS.—The amount of a succeeding year grant made to a State for a fiscal year under this paragraph shall equal an amount determined by multiplying—

[''(A) the amount appropriated to carry out this section for such fiscal year; by

[''(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 2003 bears to the funds apportioned to all States under section 402 for fiscal year 2003; except that no State eligible for a grant under this paragraph shall receive less than $500,000.

[''(d) ADMINISTRATIVE EXPENSES.—Funds authorized to be appropriated to carry out this section in a fiscal year shall be subject to a deduction not to exceed 5 percent for the necessary costs of administering the provisions of this section.

[''(e) APPLICABILITY OF CHAPTER 1.—The provisions contained in section 402(d) shall apply to this section.''.

[(b) The analysis of chapter 4 of title 23, United States Code, is amended by inserting the following at the end:

[''412. State traffic safety information system improvements.''.

[SEC. 2005. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the National Highway Traffic Safety Administration:

[(1) CONSOLIDATED STATE HIGHWAY SAFETY PROGRAMS.—

[(A) To carry out the State and Community Highway Safety Grant Program under section 402 of title 23, United States Code, except for subsections (k) and (l), $162,000,000 for fiscal year 2004, $167,000,000 for fiscal year 2005, $172,000,000 for fiscal year 2006, $177,000,000 for fiscal year 2007, $183,000,000 for fiscal year 2008, and $189,000,000 for fiscal year 2009.

[(B) To carry out the performance grant programs under subsection (k) of section 402 of title 23, United States Code, $175,000,000 for fiscal year 2004, $179,000,000 for fiscal year 2005, $183,000,000 for fiscal year 2006, $189,000,000 for fiscal year 2007, $195,000,000 for fiscal year 2008, and $201,000,000 for fiscal year 2009.

[(C) To carry out the impaired driving grants under subsection (l) of section 402 of title 23, United States Code, $50,000,000 for each of fiscal years 2004 through 2009.

[(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—To carry out the highway safety research and development program under section 403 of title 23, United States Code, $88,452,000 for fiscal year 2004, $90,000,000 for fiscal year 2005, $92,000,000 for fiscal year 2006, $94,000,000 for fiscal year 2007, $96,000,000 for fiscal year 2008, and $99,000,000 for fiscal year 2009.

[(3) EMERGENCY MEDICAL SERVICES GRANTS.—To carry out section 407 of title 23, United States Code, $10,000,000 for each of fiscal years 2004 through 2009.

[(4) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS GRANTS.—To carry out section 412 of title 23, United States Code, $50,000,000 for each of fiscal years 2004 through 2009.

[(5) NATIONAL DRIVER REGISTER.—To carry out chapter 303 (National Driver Register) of title 49, United States Code, $3,600,000 for fiscal year 2004, and $4,000,000 for each of fiscal years 2005 through 2009.

[(b) ALLOCATIONS.—

[(1) EMERGENCY MEDICAL SERVICES ACTIVITIES.—Out of amounts appropriated pursuant to subsection (a)(2), the Secretary may use $2,226,000 in each fiscal year to carry out paragraph (4) of section 403(a) of title 23, United States Code.

[(2) INTERNATIONAL COOPERATION ACTIVITIES.—Out of amounts appropriated pursuant to subsection (a)(2), the Secretary may use $200,000 in each fiscal year to carry out paragraph (5) of section 403(a) of title 23, United States Code.

[(3) NATIONAL MOTOR VEHICLE CRASH CAUSATION SURVEY.—Out of the amounts appropriated pursuant to subsection (a)(2), the Secretary may use $10,000,000 in each fiscal year to carry out paragraph (6) of section 403(a) of title 23, United States Code.

[(c) APPLICABILITY OF TITLE 23.—(1) Amounts made available under subsection (a)(2) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

[(2) Notwithstanding section 402(d) of title 23, United States Code, the funds authorized by subsection (a)(1) that are apportioned or allocated in a State shall remain available for obligation in that State for a period of two years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse.

[SEC. 2006. REPEAL OF OBSOLETE PROVISIONS OF TITLE 23.

[(a) REPEAL OF OBSOLETE PROVISIONS.—Sections 406 and 408 of title 23, United States Code, are repealed.

[(b) CONFORMING AMENDMENT.—The items relating to sections 406 and 408 in the analysis of chapter 4 of title 23, United States Code, are deleted.

[TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

[SEC. 3001. SHORT TITLE.

[This title may be cited as the ''Federal Public Transportation Act of 2003''.

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

[(a) UPDATED TERMINOLOGY.—Chapter 53 of title 49, United States Code, including the chapter analysis, is amended by striking ''mass'' each place it appears before ''transportation'' and inserting ''public'', except in sections 5301(f), 5302(a)(7), 5315, 5323(a)(1), and 5323(a)(1)(B).

[(b) AMENDMENTS TO TITLE 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

[SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.

[(a) IN GENERAL.—Section 5301(a) is amended to read as follows:

[''(a) DEVELOPMENT AND REVITALIZATION OF PUBLIC TRANSPORTATION SYSTEMS.—It is in the economic interest of the United States to foster the development and revitalization of public transportation systems that maximize the efficient, secure, and safe mobility of individuals, and minimize environmental impacts and reliance on foreign oil.''.

[(b) PRESERVING THE ENVIRONMENT.—Section 5301(e) is amended by—

[(1) striking ''an urban'' and inserting ''a''; and

[(2) striking ''under sections 5309 and 5310 of this title''.

[(c) GENERAL PURPOSES.—Section 5301(f) is amended—

[(1) in paragraph (1) by—

[(A) striking ''mass'' after ''improved'' and inserting ''public''; and

[(B) striking ''public and private mass transportation companies and inserting ''both public transportation companies and private companies engaged in public transportation'';

[(2) in paragraphs (2) and (3) by—

[(A) striking ''urban mass'' after ''areawide'' and inserting ''public'', and

[(B) striking ''public and private mass transportation companies'' and inserting ''both public transportation companies and private companies engaged in public transportation''; and

[(3) in paragraph (5), by striking ''urban mass'' and inserting ''public''.

[SEC. 3004. DEFINITIONS.

[(a) IN GENERAL.—Section 5302 is amended to read as follows:

[''§ 5302. Definitions

[''(a) IN GENERAL.—In this chapter, the following definitions apply:

[''(1) 'access to jobs project' means a project relating to the development and maintenance of transportation services designed to transport welfare recipients and low-income individuals to and from jobs and activities related to their employment, including—

[''(A) transportation projects to finance planning, capital and operating costs of providing access to jobs under this chapter;

[''(B) promoting public transportation by low-income workers;

[''(C) promoting the use of transit vouchers for welfare recipients and low-income individuals; and

[''(D) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986.

[''(1a) 'capital project' means a project for—

[''(A) acquiring, constructing, supervising, or inspecting equipment or a facility for use in public transportation, expenses incidental to the acquisition or construction (including designing, engineering, location surveying, mapping, and acquiring rights-of-way), payments for the capital portions of rail trackage rights agreements, transit-related intelligent transportation systems, relocation assistance, acquiring replacement housing sites, and acquiring, constructing, relocating, and rehabilitating replacement housing;

[''(B) rehabilitating a bus;

[''(C) remanufacturing a bus;

[''(D) overhauling rail rolling stock;

[''(E) preventive maintenance;

[''(F) leasing equipment or a facility for use in public transportation, subject to regulations that the Secretary prescribes limiting the leasing arrangements to those that are more cost-effective than purchase or construction;

[''(G) a public transportation improvement that enhances economic development or incorporates private investment, including commercial and residential development, pedestrian and bicycle access to a public transportation facility, and the renovation and improvement of historic transportation facilities, because the improvement enhances the effectiveness of a public transportation project and is related physically or functionally to that public transportation project, or establishes new or enhanced coordination between public transportation and other transportation, and provides a fair share of revenue for public transportation that will be used for public transportation—

[''(i) including property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, safety and security equipment and facilities (including lighting, surveillance and related intelligent transportation system applications), facilities that incorporate community services such as daycare or health care, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall, except that a person making an agreement to occupy space in a facility under this subparagraph shall pay a reasonable share of the costs of the facility through rental payments and other means; and

[''(ii) excluding construction of a commercial revenue-producing facility or a part of a public facility not related to public transportation; and

[''(H) the introduction of new technology, through innovative or improved products, into public transportation;

[''(I) the provision of nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990, but only for grant recipients that are in compliance with applicable requirements of that Act, including both fixed route and demand responsive service, and only for amounts not to exceed 10 percent of such recipient's annual formula apportionment under sections 5307 and 5311;

[''(J) crime prevention and security—

[''(i) including—

[''(I) projects to refine and develop security and emergency response plans;

[''(II) projects aimed at detecting chemical and biological agents in public transportation;

[''(III) the conduct of emergency response drills with public transportation agencies and local first response agencies; or

[''(IV) security training for public transportation employees; but,

[''(ii) excluding all expenses related to operations, except for such expenses incurred in the provisions of activities under clauses (III) and (IV) of this subparagraph; or

[''(K) establishment of a debt service reserve made up of deposits with a bondholders' trustee in a non-interest bearing account for the purpose of assuring timely payment of principal and interest on bonds issued by a grant recipient for purposes of financing an eligible project under this chapter; and

[''(L) remediation associated with construction of a capital project as described this paragraph on a brownfield site as defined in 42 U.S.C. 9601.

[''(2) 'chief executive officer of a State' includes the designee of the chief executive officer.

[''(3) 'emergency regulation' means a regulation—

[''(A) that is effective temporarily before the expiration of the otherwise specified periods of time for public notice and comment under section 5334(c); and

[''(B) prescribed by the Secretary as the result of a finding that a delay in the effective date of the regulation—

[''(i) would injure seriously an important public interest;

[''(ii) would frustrate substantially legislative policy and intent; or

[''(iii) would damage seriously a person or class without serving an important public interest.

[''(4) 'fixed guideway' means a public transportation facility—

[''(A) using and occupying a separate right-of-way or rail for the exclusive use of public transportation and other high occupancy vehicles; or –

[''(B) using a fixed catenary system and a right-of-way usable by other forms of transportation.

[''(5) 'individual with a disability' means an individual who, because of illness, injury, age, congenital malfunction, or other incapacity or temporary or permanent disability (including an individual who is a wheelchair user or has semiambulatory capability), cannot use effectively, without special facilities, planning, or design, public transportation service or a public transportation facility.

[''(6) 'local governmental authority' includes—

[''(A) a political subdivision of a State;

[''(B) an authority of at least 1 State or political subdivision of a State;

[''(C) an Indian tribe; and

[''(D) a public corporation, board, or commission established under the laws of a State.

[''(7) 'mass transportation' means public transportation.

[''(7a) 'mobility management' means an activity or project that involves one or more of the following goals:

[''(A) Addressing public transportation customer needs.

[''(B) Tailoring public transportation services to specific market niches.

[''(C) Managing public transportation demand.

[''(D) Land use compatibility with public transportation services.

[''(E) Improving coordination among public transportation providers and other transportation service providers.

[''(8) 'net project cost' means the part of a project that reasonably cannot be financed from revenues.

[''(9) 'new bus model' means a bus model (including a model using alternative fuel)—

[''(A) that has not been used in public transportation in the United States before the date of production of the model; or

[''(B) used in public transportation in the United States, but being produced with a major change in configuration or components.

[''(10) 'public transportation' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include school bus, charter, or sightseeing transportation.

[''(10a) 'recipient' means an entity that receives Federal transit program assistance directly from the Federal government.

[''(11) 'regulation' means any part of a statement of general or particular applicability of the Secretary designed to carry out, interpret, or prescribe law or policy in carrying out this chapter.

[''(11a) 'reverse commute project' means a public transportation project designed to transport residents of urban areas, urbanized areas, and areas other than urbanized areas to suburban employment opportunities, including any projects to—

[''(A) subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urban areas, urbanized areas, and areas other than urbanized areas, to suburban workplaces;

[''(B) subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or

[''(C) otherwise facilitate the provision of public transportation services to suburban employment opportunities.

[''(12) 'Secretary' means the Secretary of Transportation.

[''(13) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands, except as defined in section 5305 of this title.

[''(13a) 'subrecipient' means an entity that receives Federal transit program assistance indirectly through a recipient, rather than directly from the Federal government.

[''(14) 'transit' means public transportation.

[''(15) 'transit enhancement' means, with respect to any project or an area to be served by a project, projects that are designed to enhance public transportation service or use and that are physically or functionally related to transit facilities. Eligible projects are—

[''(A) historic preservation, rehabilitation, or operation of historic public transportation buildings, structures, or facilities (including historic bus or railroad facilities);

[''(B) bus shelters;

[''(C) landscaping and other scenic beautification, including tables, benches, trash receptacles, and street lights;

[''(D) public art;

[''(E) pedestrian access or walkways;

[''(F) bicycle access, including bicycle storage facilities and installing equipment for transporting bicycles on public transportation vehicles;

[''(G) transit connections to parks within the recipient's transit service area;

[''(H) signage; and

[''(I) enhanced access for individuals with disabilities to public transportation.

[''(16) [reserved]

[''(17) 'urbanized area' means an area encompassing a population of at least 50,000 people that has been defined and designated in the latest decennial census as an 'urbanized area' by the Secretary of Commerce.

[''(18) 'welfare recipient' means an individual who receives or received aid or assistance under a State or tribal program funded under part A of title IV of the Social Security Act (whether in effect before or after the effective date of the amendments made by title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2110)) at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

[''(b) AUTHORITY TO MODIFY 'INDIVIDUAL WITH A DISABILITY'.—The Secretary may by regulation modify the definition of the term 'individual with a disability' in subsection (a)(5) as it applies to section 5307(d)(1)(D).''.

[(b) CONFORMING AMENDMENT.—Section 5321 is repealed.

[SEC. 3005. METROPOLITAN PLANNING.

[The text of section 5303 is amended to read as follows: ''Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be carried out in accordance with the metropolitan planning provisions of chapter 52 of this title.''.

[SEC. 3006. STATEWIDE PLANNING.

[(a) SECTION HEADING.—Section 5304 is amended by striking the section heading and inserting the following:

[''§ 5304. Statewide planning''.

[(b) The text of section 5304 is amended to read as follows: ''Grants made under sections 5307, 5308, 5309, 5310, 5311, 5316, and 5317 shall be carried out in accordance with the statewide planning provisions of chapter 52 of this title.''.

[(c) CONFORMING AMENDMENT.—The item relating to section 5304 in the table of sections for chapter 53 is amended to read as follows:

[''5304. Statewide planning.''.

[SEC. 3007. PLANNING PROGRAMS.

[(a) IN GENERAL.—Section 5305 is amended to read as follows:

[''§ 5305. Planning programs

[''(a) DEFINITIONS.—In this section the following definitions apply:

[''(1) 'State' means a State of the United States, the District of Columbia, and Puerto Rico, and

[''(2) 'planning emphasis area' means priority themes identified by the Secretary for consideration in sections 5303 and 5304 of this title.

[''(b) GENERAL AUTHORITY.—Under criteria the Secretary establishes, the Secretary may make grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, or may make agreements with other departments, agencies, and instrumentalities of the Government, or may enter into contracts with private non-profit or for-profit entities for development of, transportation plans and programs and to plan, engineer, design, and evaluate a public transportation project and for other technical studies, including—

[''(1) studies related to management, planning, operations, capital requirements, and economic feasibility;

[''(2) evaluating previously financed projects;

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

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

[''(c) PURPOSE.—To the extent practicable, the Secretary shall ensure that amounts appropriated or made available under section

5338 of this title to carry out this section and sections 5303 and 5304 of this title are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

[''(d) METROPOLITAN PLANNING PROGRAM.—

[''(1) The Secretary shall apportion 80 percent of the amount made available under subsection (h)(2)(A) of this section to States to carry out sections 5303 and 5306 of this title in a ratio equal to the population in urbanized areas in each State divided by the total population in urbanized areas in all States, as shown by the latest available decennial census of population. A State may not receive less than .5 percent of the amount apportioned under this paragraph.

[''(2) Amounts apportioned to a State under paragraph (1) of this subsection shall be made available promptly after allocation to metropolitan planning organizations in the State designated under this section under a formula—

[''(A) the State develops in cooperation with the metropolitan planning organizations;

[''(B) the Secretary of Transportation approves; and

[''(C) that considers population in urbanized areas and provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section.

[''(3) The Secretary shall apportion 20 percent of the amount made available under subsection (h)(2)(A) of this section to States to supplement allocations made under paragraph (1) of this subsection for metropolitan planning organizations. Amounts under this paragraph shall be allocated under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities under sections 5303 and 5306 of this title in complex metropolitan planning areas.

[''(e) STATE PLANNING AND RESEARCH PROGRAM.—

[''(1) The amounts made available pursuant to subsection (h)(2)(B) of this section shall be apportioned to States for grants and contracts to carry out sections 5303–5306, 5315, and 5322 of this title. The amounts shall be apportioned so that each State receives an amount equal to the population in urbanized areas in the State, divided by the population in urbanized areas in all States, as shown by the latest available decennial census. However, a State must receive at least .5 percent of the amount apportioned under this subsection.

[''(2) A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts available under subsection (d) of this section.

[''(f) PLANNING CAPACITY BUILDING PROGRAM.—

[''(1) The Secretary shall establish a Planning Capacity Building Program to support and fund innovative practices and enhancements in transportation planning. The purpose of this program shall be to promote activities that support and strengthen the planning processes required under this section and sections 5303 and 5304 of this chapter.

[''(2) Funding available under subsection (h)(1) of this section to carry out this subsection will support—

[''(A) incentive grants to state, metropolitan planning organizations, and public transportation operators; and

[''(B) research, information dissemination, and technical assistance.

[''(3) The Secretary may use the funds for the purpose described in paragraph (2)(B) independently or make grants to, or enter into contracts, cooperative agreements, and other transactions, with a Federal agency, State agency, local governmental authority, association, nonprofit or for-profit entity, or institution of higher education, to carry out the purposes of this subsection.

[''(4) The program shall be administered by the Federal Transit Administration in cooperation with the Federal Highway Administration.

[''(g) GOVERNMENT'S SHARE OF COSTS.—

[''(1) Amounts made available to carry out subsections (d), (e) and (f) of this section may not exceed 80 percent of the costs of the activity unless the Secretary of Transportation decides it is in the interests of the Government not to require a State or local match.

[''(2) When there are planning emphasis areas funded under a grant or contract financed under this section, the Secretary may establish a Government share consistent with the planning emphasis area benefit.

[''(h) ALLOCATION OF FUNDS.—Of the funds made available by or appropriated to carry out this section under section 5338(a)(2)(A) and (B) and 5338(b)(3)(A) and (B) of this title for fiscal years 2004 through 2009,

[''(1) $5,000,000 shall be available for the planning capacity building program under subsection (f) of this section; and

[''(2) of the remaining amount,

[''(A) 82.72 percent shall be available for metropolitan planning program under subsection (d) of this section; and

[''(B) 17.28 percent shall be available to carry out subsections (b) and (e) of this section.

[''(i) AVAILABILITY OF AMOUNTS.—An amount apportioned under this section that remains available for 3 years after the fiscal year in which the amount is apportioned shall be reapportioned among the States.''.

[(b) CONFORMING AMENDMENT.—The item relating to section 5305 in the table of sections for chapter 53 is amended to read as follows:

[''5305. Planning programs.''.

[SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.

[(a) SECTION HEADING.—Section 5306 is amended by striking the section heading and inserting the following:

["§ 5306. Private enterprise participation in metropolitan planning and statewide planning".

[(b) CONFORMING AMENDMENT.—The item relating to section 5306 in the table of sections for chapter 53 is amended to read as follows:

[''5306. Private enterprise participation in metropolitan planning and statewide planning.''.

[SEC. 3009. URBANIZED AREA PUBLIC TRANSPORTATION FORMULA GRANTS PROGRAM.

[(a) SECTION HEADING.—Section 5307 is amended by striking the section heading and inserting the following:

[÷"§ 5307. Urbanized area public transportation formula grants program".

[(b) TECHNICAL AMENDMENTS.—Section 5307 is amended by—

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

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

[(c) DEFINITIONS.—Section 5307(a) is amended to read as follows:

[''(a) DEFINITIONS.—In this section:

[''(1) 'designated recipient' means—

[''(A) an entity designated, consistent with the planning process under sections 5303–5306 of this title, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation to receive and apportion amounts under sections 5336 and 5337 of this title that are attributable to transportation management areas established under section 5303 of this title; or

[''(B) a State or regional authority if the authority is responsible under the laws of a State for a capital project and for financing and directly providing public transportation.

[''(2) 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal government.''.

[(d) GENERAL AUTHORITY.—Section 5307(b) is amended—

[(1) by striking paragraph (1) and inserting a new paragraph (1) as follows:

[''(1) The Secretary of Transportation may make grants under this section for—

[''(A) capital projects;

[''(B) planning and mobility management;

[''(C) transit enhancements; and

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

[(2) by striking paragraphs (2) and (4);

[(3) by redesignating paragraph (3) as paragraph (2); and

[(4) in redesignated paragraph (2), by striking ''5305(a)'' and inserting ''5303''.

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

[(1) in paragraph (1)(A), by inserting '', including safety and security aspects of the program'' after ''capacity'';

[(2) in paragraph (1)(E), by striking everything that appears after ''section'' and inserting ''the recipient will comply with section 5323 and 5325 of this title'';

[(3) in paragraph (1)(H), by striking ''5310(a)–(d)'';

[(4) by striking paragraph (1)(I);

[(5) by redesignating paragraph (1)(J) as paragraph (1)(I); and

[(6) by adding at the end of subsection (f)(1), as redesignated, the following:

[''(J) with a population of at least 200,000 in its urbanized area will expend one percent of the amount the recipient receives each fiscal year under this section for transit enhancement activities described in section 5302(a)(15) of this title.''.

[(f) GOVERNMENT'S SHARE OF COSTS.—Section 5307(e), is amended—

[(1) in the first sentence, by striking ''(including associated capital maintenance items)''; and

[(2) in the fourth sentence, by striking ''that are more than the amount of those revenues in the fiscal year that ended September 30, 1985'' and inserting ''and amounts received under a service agreement with a State or local social service agency or a private social service organization''.

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

[(h) REVIEWS, AUDITS, AND EVALUATIONS.—Section 5307(h), as redesignated, is amended in paragraph (1) (A) by striking ''shall'' and inserting ''may''.

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

[''(k)(1) Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333 and 5335'' of this title apply to this section and to a grant made under this section. Except as provided in this section, no other provision of this chapter applies to this section or to a grant made under this section.

[''(2) The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15, title 5, U.S.C., any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.''.

[(j) CONFORMING AMENDMENTS.—

[(1) The item relating to section 5307 in the table of sections for chapter 53 is amended to read as follows:

[''5307. Urbanized area public transportation formula grants program.''.

[(2) Section 3037 of the Transportation Equity Act for the 21st Century, Public Law 105–178, as amended, is repealed.

[SEC. 3010. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

[(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:—

[''(a) DEFINITIONS.—In this section—

[''(1) 'recipient' means a State that receives a Federal transit program grant directly from the Federal government.

[''(2) 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a Federal transit program grant indirectly through a recipient, rather than directly from the Federal government.''.

[(b) GENERAL AUTHORITY.—Section 5311(b) is amended—

[(1) by revising paragraph (1) to read as follows:

[''(1) Except as provided in paragraph (2) of this subsection, the Secretary may make grants to areas other than urbanized areas under this section for the following:

[''(A) public transportation capital projects;

[''(B) operating costs of equipment and facilities for use in public transportation; and

[''(C) the acquisition of public transportation services.'';

[(2) by redesignating paragraph (2) as paragraph (3) and inserting a new paragraph (2), as follows:

[''(2) A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service. The program shall be submitted annually to the Secretary. The Secretary may approve the program only if the Secretary finds that the program provides a fair distribution of amounts in the State, including Indian reservations, and the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other federal sources.'';

[(3) In paragraph (3), as redesignated, by inserting ''use not more than 2 percent of the amount made available to carry out this section to'' before ''make''; and

[(4) by adding after paragraph (3) the following:

[''(4) Of the amount available to carry out paragraph (3), not more than 15 percent may be used to carry out projects of a national scope, with the remaining balance provided to the States.''.

[(c) APPORTIONING AMOUNTS.—Subsection (c) is amended to read as follows:

[''(c) APPORTIONMENTS.—

[''(1) The amounts made available under section 5338(a)(2)(K) shall be apportioned as follows:

[''(A) For each eligible State in accordance with paragraph (2) of this subsection:

[''(i) $2,500,000 in fiscal year 2004.

[''(ii) Three percent in fiscal year 2005.

[''(iii) Five percent in fiscal year 2006.

[''(iv) Seven percent in fiscal year 2007.

[''(v) Nine percent in fiscal year 2008.

[''(vi) Ten percent in every fiscal year thereafter.

[''(B) Remaining amounts shall be apportioned to each State in accordance with paragraph (3) of this subsection.

[''(2)(A) Of the amounts to be apportioned under paragraph (1)(A) of this subsection, the Secretary may use the following amounts to make grants to establish data collection systems capable of collecting the data in subparagraph (C) of this paragraph:

[''(i) 100 percent in fiscal year 2004.

[''(ii) $1,500,000 in fiscal year 2005.

[''(iii) $500,000 in fiscal year 2006.

[''(B) Amounts under subparagraph (A) of this paragraph not obligated within three years following the end of the fiscal year in which those amounts became available shall be available for apportionment under subparagraph (C) of this paragraph.

[''(C) The remaining amounts to be apportioned under paragraph (1)(A) of this subsection shall be apportioned by a formula determined by the Secretary that distributes funds based on increases in public transportation patronage in other-than-urbanized areas.

[''(D) In apportioning funds under subparagraph (C) of this paragraph, the Secretary may consider the efficiency of service provision in the non-urbanized areas in the State.

[''(3) Each State shall receive an amount equal to the remaining amount apportioned multiplied by a ratio equal to the population of areas other than urbanized areas in a State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent Federal government decennial census of population.''.

[(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended by striking—

[(1) ''Use for administration and technical assistance. (1)'' and inserting ''Use for administration, planning, and technical assistance.''; and

[(2) ''to a recipient'' after ''technical assistance''; and

[(3) paragraph (2).

[(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

[(1) in paragraph (1), by striking ''after September 30, 1993,''; and

[(2) by inserting at the beginning of paragraph (2) ''After consultation with affected intercity bus service providers,''.

[(f) GOVERNMENT'S SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

[''(g) GOVERNMENT'S SHARE OF COSTS.—

[''(1) 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. 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. The remainder—

[''(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

[''(B) may be derived from amounts appropriated to or made available to a department or agency of the Federal government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

[''(2) A state carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

[''(3) For purposes of paragraph (2)(B) of this section, the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to federal or state funds to be used for transportation purposes.''.

[(g) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—Section 5311(h) is amended to read as follows:

[''(h) INDIAN RESERVATION RURAL TRANSIT PROGRAM.—

[''(1) In this subsection, 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).

[''(2)(A) The Secretary shall establish and carry out through the States a program to provide grants to Indian tribes to operate, maintain, and establish rural transit programs on reservations or other land under the jurisdiction of the Indian tribes.

[''(B) The state may waive or reduce the amount of local share required for these grants.

[''(3) Notwithstanding any other provision of law, for each fiscal year, of the amount made available to carry out this section under section 5338(a)(2)(K) for the fiscal year, the Secretary shall make available $10,000,000 to carry out this subsection.

[''(4) Of the funds made available pursuant to paragraph (3) of this subsection,

[''(A) $9,500,000 shall be apportioned to the states based on a ratio equal to the tribal population in each state divided by the total tribal population in all states, as shown by the latest decennial census of population for allocation to existing Indian tribal rural transit programs and to plan and establish new Indian tribe rural transit programs;

[''(B) prior to distribution by states of in-state amounts to Indian tribes, each State may use up to 5 percent for state administration;

[''(C) amounts apportioned to a state under paragraph (A) of this subsection shall be distributed to Indian tribes in the state based on an allocation plan—

[''(i) the state develops in cooperation with Indian tribes;

[''(ii) the Secretary approves; and

[''(iii) that provides an appropriate distribution for funding the needs of existing and new Indian Reservation Rural Transit Systems; and

[''(D) $500,000 shall be available to the Secretary to provide technical assistance, including best practices and outreach, to the states and tribes through grants, contracts, or other arrangements and shall be in addition to and not in lieu of other funds available for these purposes.

[''(5) An amount apportioned to the states under this subsection—

[''(A) remains available for 3 years after the fiscal year in which the amount was apportioned; and

[''(B) shall be reapportioned among the states if unobligated at the end of the 3-year period.''.

[(h) RELATIONSHIP TO OTHER LAWS.—Section 5311(j) is amended to read as follows:

[''(j) RELATIONSHIP TO OTHER LAWS.—

[''(1) Except as provided in subparagraphs (2) and (3) of this subsection, a grant under this section is subject to the requirements of 5307 to the extent the Secretary considers appropriate.

[''(2) Sections 5323(a)(1)(D) and 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

[''(3) The Secretary may waive the applicability of the Special Warranty under paragraph (2) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate.

[''(4) This subsection does not affect or discharge a responsibility of the Secretary under a law of the United States.''.

[SEC. 3011. NEW FREEDOM PROGRAM.

[(a) Chapter 53 of title 49, United States Code, is amended by inserting after section 5316 the following:

[''§ 5317. New Freedom program

[''(a) DEFINITIONS.—In this section—

[''(1) 'recipient' means a State that receives a grant under this section directly.

[''(2) 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation service that may receive a grant under this section indirectly through a recipient, rather than directly from the Federal government.''.

[''(b) GENERAL AUTHORITY.—

[''(1) The Secretary of Transportation may provide grants to recipients for new transportation services and transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), including motor vehicle programs that assist persons with disabilities with transportation to and from jobs and employment support services.

[''(2) A recipient may use not more than 15 percent of the amounts apportioned under this section to administer, plan, and provide technical assistance for a project funded under this section.

[''(c) APPORTIONMENTS.—

[''(1) The Secretary shall apportion amounts made available under section 5338(a)(2)(H) of this title under a formula the Secretary administers.

[''(2) The recipient may transfer any funds apportioned to it under this subsection to sections 5311(c) or 5336. Any funds transferred pursuant to this subsection shall be made available only for eligible projects selected under this section.

[''(d) GRANT REQUIREMENTS.—

[''(1) Except as provided in paragraphs (2) and (3) of this subsection, a grant under this section is subject to the requirements of 5307 to the extent the Secretary considers appropriate.

[''(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

[''(3) The Secretary may waive the applicability of the Special Warranty under paragraph (2) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate.

[''(4) A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

[''(e) COMPETITIVE PROCESS.—

[''(1) The recipient shall conduct a statewide solicitation for applications for grants under this section.

[''(2) Subrecipients seeking to receive a grant under this section shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

[''(3) Subrecipients submitting applications pursuant to paragraph (2) shall be selected on a competitive basis.

[''(f) COORDINATION.—

[''(1) The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

[''(2) A recipient that transfers funds to section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested has been coordinated with private non-profit providers of services under this section.

[''(3) A recipient of funds under this section shall certify that—

[''(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

[''(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public;

[''(g) GOVERNMENT'S SHARE OF COSTS.—

[''(1) 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. 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. The remainder may be—

[''(A) provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

[''(B) derived from amounts appropriated to or made available to a department or agency of the Federal government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

[''(2) A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

[''(3) For purposes of paragraph (1)(B) of this section, the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to federal or state funds to be used for transportation purposes.''.

[(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended after the item relating to section 5316 by adding the following:

[''5317. New Freedom program.''.

[SEC. 3012. MAJOR CAPITAL INVESTMENT PROGRAM.

[(a) MAJOR CAPITAL INVESTMENT PROGRAM.—Section 5309 is amended to reads as follows:

[''§ 5309. Major capital investment grants

[''(a) GENERAL AUTHORITY.—

[''(1) The Secretary of Transportation may make grants under this section to State and local governmental authorities to assist them and their subrecipients in financing capital projects for—

[''(A) new fixed guideway systems, extensions to existing fixed guideway systems, and related project activities;

[''(B) the capital costs of coordinating public transportation with other transportation;

[''(C) the introduction of new technology, through innovative or improved products, into public transportation; or

[''(D) the development of corridors to support public transportation, including protecting rights of way through acquisition, construction of dedicated bus and high occupancy vehicle lanes or park and ride lots, or other capital improvements that the Secretary may decide would result in increased public transportation usage in the corridor.

[''(2) The Secretary shall require that a grant under this subsection be subject to the terms, conditions, requirements, and provisions 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.

[''(b) PROJECT AS PART OF APPROVED PROGRAM OF PROJECTS.—

[''(1) 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 transportation plan and program of projects required under sections 5303–5306 of this title, and that the applicant 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) An applicant that has submitted a certification required by section 5307(d)(1)(A)–(C) and (H) of this title shall provide sufficient information upon which the Secretary can make the findings required by this subsection.

[''(c) CRITERIA FOR MAJOR CAPITAL INVESTMENT GRANTS OF $75,000,000 OR MORE.—

[''(1) 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 and has been rated as 'medium,' 'medium-high,' or 'high,' as defined in this subsection.

[''(2) The Secretary may approve a grant under this section for a major capital project only if the Secretary makes the following determinations, based upon evaluations and considerations as set forth below:

[''(A) The Secretary may approve a grant under this section for a major capital project only if the Secretary determines that the proposed project is—

[''(i) based on the results of an alternatives analysis and preliminary engineering;

[''(ii) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, transit supportive policies and existing land use; and

[''(iii) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain, and operate the entire public transportation system.

[''(B) Before making the determinations required by paragraph (2)(A), the Secretary shall first analyze, evaluate, and consider the following factors:

[''(i) In evaluating a project for purposes of making the finding required by paragraph (2)(A)(i), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

[''(ii) In evaluating a project for purposes of making the finding required by paragraph (2)(A)(ii), the Secretary shall—

[''(I) consider the direct and indirect costs of relevant alternatives;

[''(II) consider factors such as congestion relief, improved mobility, air pollution, noise pollution, energy consumption, and all associated ancillary and mitigation costs necessary to carry out each alternative analyzed, and recognize reductions in local infrastructure costs achieved through compact land use development;

[''(III) identify and consider public transportation supportive existing land use policies and future patterns, and the cost of suburban sprawl;

[''(IV) consider the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

[''(V) consider population density and current transit ridership in the corridor;

[''(VI) consider the technical capability of the grant recipient to construct the project;

[''(VII) adjust the project justification to reflect differences in local land, construction, and operating costs; and

[''(VIII) consider other factors that the Secretary determines appropriate to carry out this chapter.

[''(iii) In evaluating a project under paragraph (2)(A)(iii), the Secretary shall require that—

[''(I) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

[''(II) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

[''(III) local resources are available to operate the overall proposed public transportation system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing public transportation services to operate the proposed project.

[''(iv) In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(A)(iii), the Secretary shall consider—

[''(I) existing grant commitments;

[''(II) the degree to which financing sources are dedicated to the purposes propose;

[''(III) any debt obligation that exists or is proposed by the recipient for the proposed project or other public transportation 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.

[''(3) 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 the findings, the Secretary shall evaluate and rate the project as 'high,' 'medium-high,' 'medium,' 'low-medium,' or 'low,' 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 by regulation.

[''(d) CRITERIA FOR MAJOR CAPITAL INVESTMENT GRANTS LESS THAN $75,000,000.—If the assistance provided under this section is less than $75,000,000, the project shall be subject to the requirements set forth in subsection (c) of this section only to the extent the Secretary determines appropriate.

[''(e) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (c) and (d) of this section do not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2003.

[''(f) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—

[''(1)(A) The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a major capital 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. When a letter is issued for fixed guideway projects, the amount shall be sufficient to complete at least an operable segment.

[''(B) At least 30 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 Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate and the House 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, U.S.C., or an administrative commitment.

[''(D) An obligation or administrative commitment may be made only when amounts are appropriated.

[''(2)(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;

[''(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. 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. The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.

[''(3)(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)(A) 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 may be not more than the greater of the amount authorized under section 5338(b) of this title for major capital investment projects or an amount equivalent to the last 3 fiscal years of funding authorized under section 5338(b)(3)(C) for major capital investment projects, 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.

[''(B) Future obligations of the Government and contingent commitments made against the contingent commitment authority under section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240, as amended, for the San Francisco BART to the Airport project for fiscal years 2002, 2003, 2004, 2005 and 2006 shall be charged against section 3032(g)(2) of that Act.

[''(g) GOVERNMENT'S SHARE OF NET PROJECT COST.—

[''(1) 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. A grant for the project shall be for 50 percent of the net capital project cost, unless the grant recipient requests a lower grant percentage.

[''(2) The remainder—

[''(A) shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and

[''(B) may include up to 30 percent from amounts appropriated to or made available to a department or agency of the Federal Government that are eligible to be expended for transportation.

[''(3) In addition to amounts allowed pursuant to paragraph (1) of this subsection, a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

[''(4) The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act shall not apply to amounts allowed pursuant to paragraph (2) of this subsection.

[''(5) This subsection does not apply to projects for which the Secretary of Transportation has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2003.

[''(h) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under subsection (g) of this section, the Secretary may also give consideration to 'high,' 'medium-high,' or 'medium' projects sponsored by grant applicants and State and local governments of constrained fiscal capacity in selecting projects for full funding grant agreements.

[''(i) PRELIMINARY ENGINEERING.—Not more than 8 percent of the amounts made available in each fiscal year to carry out this section may be available for preliminary engineering.

[''(j) UNDERTAKING PROJECTS IN ADVANCE.—

[''(1) The Secretary may pay the Government's share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

[''(A) the State or local governmental authority applies for the payment;

[''(B) the Secretary approves the payment; and

[''(C) before carrying out the 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) The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part. However, the amount of interest 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) The Secretary shall consider changes in capital project cost indices when determining the estimated cost under paragraph (2) of this subsection.

[''(k) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

[''(l) REPORTS.—

[''(1) Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, as well as the Subcommittee on Transportation of the Committees on Appropriations of both Houses, a report that may include—

[''(A) an allocation of amounts to be available to finance grants for capital investment projects among applicants for these amounts;

[''(B) an assessment of projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years; and

[''(C) detailed ratings and evaluations on each project listed.

[''(2) The Secretary shall submit a report to Congress on the first Monday in February, the first Monday in June, and the first Monday in October each year that includes—

[''(A) a summary of the ratings of all applicant's capital investment projects;

[''(B) detailed ratings and evaluations on each applicant project with significant changes to the finance or project proposal or has completed alternatives or preliminary engineering since the date of the last report; and

[''(C) all relevant information that support the evaluation and rating of each updated project, including a summary of each updated project's financial plan.

[''(m) PROJECT DEFINED.—In this section, the term 'major capital investment project' with respect to a new fixed guideway system or extension to an existing fixed guideway system, means a minimum operable segment of the project.''.

[SEC. 3013. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

[(a) IN GENERAL.—Section 5312 is amended—

[(1) in subsection (a)—

[(A) by striking ''or contracts'' and inserting '', contracts, cooperative agreements, or other transactions'';

[(B) by striking ''help reduce urban transportation needs,'';

[(C) by striking ''urban'' each place it appears; and

[(D) by striking ''and demonstration projects related'' and inserting '', demonstration or deployment projects, or evaluation of technology of national significance'';

[(2) by striking subsections (b) and (c);

[(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

[(4) in subsection (b)(2), as redesignated, by striking ''other agreements'' and inserting ''other transactions'';

[(5) in subsection (b)(3), as redesignated, by striking ''50'' and inserting ''80'';

[(6) in subsection (b)(4), by adding the following sentence at the end: ''The evaluation criteria shall include consideration of a share of consortium contributions to the overall research costs.'';

[(7) in subsection (c)(2), as redesignated, by striking ''and'' and inserting ''or'' before ''private''; and

[(8) in subsections (b)(5) and (c)(3), as redesignated, by striking ''within the Mass Transit Account of the Highway Trust Fund''.

[(b) CONFORMING AMENDMENTS.—

[(1) Section 5312 is amended by striking the section heading and inserting the following:

[''§ 5312. Research, development, demonstration, and deployment projects''.

[(2) The item relating to section 5312 in the table of sections is amended to read as follows:

[''§ 5312. Research, development, demonstration, and deployment projects.''.

[SEC. 3014. COOPERATIVE RESEARCH GRANT PROGRAM.

[(a) IN GENERAL.—Section 5313 is amended—

[(1) in subsection (a) by—

[(A) striking ''(1)'';

[(B) striking ''paragraphs (1) and (2)(C)(ii) of section 5338(d) and inserting ''5338(a)(2)(F)(iii)(I) and (III)''; and

[(C) striking ''(2)'' and inserting ''(b) Federal Assistance.—'';

[(2) by striking subsection (b); and

[(3) in subsection (c), by striking ''subsection (a) of''.

[(b) CONFORMING AMENDMENTS.—

[(1) Section 5313 is amended by striking the section heading and inserting the following:

[''§ 5313. Cooperative research program''.

[(2) The item relating to section 5313 in the table of sections is amended to read as follows:

[''5313. Cooperative research program.''.

[SEC. 3015. NATIONAL RESEARCH PROGRAMS.

[(a) IN GENERAL.—Section 5314 is amended—

[(1) in the section heading, by striking ''planning and'';

[(2) in subsection (a)(1), by—

[(A) striking ''subsections (d) and (h)(7) of section 5338'' and inserting ''section 5338(a)(2)(F)'';

[(B) striking ''and contracts'' and inserting '', contracts, cooperative agreements, or other transactions''; and

[(C) striking ''5317,'';

[(3) in the first sentence of subsection (a)(3), by striking all that follows ''chapter'';

[(4) by striking subsection (a)(4)(B);

[(5) by redesignating subsection (a)(4)(C) as subsection (a)(4)(B); and

[(6) in subsection (b), by striking ''or contract'' and all that follows in the first sentence, and inserting '', contract, cooperative agreement, or other transaction under subsection (a) of this section or section 5312.''

[(b) CONFORMING AMENDMENTS.—The item relating to section 5314 in the table of sections is amended to read as follows:

[''5314. National research programs.''.

[SEC. 3016. NATIONAL TRANSIT INSTITUTE.

[Section 5315 is amended—

[(1) in subsection (a)—

[(A) by striking ''public mass transportation'' and inserting ''public transportation'' each place it appears;

[(B) by striking ''mass'' after ''Government-aid'' and inserting ''public''; and

[(C) in paragraphs (1), (6), (7), and (10) by striking ''mass'' each place it appears before ''transportation'' and inserting ''public'';

[(2) by striking subsection (b);

[(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

[(4) in subsection (c), as redesignated, by striking ''mass'' each place it appears.

[SEC. 3017. BUS TESTING FACILITY.

[Section 5318 is amended—

[(1) by revising subsection (a) to read as follows:

[''(a) FACILITY.—The Secretary of Transportation shall maintain one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.'';

[(2) in subsection (d), by striking ''section 5309(m)(1)(C)'' and inserting section 5338(a)(2)(I); and

[(3) by revising subsection (e) to read as follows:

[''(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if a bus of that model has been tested at the facility maintained by the Secretary under subsection (a).''.

[SEC. 3018. BICYCLE FACILITIES.

[Section 5319 is amended by striking ''5309(h),'' and inserting ''5309(g),''.

[SEC. 3019. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

[Section 5320 is repealed.

[SEC. 3020. GENERAL PROVISIONS ON ASSISTANCE.

[Section 5323 is amended—

[(1) In paragraph (a)(1) by—

[(A) striking ''private mass transportation company'' each place it appears and inserting ''private company engaged in public transportation'';

[(B) striking ''mass transportation equipment or a mass transportation facility'' and inserting ''a public transportation facility or equipment''; and

[(C) striking ''mass transportation company'' and inserting ''public transportation company'';

[(2) in subsection (a)(1)(B), by striking ''private mass transportation companies'' and inserting ''private companies engaged in public transportation'';

[(3) in subsection (b)—

[(A) in paragraph (1)—

[(i) by striking ''or loan''; and

[(ii) by striking ''a certificate of the applicant'' and inserting ''in the environmental record for the project evidence''; and

[(B) in subparagraph (A) of paragraph (1), by striking ''a public hearing with adequate prior notice'' and inserting ''public review and comment on the project''

[(C) by amending subparagraph (B) of paragraph (1) to read as follows:

[''(B) held a public hearing on the project if it affects significant economic, social, or environmental interests;'';

[(4) in paragraph (2), by striking the last sentence;

[(5) by revising subsection (c) to read as follows:

[''(c) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods is subject to the requirements of section 5309 of this title to the extent the Secretary considers appropriate.'';

[(6) in subsection (d)—

[(A) by revising paragraph (2) to read as follows:

[''(2) The Secretary may waive paragraph (1) of this subsection if the Secretary finds that the provision of intercity charter bus transportation service by the applicant, governmental authority, or publicly owned operator is necessary to meet the transportation needs of the elderly and individuals with disabilities.''; and

[(B) by adding at the end the following paragraph:

[''(3) On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred. If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement. In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary deems appropriate.'';

[(7) by striking subsection (e);

[(8) by redesignating subsection (f) as (e);

[(9) in subsection (e), as redesignated—

[(A) by revising paragraph (2) to read as follows:

[''(2) The Secretary may waive paragraph (1) of this subsection if the Secretary finds that the provision of schoolbus transportation by the applicant, governmental authority, or publicly owned operator is necessary to meet the transportation needs of students with disabilities.''; and

[(B) by adding at the end the following paragraph:

[''(3) If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1) of this subsection, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary deems appropriate.'';

[(10) by revising subsection (f) to read as follows:

[''(f) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

[''(1) Notwithstanding any other provision of law, a recipient of assistance under sections 5307 or 5309 of this chapter, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

[''(2) The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that recipient established pursuant to section 5302(a)(1a)(K) of this title from amounts made available to the recipient under sections 5307 or 5309 of this title.'';

[(11) in subsection (g), by—

[(A) striking ''(f)'' and inserting ''(e)'';

[(B) striking ''103(e)(4) and'' in the first and second sentence and inserting ''133''; and

[(C) striking (f)(1)(C) and inserting ''(e)(1)(C)'';

[(12) by revising subsection (h) to read as follows:

[''(h) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

[''(1) If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall file with the Secretary of the Department supervising the administration of such lands or interests in lands a map showing the portion of such lands or interests in lands which is desired to be transferred for public transportation purposes.

[''(2) If within four months after such filing, the Secretary of such Department shall not have certified to the Secretary that the proposed appropriation of such land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or shall have agreed to the appropriation and transfer under conditions which the Secretary of such Department deems necessary for the adequate protection and utilization of the reserve, then such land and materials may be appropriated and transferred to a State, or local government, or public transportation operator for such purposes and subject to the conditions so specified.

[''(3) If at any time such lands are no longer needed for public transportation purposes, notice shall be given by the State, or local government, or public transportation operator that received the land, to the Secretary, and such lands shall immediately revert to the control of the Secretary of the Department from which the land was originally transferred.'';

[(13) in subsection (j)—

[(A) by revising paragraph (1) to read as follows:

[''(1)(A) The Secretary may obligate an amount that may be appropriated to carry out this chapter for a project only if the steel, iron, rolling stock, and components and subcomponents of the rolling stock used in the project are produced in the United States.

[''(B) When procuring rolling stock (including train control, communication, and traction power equipment) under this chapter—

[''(i) the cost of components and subcomponents produced in the United States shall be more than 60 percent of the cost of all components of the rolling stock; and

[''(ii) final assembly of the rolling stock shall occur in the United States.

[''(C) In this subsection, labor costs involved in final assembly are not included in calculating the cost of components.'';

[(B) in paragraph (2)(B)—

[(i) by striking ''and goods'' and inserting ''rolling stock, and the components and subcomponents of rolling stock''; and

[(ii) by adding ''or'' at the end;

[(C) by striking paragraph (2)(C);

[(D) by redesignating paragraph (2)(D) as paragraph (2)(C);

[(E) by striking paragraph (3) and redesignating paragraphs (4), (5), (6), and (7) as paragraphs (3), (4), (5), and (6), respectively;

[(F) in paragraph (4), as redesignated, by striking ''Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003'';

[(14) by revising subsection (l) to read as follows:

[''(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18, U.S.C., applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, when a false or fraudulent statement or related act within the meaning of section 1001 is made in connection with a Federal transit program.'';

[(15) in subsection (m), by inserting at the end the following: ''Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) of this section do not apply to private nonprofit organizations or to grantees serving areas with fewer than one million people.'';

[(16) in subsection (o) by striking ''the Transportation Infrastructure Finance and Innovation Act of 1998'' and inserting ''23 U.S.C. 188''.

[SEC. 3021. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

[(a) IN GENERAL.—Section 5324 is amended to read as follows:

[§ 5324. Special provisions for capital projects

[''(a) REAL PROPERTY AND RELOCATION SERVICES.—Whenever real property is acquired and furnished as a required contribution incident to a project, the Secretary may not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances as are required of a State agency under Sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Uniform Act). The Secretary must be advised of specific references to any State law that are believed to be an exception to Sections 301 or 302 of the Uniform Act.

[''(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

[''(1) The Secretary may participate in the acquisition of real property prior to completion of the environmental reviews for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project, given any of the following conditions—

[''(A) there are offers on the open real estate market to convey that property for a use or uses incompatible with the project under study;

[''(B) there is an imminent threat of development or redevelopment of the property for use or uses incompatible with the project under study;

[''(C) recent appraisals reflect a rapid increase in the fair market value of the property;

[''(D) the property, because it is located near an existing transportation facility, is likely to be developed, but also likely to be needed for a future transportation improvement; or

[''(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

[''(2) Property acquired in accordance with this subsection may not be developed in anticipation of the project until the Secretary

has complied with the National Environmental Policy Act and the applicable provisions of the Department of Transportation Act for protection of publicly owned park lands, wildlife and waterfowl refuges, and historic sites.

[''(3) The Secretary shall limit the size and number of properties acquired in accordance with this subsection as necessary to avoid any prejudice to the Secretary's objective evaluation of project alternatives.

[''(4) An acquisition undertaken pursuant to this section shall be considered to be an exempt project under section 176 of the Clear Air Act and its implementing regulations.

[''(c) RAILROAD CORRIDOR PRESERVATION.—

[''(1) The Secretary may assist an applicant in the acquisition of a pre-existing railroad right-of-way prior to completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law; furthermore, the Secretary may establish restrictions on such an acquisition as the Secretary deems necessary and appropriate.

[''(2) Railroad right-of-way acquired in accordance with this subsection may not be developed in anticipation of the project until the Secretary has complied with the National Environmental Policy Act and the applicable provisions of the Department of Transportation Act for protection of publicly owned park lands, wildlife and waterfowl refuges, and historic sites.

[''(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

[''(1) In carrying out section 5301(e) of this chapter, the Secretary shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

[''(2) In performing environmental reviews, the Secretary shall consider the public comments on a project submitted under section 5323(b) of this title and ensure that an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that the project application includes a record of—

[''(A) the environmental impact of the proposal;

[''(B) adverse environmental effects that cannot be avoided;

[''(C) alternatives to the proposal; and

[''(D) irreversible and irretrievable impacts on the environment.

[''(3)(A) The Secretary may approve an application for financial assistance for a capital project in accordance with this chapter only if the Secretary makes written findings, after reviewing the environmental record included with the project application, that—

[''(i) an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest;

[''(ii) the preservation and enhancement of the environment and the interest of the community in which the project is located were considered; and

[''(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

[''(B) The Secretary's findings under subparagraph (A) of this paragraph shall be made a matter of public record.''.

[(b) CONFORMING AMENDMENT.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows:

[''5324. Special provisions for capital projects.''.

[SEC. 3022. CONTRACT REQUIREMENTS.

[(a) IN GENERAL.—Section 5325 is amended—

[(1) by revising subsection (a) to read as follows:

[''(a) COMPETITION.—Recipients of Federal assistance under this chapter shall conduct all procurement transactions in a manner providing full and open competition as determined by the Secretary.'';

[(2) by revising subsection (b) to read as follows:

[''(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, U.S.C., or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services. When awarding such contracts, recipients of assistance under this chapter shall maximize efficiencies of administration by accepting non-disputed audits conducted by other governmental agencies as follows:

[''(1) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in the Federal Acquisition Regulation, part 31 of title 48, Code of Federal Regulations.

[''(2) Instead of performing its own audits, a recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulations for one-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

[''(3) Once a firm's indirect cost rates are accepted under this paragraph, the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

[''(4) A recipient of funds requesting or using the cost and rate data described in paragraph (3) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part by the group of agencies sharing cost data under this paragraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.'';

[(3) by inserting new subsections (d) through (h), after subsection (c), to read as follows:

[''(d) DESIGN-BUILD SYSTEM PROJECTS.—

[''(1) 'design-build system project' means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a public transportation system or an operable segment thereof that meets specific performance criteria. Such project may also include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

[''(2) Government financial assistance under this chapter may be made available for the capital costs of a design-build system project after the recipient complies with Government requirements.

[''(e) MULTIYEAR ROLLING STOCK.—

[''(1) A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts.

[''(2) The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock in compliance with this subsection and other Government procurement requirements.

[''(f) ACQUIRING ROLLING STOCK.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

[''(1) based on—

[''(A) initial capital costs; or

[''(B) performance, standardization, life cycle costs, and other factors; or

[''(2) with a party selected through a competitive procurement process.

[''(g) EXAMINATION OF THE RECORDS.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, papers, including contracts, related to a projects for which a grant is made under this chapter.

[''(h) GRANT PROHIBITIONS.—-A grant may not be used to support a procurement that uses an exclusionary or discriminatory specification.''.

[(b) CONFORMING AMENDMENTS.—Chapter 53 of title 49, United States Code, is amended by—

[(1) repealing section 5326; and

[(2) striking ''5326. Special Procurements.'' in the table of sections for chapter 53.

[SEC. 3023. HUMAN RESOURCE PROGRAMS.

[(a) IN GENERAL.—Section 5322 is amended—

[(1) by inserting ''(a) IN GENERAL.—'' before the beginning of the first sentence of the section; and

[(2) by adding the following at the end:

[''(b) GRANTS TO HIGHER LEARNING INSTITUTIONS.—

[''(1) The Secretary (or the Secretary of Housing and Urban Development when required by section 5334(i) of this title) may make grants to nonprofit institutions of higher learning—

[''(A) to conduct competent research and investigations into the theoretical or practical problems of urban transportation; and

[''(B) to train individuals to conduct further research or obtain employment in an organization that plans, builds, operates, or manages an urban transportation system.

[''(2) Research and investigations under this subsection include—

[''(A) the design and use of urban public transportation systems and urban roads and highways;

[''(B) the interrelationship between various modes of urban and interurban transportation;

[''(C) the role of transportation planning in overall urban planning;

[''(D) public preferences in transportation;

[''(E) the economic allocation of transportation resources; and

[''(F) the legal, financial, engineering, and esthetic aspects of urban transportation.

[''(3) When making a grant under this subsection, the Secretary shall give preference to an institution that brings together knowledge and expertise in the various social science and technical disciplines related to urban transportation problems.

[''(c) FELLOWSHIPS.—

[''(1) The Secretary may make grants to States, local governmental authorities, and operators of public transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the mass transportation field.

[''(2) A fellowship under this subsection may be for not more than one year of training in an institution that offers a program applicable to the public transportation industry. The recipient of the grant shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient public transportation operation. A grant for a fellowship may not be more than the lesser of $65,000 or 75 percent of—

[''(A) tuition and other charges to the fellowship recipient;

[''(B) additional costs incurred by the training institution and billed to the grant recipient; and

[''(C) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.

[''(d) OTHER GRANTS.—The Secretary may make grants to State and local governmental authorities for projects that will use innovative techniques and methods in managing and providing public transportation.''.

[SEC. 3024. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

[(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended—

[(1) by striking ''and'' at the end of paragraph 11;

[(2) in paragraph 12, by striking the ''.'' and inserting ''; and''; and

[(3) by adding after paragraph (12) the following:

[''(13) safety and security management.''.

[(b) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Section 5327(c) is amended—

[(1) in paragraph (1)—

[(A) by striking ''.5'' and inserting ''1'';

[(B) by striking ''5307, 5309, or 5311 of this title, an interstate transfer mass transportation project under section 103(e)(4) of title 23 as in effect on September 30, 1991,'' and inserting ''5307–5311, 5316, or 5317 of this title,'';

[(C) by striking ''to make a contract'';

[(D) by striking ''a major project'' and inserting ''major projects''; and

[(E) by striking ''section 5307, 5309, 5311, or 103(e)(4)'' and inserting ''sections 5307–5311, 5316, 5317,'';

[(2) in paragraph (2), by inserting ''and security'' after ''safety''; and

[(3) by redesignating paragraph (3) as (4) and inserting a new paragraph (3), as follows:

[''(3) The Secretary shall deduct a sum in an amount that the Secretary determines necessary to administer this section from the amounts made available under paragraph (1) of this subsection. These funds shall be in addition to any other funds made available for these purposes, and shall remain available until expended.''.

[SEC. 3025. PROJECT REVIEW.

[Section 5328 is repealed.

[SEC. 3026. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

[(a) IN GENERAL.—Section 5329 is amended to read as follows:

[''§ 5329. Investigation of safety and security risks

[''The Secretary may conduct investigations into safety and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it. If the Secretary establishes that a safety or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it. Any such plan relating to security risks shall be developed in consultation with the Secretary of Homeland Security. Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.''.

[(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

[''5329. Investigation of safety and security risks.''.

[SEC. 3027. STATE SAFETY OVERSIGHT.

[(a) IN GENERAL.—Section 5330 is amended—

[(1) by striking the heading ''Withholding Amounts for Noncompliance with Safety Requirements'' and inserting ''State Safety Oversight'';

[(2) in subsection (a), by striking the text and inserting the following ''This section applies only to—

[''(1) States that have rail fixed guideway public transportation systems not subject to regulation by the Federal Railroad Administration; and

[''(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.'';

[(3) in subsection (d) by inserting ''shall ensure uniform safety standards and enforcement and'' after ''affected States''; and

[(4) by striking subsection (f).

[(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

[''5330. State safety oversight.''.

[SEC. 3028. SENSITIVE SECURITY INFORMATION.

[Section 40119(b) is amended—

[(1) in paragraph (1)(C) by striking ''transportation safety'' and inserting ''the safety of transportation facilities or infrastructure, or transportation employees''; and

[(2) by adding at the end a new paragraph (3), to read as follows:

[''(3) A State or local government may not enact, enforce, prescribe, issue, or continue in effect any law, regulation, standard, or order to the extent it is inconsistent with this section or regulations prescribed under this section.''.

[SEC. 3029. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

[(a) IN GENERAL.—Section 1993 of title 18, U.S.C., is amended—

[(1) by striking ''mass'' in each place it appears before ''transportation'' and inserting ''public'';

[(2) in subsection (a)(5), by inserting ''controlling,'' after ''operating''; and

[(3) in subsection (c)(5), by striking ''5302(a)(7)'' and inserting ''5302(a)''.

[(b) CONFORMING AMENDMENT.—The item related to section 1993 in the table of contents for chapter 97 of title 18, U.S.C. is amended to read as follows:

[''1993. Terrorist attacks and other acts of violence against public transportation systems.''.

[SEC. 3030. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

[(a) DEFINITIONS.—Section 5331(a)(3) is amended by inserting after ''title'' the following: '', or sections 2303a, 7101(i), 7302(e) of title 46, United States Code. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency.''.

[(b) REGULATIONS.—Section 5331(f) is amended by striking paragraph (3).

[SEC. 3031. EMPLOYEE PROTECTIVE ARRANGEMENTS.

[Section 5333(b)(1) is amended by striking ''5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)'' each place it appears and inserting ''5316–5318, 5323(a)(1), (b), and (c), 5337, and 5338(b)(3)(C)''.

[SEC. 3032. ADMINISTRATIVE PROCEDURES.

[Section 5334 is amended—

[(1) in subsection (a),

[(A) by striking ''and'' at the end of paragraph (9);

[(B) by striking the period at the end of paragraph (10) and inserting ''; and''; and

[(C) by inserting after paragraph (10) the following:

[''(11) issue regulations as necessary to carry out the purposes of this chapter.'';

[(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k);

[(3) by adding a new subsection (b) after subsection (a), to read as follows:

[''(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter, nor may the Secretary regulate the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider; provided, however, that nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.''; and

[(4) in subsection (j)(1), as redesignated,

[(A) by striking ''carry'' and inserting ''advise and assist the Secretary in carrying''; and

[(B) by striking ''and (b)(1)'' and insert ''5322(b)(1)''.

[SEC. 3033. REPORTS AND AUDITS.

[Section 5335 is amended—

[(1) in subsection (a), by—

[(A) striking ''(1)''; and

[(B) striking ''(2)'' and inserting ''(b) REPORTING AND UNIFORM SYSTEMS.—''; and

[(2) by striking subsection (b).

[SEC. 3034. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

[(a) IN GENERAL.—Section 5336 is amended by—

[(1) striking subsection (d);

[(2) striking subsection (k);

[(3) redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

[(4) adding a new subsection (a) as follows:

[''(a) APPORTIONMENT OF ALLOCATIONS.—Of the amounts allocated under section 5338(a)(2)(P) of this title—

[''(1) the following percentages shall be apportioned to each urbanized area in accordance with subsection (k) of this section:

[''(A) One percent in fiscal year 2004.

[''(B) Three percent in fiscal year 2005.

[''(C) Five percent in fiscal year 2006.

[''(D) Seven percent in fiscal year 2007.

[''(E) Nine percent in fiscal year 2008.

[''(F) Ten percent in every fiscal year thereafter.

[''(2) the remaining portion shall be apportioned to each urbanized area in accordance with subsections (b) through (d) of this section.''.

[(b) BASED ON URBANIZED AREA POPULATION.—Subsection (b), as redesignated, is amended—

[(1) by striking ''Of the amount made available or appropriated under section 5338(a) of this title'' and inserting ''Of the amount to be apportioned under subsection (a)(2) of this section''; and

[(2) in paragraph (2), by striking ''subsections (b) and (c)'' and inserting ''subsections (c) and (d)''.

[(c) BASED ON FIXED GUIDEWAY REVENUE VEHICLE-MILES, ROUTE-MILES, AND PASSENGER-MILES.—Subsection (c)(2), as redesignated, is amended by striking ''subsection (a)(2)'' and inserting ''subsection (b)(2)''.

[(d) BASED ON BUS REVENUE VEHICLE-MILES AND PASSENGER-MILES.—Subsection (d), as redesignated, is amended by striking ''subsection (a)(2)'' and inserting ''subsection (b)(2)''.

[(e) DATE OF APPORTIONMENT.—Subsection (e)(1) is amended by striking ''subsections (a) and (h)(2) of section 5338'' and inserting ''section 5338(a)(2)(P)''.

[(f) TRANSFERS OF APPORTIONMENTS.—Subsection (g) is amended by striking ''subsection (a)(1)'' and inserting ''subsection (b)(1)'' each time it appears.

[(g) APPORTIONMENT BASED ON INCENTIVE FACTORS.—Section 5336 is amended by adding a new subsection (k) as follows:

[''(k) APPORTIONMENT BASED ON INCENTIVE FACTORS.—

[''(1) Of the amounts apportioned under subsection (a)(1) of this section, the Secretary may use the following amounts to make grants to establish data collection systems capable of collecting the data in paragraph (3) of this subsection:

[''(A) $25,000,000 in fiscal year 2004.

[''(B) $15,000,000 in fiscal year 2005.

[''(C) $5,000,000 in fiscal year 2006.

[''(2) Amounts under paragraph (1) of this subsection not obligated within three years following the end of the fiscal year in which those amounts became available shall be available for apportionment under paragraph (3) of this subsection.

[''(3) The remaining amounts to be apportioned under subsection (a)(1) of this section shall be apportioned by a formula determined by the Secretary that distributes funds based on increases in public transportation patronage.

[''(4) In apportioning funds under this subsection, the Secretary may consider the efficiency of service provision in the urbanized area.

[''(5) The Secretary shall not apportion any amounts under this subsection to an urbanized area that experiences a significant decline, as determined by the Secretary, in public transportation patronage by elderly individuals, individuals with disabilities, or low income persons.''.

[SEC. 3035. APPORTIONMENTS BASED ON FIXED GUIDEWAY FACTORS.

[(a) SECTION HEADING.—Section 5337 is amended by striking the section heading and inserting the following:

[''§ 5337. Apportionment based on fixed guideway factors''.

[(b) DISTRIBUTION.—The text of subsection 5337(a) before the first colon is amended to read as follows: ''Amounts made available under section 5338(a)(2)(N) of this title are apportioned as follows:''.

[(c) IN GENERAL.—Section 5337 is amended by—

[(1) striking ''section 5336(b)(2)(A)'' each place it appears and inserting ''section 5336(c)(2)(A)'';

[(2) striking subsection (e); and

[(3) redesignating subsection (f) as subsection (e).

[(d) CONFORMING AMENDMENT.—The item relating to section 5337 in the table of sections for chapter 53 is amended to read as follows:

[''5337. Apportionment based on fixed guideway factors.''.

[SEC. 3036. AUTHORIZATIONS.

[The text of section 5338 is amended to read as follows:

[''(a) FORMULA GRANTS AND RESEARCH.—

[''(1) There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5310–5318, 5322, 5335, 5505, and 5570–5575 of this title, and section 3038 of Public Law 105–178—

[''(A) $5,615,406,000 for fiscal year 2004;

[''(B) $5,727,714,000 for fiscal year 2005;

[''(C) $5,846,851,000 for fiscal year 2006;

[''(D) $5,978,405,000 for fiscal year 2007;

[''(E) $6,126,071,000 for fiscal year 2008; and

[''(F) $6,274,935,000 for fiscal year 2009.

[''(2) Of the aggregate of amounts made available under this subsection for a fiscal year,

[''(A) 1.25 percent shall be available to carry out section 5305 in the fiscal year 2004;

[''(B) 2 percent shall be available to carry out section 5305 in fiscal years 2005 through 2009;

[''(C) the following amounts shall be available to carry out section 5335—

[''(i) $3,500,000 in fiscal year 2004;

[''(ii) $3,700,000 in fiscal year 2005;

[''(iii) $3,900,000 in fiscal year 2006;

[''(iv) $4,100,000 in fiscal year 2007;

[''(v) $4,300,000 in fiscal year 2008; and

[''(vi) $4,500,000 in fiscal year 2009;

[''(D) $4,849,950 shall be available for grants to the Alaska Railroad for improvements to its passenger operations in lieu of receiving an apportionment under section 5336 of this title;

[''(E) $6,950,000 shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century, as amended;

[''(F) the following amounts shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, and national research programs under sections 5312, 5313, 5314, and 5322:

[''(i) $43,750,000 in fiscal year 2004;

[''(ii) 0.779 percent in fiscal years 2005 through 2009; and

[''(iii) Of the amount made available by this paragraph:

[''(I) 18.85 percent shall be available for carrying out transit cooperative research programs under section 5313;

[''(II) 9.14 percent shall be available to carry out programs under the National Transit Institute under section 5315, including not more than $1,000,000 shall be available to carry out section 5315(a)(16); and ———

[''(III) the remainder shall be available for carrying out national research programs under sections 5312, 5313, 5314, and 5322;

[''(G) $30,000,000 shall be available to carry out section 5316 for each fiscal year 2005 through 2009, based on need and supported by transportation financial feasibility studies and planning analyses;

[''(H) the following amounts shall be available for the New Freedom program under section 5317 of this title:

[''(i) $145,000,000 in fiscal year 2004; and

[''(ii) 2.582 percent in fiscal years 2005 through 2009;

[''(I) the following amounts shall be available to carry out section 5318:

[''(i) $3,000,000 in fiscal year 2004; and

[''(ii) 0.061 percent in fiscal years 2005 through 2009;

[''(J) $6,000,000 shall be available to carry out section 5505 of this title;

[''(K) 6.4 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

[''(L) 1.55 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

[''(M) the following amounts shall be available to provide financial assistance for job access and reverse commute projects under section 5308:

[''(i) $150,000,000 in fiscal year 2004; and

[''(ii) 2.671 percent in fiscal years 2005 through 2009;

[''(N) the following amounts shall be available to provide financial assistance for urbanized areas under section 5307 and apportioned in accordance with section 5337:

[''(i) $1,214,400,000 in fiscal year 2004; and

[''(ii) 21.626 percent in fiscal years 2005 through 2009; and

[''(O) $75,000,000 shall be available to carry out sections 5570 through 5575 in fiscal years 2005 through 2009.

[''(P) The remaining amount shall be available to provide financial assistance for urbanized areas under section 5307 and apportioned in accordance with section 5336.

[''(b) MAJOR CAPITAL INVESTMENT PROGRAM GRANTS.—

[''(1) There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305 and 5309—

[''(A) $320,594,000 for fiscal year 2004;

[''(B) $327,006,000 for fiscal year 2005;

[''(C) $333,808,000 for fiscal year 2006;

[''(D) $341,318,000 for fiscal year 2007;

[''(E) $349,749,000 for fiscal year 2008; and

[''(F) $358,248,000 for fiscal year 2009.

[''(2) In addition to amounts made available under paragraph (1), there are authorized to be appropriated to carry out sections 5305 and 5309—

[''(A) $1,213,500,000 for fiscal year 2004;

[''(B) $1,236,192,000 for fiscal year 2005;

[''(C) $1,261,287,000 for fiscal year 2006;

[''(D) $1,289,162,000 for fiscal year 2007;

[''(E) $1,321,907,000 for fiscal year 2008; and

[''(F) $1,355,219,000 for fiscal year 2009.

[''(3) Of the amounts made available by and appropriated under this subsection for a fiscal year,

[''(A) 1.25 percent shall be available to carry out section 5305 in the fiscal year 2004;

[''(B) 2 percent shall be available to carry out section 5305 in fiscal years 2005 through 2009; and

[''(C) the remaining amount shall be available to carry out Major Capital Investment Grants under section 5309 of this title.

[''(c) ADMINISTRATION.—There are authorized to be appropriated to carry out section 5334—

[''(A) $76,500,000 for fiscal year 2004;

[''(B) $77,931,000 for fiscal year 2005;

[''(C) $79,513,000 for fiscal year 2006;

[''(D) $81,270,000 for fiscal year 2007;

[''(E) $83,334,000 for fiscal year 2008; and

[''(F) $85,434,000 for fiscal year 2009.

[''(d) GRANTS AS CONTRACTUAL OBLIGATIONS.—

[''(1) A grant or contract approved by the Secretary, that is financed with amounts made available under subsections (a), (b)(1), or (e) is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

[''(2) A grant or contract, approved by the Secretary, that is financed with amounts made available under subsections (b)(2) or (c) is a contractual obligation of the Government to pay the Government's share of the cost of the project only to the extent that amounts are provided in advance in an appropriations Act.

[''(e) REVENUE ALIGNED BUDGET AUTHORITY.—

[''(1) On October 15 of fiscal year 2006 and each fiscal year thereafter, the Secretary shall prorate an amount of funds equal to the amount determined pursuant to section 251(b)(1)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 in a portion equal to the amount available to each Federal transit program for which funds are available from the Mass Transit Account of the Highway Trust Fund under subsections (a) and (b) of this section.

[''(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from

the Mass Transit Account of the Highway Trust Fund such sums as may be necessary to carry out this subsection for fiscal years beginning after September 30, 2005.

[''(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (a), (b), and (e) shall remain available until expended.''.

[SEC. 3037. NATIONAL PARKS AND PUBLIC LANDS LEGACY PROJECT.

[(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

['' § 5316. National parks and public lands Legacy Project

[''(a) IN GENERAL.—

[''(1) The Secretary of Transportation, in consultation with the Secretary of the Interior, may make a grant or enter into a contract, cooperative agreement, interagency agreement, intra-agency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America's National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including the disabled, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

[''(2) A grant, cooperative agreement, interagency agreement, intra-agency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

[''(b) DEFINITIONS.—In this section—

[''(1) 'eligible area' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

[''(A) a unit of the National Park System;

[''(B) a unit of the National Wildlife Refuge System;

[''(C) a recreational area managed by the Bureau of Land Management; and

[''(D) a recreation area managed by the Bureau of Reclamation.

[''(2) 'Federal land management agency' means a Federal agency that manages an eligible area.

[''(3) 'public transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service.

[''(4) 'qualified participant' means—

[''(A) a Federal land management agency; or

[''(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

[''(5) 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

[''(A) is an activity described in section 5302, 5303, or 5304;

[''(B) involves—

[''(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

[''(ii) the deployment of public transportation vehicles that introduce innovative technologies or methods;

[''(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

[''(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

[''(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

[''(F) is any other public transportation project that—

[''(i) enhances the environment;

[''(ii) prevents or mitigates an adverse impact on a natural resource;

[''(iii) improves Federal land management agency resource management;

[''(iv) improves visitor mobility and accessibility and the visitor experience;

[''(v) reduces congestion and pollution (including noise pollution and visual pollution); or

[''(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

[''(6) 'Secretary' means the Secretary of Transportation.

[''(c) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

[''(1) The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(a)(2)(G) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

[''(2) Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

[''(3) No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(a)(2)(G) for any fiscal year.

[''(d) PLANNING PROCESS.—In undertaking a qualified project under this section,

[''(1) if the qualified participant is a Federal land management agency—

[''(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

[''(i) the metropolitan planning provisions under section 5303 of this title;

[''(ii) the statewide planning provisions under section 5304 of this title; and

[''(iii) the public participation requirements under section 5307(e); and

[''(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

[''(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

[''(A) comply with the metropolitan planning provisions under section 5303 of this title;

[''(B) comply with the statewide planning provisions under section 5304 of this title;

[''(C) comply with the public participation requirements under section 5307(e) of this title; and

[''(D) consult with the appropriate Federal land management agency during the planning process.

[''(e) COST SHARING.—

[''(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the share of assistance to be provided under this section to a qualified participant.

[''(2) In establishing the share of assistance to be provided under this section, the Secretary shall consider—

[''(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

[''(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

[''(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

[''(D) the clear and direct benefit to the qualified participant; and

[''(E) any other matters that the Secretary considers appropriate to carry out this section.

[''(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the remainder of the cost of a qualified project.

[''(f) SELECTION OF QUALIFIED PROJECTS.—

[''(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

[''(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

[''(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

[''(B) the location of the qualified project, to ensure that the selected qualified projects—

[''(i) are geographically diverse nationwide; and

[''(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

[''(C) the size of the qualified project, to ensure that there is a balanced distribution;

[''(D) the historical and cultural significance of a qualified project;

[''(E) safety;

[''(F) the extent to which the qualified project would-

[''(i) enhance livable communities;

[''(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

[''(iii) reduce congestion; and

[''(iv) improve the mobility of people in the most efficient manner; and

[''(G) any other matters that the Secretary considers appropriate to carry out this section, including—

[''(i) visitation levels;

[''(ii) the use of innovative financing or joint development strategies; and

[''(iii) coordination with gateway communities.

[''(g) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

[''(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

[''(A) the qualified participant applies for the payment;

[''(B) the Secretary approves the payment; and

[''(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

[''(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

[''(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

[''(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

[''(h) RELATIONSHIP TO OTHER LAWS.—

[''(1) A qualified participant under this section is subject to the requirements of section 5307 of this title to the extent the Secretary considers appropriate.

[''(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

[''(3) The Secretary may waive the applicability of the Special Warranty under paragraph (B) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate

[''(4) A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

[''(5) If the amount of assistance anticipated to be required for a qualified project under this section is $75,000,000 or more, the qualified participant shall prepare a project management plan in accordance with sections 5327(a) and (b) of this title.

[''(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

[''(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

[''(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

[''(A) conserve resources;

[''(B) prevent or mitigate adverse environmental impact;

[''(C) improve visitor mobility, accessibility, and enjoyment; and

[''(D) reduce pollution (including noise pollution and visual pollution).

[''(2) The Secretary may request and receive appropriate information from any source.

[''(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).''.

[(b) CONFORMING AMENDMENTS.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

[''5316. National parks and public lands Legacy Project.''.

[SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILTY PROGRAM.

[(a) Section 3038 of the Transportation Equity Act for the 21st Century, Public Law 105–178, is amended—

[(1) by striking the section heading and inserting the following: ''OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.''; and

[(2) by revising subsection (g) to read as follows:

[''(g) FUNDING.—

[''(1) Of the amounts made available by or appropriated under section 5338(a)(2)(E) in each fiscal year, 75 percent shall be available for operators of over-the-road buses used substantially or exclusively in intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.

[''(2) Of the amounts made available by or appropriated under section 5338(a)(2)(E) in each fiscal year, 25 percent shall be available for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.''.

[(b) CONFORMING AMENDMENTS.—The item relating to section 3038 in the table of sections for the Transportation Equity Act for the 21st Century is amended to read as follows:

[''Over-the-road bus accessibility program.''.

[SEC. 3039. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.

[(a) IN GENERAL.—Section 5310 is amended to read as follows:

[''(a) GENERAL AUTHORITY.—

[''(1) The Secretary may make grants to a State under this section for capital public transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities. A State may then allocate the funds to—

[''(A) a private non-profit organization; or

[''(B) a governmental authority—

[''(i) approved by the State to coordinate services for elderly individuals and individuals with disabilities; or

[''(ii) that certifies that there are not any nonprofit organizations readily available in the area to provide the services described under this paragraph.

[''(2) A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

[''(3) A State may use not more than 15 percent of the amounts apportioned under this section to administer, plan and provided technical assistance for a project funded under this section.

[''(b) APPORTIONMENTS.—

[''(1) The Secretary shall apportion amounts made available under section 5338(a)(2)(M) of this title under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State.

[''(2) The recipient may transfer any funds apportioned to it under this subsection to sections 5311(c) or 5336. Any funds transferred pursuant to this subsection shall be made available only for eligible projects selected under this section.

[''(c) GOVERNMENT'S SHARE.—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. The remainder—

[''(1) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

[''(2) may be derived from amounts appropriated to or made available to a department or agency of the Federal government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

[''(3) For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to federal or state funds to be used for transportation purposes.

[''(d) GRANT REQUIREMENTS.—

[''(1) A recipient of a grant under this section is subject to all requirements of a grant under section 5307 of this title to the extent the Secretary considers appropriate.''.

[''(2) A recipient that transfers funds to section 5336 pursuant to subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private non-profit providers of services under this section.

[''(3) A recipient of funds under this section shall certify that—

[''(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

[''(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public;

[''(4) A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

[''(e) STATE PROGRAM OF PROJECTS.—Amounts made available to carry out this subsection may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects. A program shall be submitted annually to the Secretary for approval and shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other United States Government sources.

[''(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities.

[''(g) HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or 5311(c) of this title may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

[''(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient currently having a facility or equipment acquired with assistance under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

[''(i) FARES NOT REQUIRED.—This chapter does not require that elderly individuals and individuals with disabilities be charged a fare.''.

[SEC. 3040. JOB ACCESS AND REVERSE COMMUTE.

[(a) Section 5308 is amended to read as follows:

["§ 5308. Formula grants for job access and reverse commute projects

[''(a) DEFINITIONS.—In this section,

[''(1) 'recipient' means a State that receives a grant under this section directly; and

[''(2) 'subrecipient' means a State or local public authority, a nonprofit organization, or a private operator of public transportation service that may receive a grant under this section indirectly through a recipient, rather than directly from the Federal Government.''.

[''(b) GENERAL AUTHORITY.—

[''(1) The Secretary may make grants to a recipient under this section for access to jobs and reverse commute projects to a recipient.

[''(2) A recipient may use not more than 15 percent of the amounts apportioned under this section to administer, plan, and provide technical assistance for a project funded under this section.

[''(c) APPORTIONMENTS.—

[''(1) The Secretary shall apportion amounts made available under section 5338(a)(2)(M) of this title under a formula the Secretary administers that considers the number of low income people in each State.

[''(2) The recipient may transfer any funds apportioned to it under this subsection to sections 5311(c) or 5336. Any apportionment transferred pursuant to this subsection shall be made available for eligible job access and reverse commute projects under this section.

[''(d) GRANT REQUIREMENTS.—

[''(1) A grant under this section is subject to the requirements of 5307 to the extent the Secretary considers appropriate.

[''(2) Section 5333(b) of this title shall apply, provided that the Secretary of Labor shall utilize a Special Warranty that provides a fair and equitable arrangement to protect the interest of employees.

[''(3) The Secretary may waive the applicability of the Special Warranty under paragraph (2) for private non-profit subrecipients on a case-by-case basis as the Secretary deems appropriate.

[''(4) A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.

[''(e) COMPETITIVE PROCESS.—

[''(1) The recipient shall conduct a statewide solicitation for applications for grants under this section.

[''(2) Subrecipients seeking to receive a grant under this section shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.

[''(3) Subrecipients submitting applications pursuant to paragraph (2) shall be selected on a competitive basis.

[''(f) COORDINATION.—

[''(1) The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

[''(2) A recipient that transfers funds to section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested has been coordinated with private non-profit providers of services under this section.

[''(3) A recipient of funds under this section shall certify that—

[''(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

[''(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public;

[''(g) GOVERNMENT'S SHARE OF COSTS.—

[''(1) 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. 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. The remainder—

[''(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

[''(B) may be derived from amounts appropriated to or made available to a department or agency of the Federal Government (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

[''(2) A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.

[''(3) For purposes of paragraph (1)(B) of this section, the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act shall not apply to Federal or State funds to be used for transportation purposes.''

[(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended after the item relating to section 5307 to read as follows:

[''5308. Formula grants for job access and reverse commute projects.''.

[TITLE IV—MOTOR CARRIER SAFETY

[SEC. 4001. AUTHORIZATION OF APPROPRIATIONS.

[(a) ADMINISTRATIVE EXPENSES.—Section 31104 of title 49, United States Code, is amended by adding the following at the end:

[''(i) ADMINISTRATIVE EXPENSES.—

[''(1) There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

[''(A) $224,406,000 for fiscal year 2004;

[''(B) $228,000,000 for fiscal year 2005;

[''(C) $233,000,000 for fiscal year 2006;

[''(D) $239,000,000 for fiscal year 2007;

[''(E) $244,000,000 for fiscal year 2008; and

[''(F) $250,000,000 for fiscal year 2009.

[''(2) The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development (including a medical review board and rules for medical examiners), performance and registration information system management (PRISM), a study of driver availability and retention, and outreach and education; other operating expenses and similar matters; and such other expenses as may from time to time become necessary to implement statutory mandates not funded from other sources.

[''(3) The amounts made available under this section shall remain available until expended.

[''(4) Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out subtitle IV, part B, and subtitle VI, part B, of this title, or the provisions of subtitle IV of the 'Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003', shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.''.

[(b) AMENDMENT TO TITLE 23.—Section 104(a)(1) of title 23, United States Code, is amended by—

[(1) deleting subparagraph (B);

[(2) deleting the designation ''(A)'' at the beginning of subparagraph (A) and redesignating subparagraphs (A)(i) and (ii) as subparagraphs (A) and (B), respectively; and

[(3) deleting ''; and'' at the end of subparagraph (B), as so redesignated, and inserting a period.

[(c) GRANT PROGRAMS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the following Federal Motor Carrier Safety Administration programs—

[(1) Commercial driver's license/driver improvement program grants under section 4002(c)—

[(A) $22,000,000 for fiscal year 2004;

[(B) $22,000,000 for fiscal year 2005;

[(C) $23,000,000 for fiscal year 2006;

[(D) $23,000,000 for fiscal year 2007;

[(E) $24,000,000 for fiscal year 2008; and

[(F) $25,000,000 for fiscal year 2009.

[(2) Border enforcement grants under section 4002(b)—

[(A) $ 32,000,000 for fiscal year 2004;

[(B) $ 33,000,000 for fiscal year 2005;

[(C) $ 33,000,000 for fiscal year 2006;

[(D) $ 34,000,000 for fiscal year 2007;

[(E) $ 35,000,000 for fiscal year 2008; and

[(F) $ 36,000,000 for fiscal year 2009.

[(3) Performance and registration information system management (PRISM) grant program under section 4016—

[(A) $4,000,000 for fiscal year 2004;

[(B) $4,000,000 for fiscal year 2005;

[(C) $4,000,000 for fiscal year 2006;

[(D) $4,000,000 for fiscal year 2007;

[(E) $4,000,000 for fiscal year 2008; and

[(F) $4,000,000 for fiscal year 2009.

[(d) PERIOD OF AVAILABILITY.—The amounts made available under subsection (c) of this section shall remain available until expended.

[(e) CONTRACT AUTHORITY.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) to carry out subsection (c) of this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first. Approval by the Secretary of a grant with funds made available under subsection (c) of this section imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

[SEC. 4002. MOTOR CARRIER SAFETY GRANTS.

[(a) MOTOR CARRIER SAFETY ASSISTANCE PROGRAM.—

[(1) Section 31102 of title 49, United States Code, is amended—

[(A) in subsection (b)(1), by amending paragraph (A) to read as follows:

[''(A) implements performance-based activities.'';

[(B) in subsection (b)(1), by deleting ''and'' at the end of paragraph (S), replacing the period at the end of paragraph (T) with a semicolon, and adding new paragraphs (U) and (V), to read as follows:

[''(U) provides that the State will include in the training manual for the licensing examination to drive a non-commercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of commercial motor vehicles and in the vicinity of non-commercial vehicles, respectively; and

[''(V) provides that the State will enforce the registration requirements of 49 U.S.C.

13902 by placing out of service any vehicle discovered to be operating without registration or beyond the scope of its registration.''; and

[(C) by revising subsection (c) to read as follows:

[''(c) USE OF GRANTS TO ENFORCE OTHER LAWS.—A State may use amounts received under a grant under subsection (a) of this section for the following activities:

[''(1) If the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:

[''(A) Enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States.

[''(B) Detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle.

[''(2) Documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations against non-commercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles.''.

[(2) Section 31103(b) of title 49, United States Code, is amended to read as follows:

[''(b) OTHER ACTIVITIES.—

[''(1) From the amounts designated under section 31104(f)(2), the Secretary may make a grant to a State agency, local government, or other person for the full cost of research, development, demonstration projects, public education, and other special activities and projects relating to commercial motor vehicle safety that are of benefit to all jurisdictions or designed to address national safety concerns and circumstances.

[''(2) From the amounts designated under section 31104(f)(3), the Secretary may allocate safety performance incentive funds to States without requiring a matching contribution from such States.

[''(3) From the amounts designated under section 31104(f)(4), the Secretary may allocate new entrant motor carrier audit funds to States and local governments without requiring a matching contribution from such States or local governments. However, the Secretary may withhold such funds from a State or local government that is unable to use government employees to conduct new entrant motor carrier audits, and may instead utilize the funds directly to conduct audits in those jurisdictions.''.

[(3) Section 31104(a) of title 49, United States Code, is amended to read as follows:

[''(a) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102:

[''(1) Not more than $164,594,000 for fiscal year 2004.

[''(2) Not more than $168,000,000 for fiscal year 2005.

[''(3) Not more than $172,000,000 for fiscal year 2006.

[''(4) Not more than $176,000,000 for fiscal year 2007.

[''(5) Not more than $180,000,000 for fiscal year 2008.

[''(6) Not more than $184,000,000 for fiscal year 2009.''.

[(4) Section 31104(f) is amended by revising paragraph (2) and adding new paragraphs (3) and (4), to read as follows:

[''(2) HIGH-PRIORITY ACTIVITIES.—The Secretary may designate up to 10 percent of amounts available for allocation under paragraph (1) for States, local governments, and other persons for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations, including activities and projects that are national in scope, increase public awareness and education, or demonstrate new technologies. The amounts designated under this paragraph shall be allocated by the Secretary to State agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies. Allocations under this paragraph do not require a matching contribution from a State, local government, or other person.

[''(3) SAFETY PERFORMANCE INCENTIVE PROGRAMS.—The Secretary may designate up to 10 percent of the amounts available for allocation under paragraph (1) for safety performance incentive programs for States. The Secretary shall establish safety performance criteria to be used to distribute incentive program funds. Such criteria shall include, at a minimum, reduction in the number and rate of fatal accidents involving commercial motor vehicles. Allocations under this paragraph do not require a matching contribution from a State.

[''(4) NEW ENTRANT AUDITS.—The Secretary may designate up to $17,000,000 of the amounts available for allocation under paragraph (1) for audits of new entrant motor carriers conducted pursuant to section 210 of the Motor Carrier Safety Improvement Act of 1999, 113 Stat. 1764. Allocations under this paragraph do not require a matching contribution from a State or local government.''.

[(b) GRANTS TO STATES FOR BORDER ENFORCEMENT.—Chapter 311 of title 49, United States Code, is amended by revising section 31107 to read as follows:

["§ 31107. Border enforcement grants

[''(a) GENERAL AUTHORITY.—From the funds authorized by sections 4001(c)(2) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary may make a grant in a fiscal year to a State, except as otherwise provided in subsection (c), that shares a border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.

[''(b) MAINTENANCE OF EXPENDITURES.—Except as otherwise provided in subsection (c), the Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last two State or Federal fiscal years before October 1, 2003.

[''(c) GOVERNMENT SHARE.—The Secretary may make a grant to a State agency, local government, or other person for the full cost of research, development, demonstration projects, public education, and other special activities and projects relating to cross-border operations of commercial motor vehicles that are beneficial to all jurisdictions or designed to address national safety concerns and circumstances.

[''(d) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 4001(c)(2) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall remain available until expended.

[''(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant with funds made available under section 4001(c)(2) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 imposes upon the United States Government contractual obligation for payment of the amount of the grant.''.

[(c) GRANTS TO STATES FOR COMMERCIAL DRIVER'S LICENSE IMPROVEMENTS.—Chapter 313 of title 49, United States Code, is amended by adding new section 31318 at the end, to read as follows:

["§ 31318. Grants for commercial driver's license program improvements

[''(a) GENERAL AUTHORITY.—From the funds authorized by section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary may make a grant to a State, except as otherwise provided in subsection (e), in a fiscal year to improve its implementation of the commercial driver's license program, providing the State is in substantial compliance with the requirements of section 31311 and this section. The Secretary shall establish criteria for the distribution of grants and notify the States annually of such criteria.

[''(b) CONDITIONS.—Except as otherwise provided in subsection (e), a State may use a grant under this section only for expenses directly related to its commercial driver's license program, including, but not limited to, computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings. The Secretary may allocate the funds appropriated for such grants in a fiscal year among the eligible States whose applications for grants have been approved, under criteria that best serve the purposes of this section.

[''(c) MAINTENANCE OF EXPENDITURES.—Except as otherwise provided in subsection (e), the Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of United States Government amounts, for the operation of the commercial driver's license program will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years before October 1, 2003

[''(d) GOVERNMENT SHARE.—Except as otherwise provided in subsection (e), the Secretary shall reimburse a State, from a grant made under this section, an amount that is not more than 80 percent of the costs incurred by the State in a fiscal year in implementing the commercial driver's license improvements described in subsection (b). In determining those costs, the Secretary shall include in-kind contributions by the State. Amounts of the State required to be expended under subsection (c) may not be included as part of the share not provided by the United States Government.

[''(e) HIGH-PRIORITY ACTIVITIES.—

[''(1) The Secretary may make a grant to a State agency, local government, or other person for the full cost of research, development, demonstration projects, public education, or other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions or designed to address national safety concerns and circumstances.

[''(2) The Secretary may designate up to 10 percent of the amounts made available under

section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 in a fiscal year for high-priority activities under subsection (e)(1).

[''(f) EMERGING ISSUES.—The Secretary may designate up to 25 percent of the amounts made available under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 in a fiscal year for allocation to a State agency, local government, or other person at the discretion of the Secretary to address emerging issues relating to commercial driver's license improvements.

[''(g) GOVERNMENT SHARE.—Except as otherwise provided in subsections (e) and (f), all amounts available in a fiscal year to carry out this section shall be apportioned to States according to a formula prescribed by the Secretary.

[''(h) DEDUCTION FOR ADMINISTRATIVE EXPENSES.—On October 1 of each fiscal year or as soon after that date as practicable, the Secretary may deduct, from amounts made available under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for that fiscal year, up to 1.25 percent of those amounts for administrative expenses incurred in carrying out this section in that fiscal year.

[''(i) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall remain available until expended.

[''(j) GRANTS AS CONTRACTUAL OBLIGATIONS.—Approval by the Secretary of a grant with funds made available under section 4001(c)(1) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 imposes upon the United States Government a contractual obligation for payment of the amount of the grant.''.

[(d) NONCOMPLIANCE WITH CDL REQUIREMENTS.—Subsections (a) and (b) of section 31314 of title 49, United States Code, are amended to read as follows:

[''(a) FIRST FISCAL YEAR.—The Secretary of Transportation shall withhold up to 5 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) of title 23 on the first day of the fiscal year after the first fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.

[''(b) SECOND FISCAL YEAR.—The Secretary shall withhold up to 10 percent of the amount required to be apportioned to a State under section 104(b)(1), (3), and (4) of title 23 on the first day of each fiscal year after the 2d fiscal year beginning after September 30, 1992, throughout which the State does not comply substantially with a requirement of section 31311(a) of this title.''.

[(e) CONFORMING AMENDMENTS—

[(1) The table of sections at the beginning of chapter 311 of title 49, United States Code, is amended by—

[(A) revising the heading of Subchapter I to read as follows:

[''SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS'';

[and

[(B) revising the item relating to section 31107 to read as follows:

[''31107. Border enforcement grants.''.

[(2) Chapter 311 of title 49, United States Code, is amended following the table of sections by striking—

[''SUBCHAPTER I—STATE GRANTS''

[and substituting—

[''SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS''.

[(3) The table of sections at the beginning of chapter 313 of title 49, United States Code, is amended after the item relating to section 31317 by adding the following:

[''31318. Grants for commercial driver's license program improvements.''.

[SEC. 4003. HOBBS ACT.

[(a) Section 2342(3)(A) of title 28, United States Code, is amended to read as follows:

[''(A) the Secretary of Transportation issued pursuant to section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a) or pursuant to part B or C of subtitle IV of title 49 [49 U.S.C. chapters 131–161] or pursuant to subchapter III of chapter 311, chapter 313, and chapter 315 of part B of subtitle VI of title 49; and''.

[(b) Section 351(a) of title 49, United States Code, is amended to read as follows:

[''(a) JUDICIAL REVIEW.—An action of the Secretary of Transportation in carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670, 80 Stat. 931), or an action of the Administrator of the Federal Railroad Administration, Federal Motor Carrier Safety Administration, or the Federal Aviation Administration in carrying out a duty or power specifically assigned to the Administrator by that Act, may be reviewed judicially to the same extent and in the same way as if the action had been an action by the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer or assignment.''.

[(c) Section 352 of title 49, United States Code, is amended to read as follows:

[''§ 352. Authority to carry out certain transferred duties and powers

[''In carrying out a duty or power transferred under the Department of Transportation Act (Public Law 89–670, 80 Stat. 931), the Secretary of Transportation and the Administrators of the Federal Railroad Administration, the Federal Motor Carrier Safety Administration, and the Federal Aviation Administration have the same authority that was vested in the department, agency, or instrumentality of the United States Government carrying out the duty or power immediately before the transfer. An action of the Secretary or Administrator in carrying out the duty or power has the same effect as when carried out by the department, agency, or instrumentality.''.

[SEC. 4004. PENALTY FOR DENIAL OF ACCESS TO RECORDS.

[Section 521(b)(2) of title 49, United States Code, is amended by adding new subparagraph (E) at the end, to read as follows:

[''(E) COPYING OF RECORDS AND ACCESS TO EQUIPMENT, LANDS, AND BUILDINGS.—A person subject to chapter 51 of subtitle III, Part B of Subtitle IV, or Part B of Subtitle VI of this title who fails to allow the Secretary, or an employee designated by the Secretary, promptly upon demand to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) of this title shall be liable to the United States for a civil penalty not to exceed $500 for each offense, and each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $5,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing herein amends or supersedes any remedy available to the Secretary under sections 502(d), 507(c), or other provision of this title.''.

[SEC. 4005. MEDICAL REVIEW BOARD AND MEDICAL EXAMINERS.

[(a) MEDICAL REVIEW BOARD.—

[(1) ESTABLISHMENT AND FUNCTION.—The Federal Motor Carrier Safety Administrator shall establish a Medical Review Board as an advisory committee to provide the Federal Motor Carrier Safety Administration with medical advice and recommendations on driver qualification medical standards and guidelines, medical examiner education, and medical research.

[(2) COMPOSITION.—The Medical Review Board shall be appointed by the Secretary and shall consist of 5 members selected from medical institutions and private practice. The membership shall reflect expertise in a variety of specialties relevant to the functions of the Federal Motor Carrier Safety Administration.

[(3) TERMINATION DATE.—The Medical Review Board shall remain in effect until September 30, 2009.

[(b) MEDICAL EXAMINERS.—Section 31136(a)(3) of title 49, United States Code, is amended to read as follows:

[''(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely, and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation;''.

[SEC. 4006. ENFORCEMENT OF HOUSEHOLD GOODS REGULATIONS.

[(a) DISPUTE SETTLEMENT PROGRAM FOR HOUSEHOLD GOODS CARRIERS.—

[(1) Section 14708(a) of title 49, United States Code, is amended to read as follows:

[''(a) SHIPPER ARBITRATION.—

[''(1) As a condition of registration under section 13902 or 13903, a carrier providing transportation of household goods subject to jurisdiction under subchapter I or III of chapter 135 must agree to offer in accordance with this section to shippers of household goods arbitration as a means of settling disputes between such carriers and shippers. However, the carrier may not require the shipper to agree to use arbitration prior to the time that a dispute arises.

[''(2) If the dispute involves a claim for $5,000 or less and the shipper requests arbitration, such arbitration shall be binding on the parties. If the dispute involves a claim for more than $5,000 and the shipper requests arbitration, such arbitration shall be binding on the parties only if the carrier agrees to arbitration.''.

[(2) Subsection (b)(6) of section 14708 is deleted, and subsections (b)(7) and (b)(8) are redesignated as subsections (b)(6) and (b)(7), respectively.

[(b)(1) Chapter 147 of title 49, United States Code, is amended by adding new section 14710 at the end, to read as follows:

[''§ 14710. Enforcement 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 to enforce this part, or a regulation or order of the Secretary or Board, as applicable, or to impose the civil penalties authorized by this part or such regulation or order, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by (1) a carrier or broker providing transportation subject to jurisdiction under subchapter I or III of chapter 135 of this title, or (2) a foreign motor carrier providing transportation registered under

section 13902 of this title, that is engaged in household goods transportation that violates this part or a regulation or order of the Secretary or Board, as applicable.

[''(b) NOTICE.—The State shall serve prior written notice of any civil action under subsection (a) or (e)(2) upon the Secretary or Board, as applicable, and provide the Secretary or Board with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary or Board shall have the right—

[''(1) to intervene in such action;

[''(2) upon so intervening, to be heard on all matters arising therein; and

[''(3) to file petitions for appeal.

[''(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

[''(d) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a) of this section—

[''(1) trial is in the judicial district in which—

[''(A) the carrier, foreign motor carrier, or broker operates;

[''(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation or service under this part when the violation occurred; or

[''(C) the offender is found;

[''(2) process may be served without regard to the territorial limits of the district or of the State in which the action is instituted; and

[''(3) a person participating with a carrier or broker in a violation may be joined in the civil action without regard to the residence of the person.

[''(e) ACTIONS BY OTHER STATE OFFICIALS.—

[''(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any criminal statute of such State.

[''(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.''.

[(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 147 of title 49, United States Code, is amended by inserting after the item relating to section 14709 the following:

[''14710. Enforcement by State attorneys general.''.

[SEC. 4007. REGISTRATION OF COMMERCIAL MOTOR CARRIERS, FREIGHT FORWARDERS, AND BROKERS.

[(a) Sections 13102(6), (7), (12) and (13) of title 49, United States Code, are amended to read as follows:

[''(6) FOREIGN MOTOR CARRIER.—The term 'foreign motor carrier' means a person (including a motor carrier of property but excluding a motor private carrier)—

[''(A)(i) that is domiciled in a contiguous foreign country; or

[''(ii) that is owned or controlled by persons of a contiguous foreign country; and

[''(B) in the case of a person that is not a motor carrier of property, that provides interstate transportation of property by commercial motor vehicle, as defined in section 31132(1) of this title, under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A)).

[''(7) FOREIGN MOTOR PRIVATE CARRIER.—The term 'foreign motor private carrier' means a person (including a motor private carrier but excluding a motor carrier of property)—

[''(A)(i) that is domiciled in a contiguous foreign country; or

[''(ii) that is owned or controlled by persons of a contiguous foreign country; and

[''(B) in the case of a person that is not a motor private carrier, that provides interstate transportation of property by commercial motor vehicle, as defined in section 31132(1) of this title, under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A)).''

[''(12) MOTOR CARRIER.—The term 'motor carrier' means a person providing transportation for compensation by commercial motor vehicle, as defined in section 31132(1) of this title.

[''(13) MOTOR PRIVATE CARRIER.—The term 'motor private carrier' means a person, other than a motor carrier, transporting property by commercial motor vehicle, as defined in section 31132(1) of this title, when—

[''(A) the transportation is as provided in section 13501 of this title;

[''(B) the person is the owner, lessee, or bailee of the property being transported; and

[''(C) the property is being transported for sale, lease, rent, or bailment or to further a commercial enterprise.''.

[(b) Section 13903(a) of title 49, United States Code, is amended to read as follows:

[''(a) IN GENERAL.—

[''(1) The Secretary of Transportation shall register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder of household goods if the Secretary finds that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and the Board.

[''(2) The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board.''.

[(c) Section 13904(a) of title 49, United States Code, is amended to read as follows:

[''(a) IN GENERAL.—

[''(1) The Secretary of Transportation shall register, subject to section 13906(b), a person to be a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that the person is fit, willing, and able to be a broker for transportation of household goods and to comply with this part and applicable regulations of the Secretary.

[''(2) The Secretary may register, subject to section 13906(b), a person to be a broker for transportation of other property subject to jurisdiction under subchapter I of chapter 135, if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to be a broker for transportation and to comply with this part and applicable regulations of the Secretary.''.

[SEC. 4008. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR CARRIERS.

[(a)(1) Section 31138(a) of title 49, United States Code, is amended to read as follows:

[''(a) GENERAL REQUIREMENT.—The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability and property damage for the transportation of passengers by motor vehicle in the United States between a place in a State and—

[''(1) a place in another State;

[''(2) another place in the same State through a place outside of that State; or

[''(3) a place outside the United States.''.

[(2) Section 31138(c) of title 49, United States Code, is amended by adding paragraph (4) at the end, to read as follows:

[''(4) The Secretary may require a person, other than a motor carrier as defined in section 13102(12) of this title, transporting passengers by motor vehicle to file with the Secretary the evidence of financial responsibility specified in subsection (c)(1) of this section in an amount not less than that required by this section, and the laws of the State or States in which the person is operating, to the extent applicable. The amount of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the person for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.''.

[(b)(1) Section 31139(b)(1) of title 49, United States Code, is amended to read as follows:

[''(b) GENERAL REQUIREMENTS AND MINIMUM AMOUNT.—

[''(1) The Secretary of Transportation shall prescribe regulations to require minimum levels of financial responsibility sufficient to satisfy liability amounts established by the Secretary covering public liability, property damage, and environmental restoration for the transportation of property by motor vehicle in the United States between a place in a State and—

[''(A) a place in another State;

[''(B) another place in the same State through a place outside of that State; or

[''(C) a place outside the United States.''.

[(2) Subsections (c) through (g) of section 31139 of title 49, United States Code, are redesignated as subsections (d) through (h), and new subsection (c) is inserted after subsection (b), to read as follows:

[''(c) FILING OF EVIDENCE OF FINANCIAL RESPONSIBILITY.—The Secretary may require a motor private carrier, as defined in section 13102 of this title, to file with the Secretary the evidence of financial responsibility specified in subsection (b) of this section in an amount not less than that required by this section, and the laws of the State or States in which the motor private carrier is operating, to the extent applicable. The amount of the financial responsibility must be sufficient to pay, not more than the amount of the financial responsibility, for each final judgment against the motor private carrier for bodily injury to, or death of, an individual resulting from negligent operation, maintenance, or use of motor vehicles, or for loss or damage to property, or both.''.

[SEC. 4009. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.

[(a) Section 521(b)(2)(B) of title 49, United States Code, is amended to read as follows:

[''(B) RECORDKEEPING AND REPORTING VIOLATIONS.—A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31138 and 31139) or section 31502 of this title about transportation by motor carrier,

motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person—

[''(i) who does not make that report, does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered, or does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $1,000 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $10,000; or

[''(ii) who knowingly falsifies, destroys, mutilates, or changes a required report or record, knowingly files a false report with the Secretary, knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction, or knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary, shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each violation, if any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.''.

[(b) Section 31310(i)(2) of title 49, United States Code, is amended to read as follows:

[''(2) The Secretary shall prescribe regulations establishing sanctions and penalties related to violations of out-of-service orders by individuals operating commercial motor vehicles. The regulations shall require at least that—

[''(A) an operator of a commercial motor vehicle found to have committed a first violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 180 days and liable for a civil penalty of at least $2,500;

[''(B) an operator of a commercial motor vehicle found to have committed a second violation of an out-of-service order shall be disqualified from operating such a vehicle for at least 2 years and not more than 5 years and liable for a civil penalty of at least $5,000;

[''(C) an employer that knowingly allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall be liable for a civil penalty of not more than $25,000; and

[''(D) an employer that knowingly and willfully allows or requires an employee to operate a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed one year or a fine under title 18, United States Code, or both.''.

[SEC. 4010. ELIMINATION OF COMMODITY AND SERVICE EXEMPTIONS.

[(a) Section 13506(a) of title 49, United States Code, is amended—

[(1) by deleting paragraphs (2), (6), (11), (12), (13), and (15); and

[(2) by redesignating paragraphs (3), (4), (5), (7), (8), (9), (10), and (14) as paragraphs (2), (3), (4), (5), (6), (7), (8), and (9), respectively.

[(b) The first sentence of section 13507 of title 49, United States Code, is amended to read as follows: ''A motor carrier of property providing transportation exempt from jurisdiction under paragraph (6) of section 13506(a) may transport property under such paragraph in the same vehicle and at the same time as property which the carrier is authorized to transport under a registration issued under section 13902(a).''.

[SEC. 4011. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

[(a) Subsection (a) of section 31144 of title 49, United States Code, is amended to read as follows:

[''(a) IN GENERAL.—The Secretary shall—

[''(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator in operations that affect interstate commerce;

[''(2) periodically update such safety fitness determinations;

[''(3) make such final safety fitness determinations readily available to the public; and

[''(4) prescribe by regulation penalties for violations of this section consistent with section 521.''.

[(b) Subsection (c) of section 31144 of title 49, United States Code, is amended by adding new paragraph (5) at the end, to read as follows:

[''(5) TRANSPORTATION AFFECTING INTERSTATE COMMERCE.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.''.

[(c) Subsections (d) and (e) of section 31144 of title 49, United States Code, are redesignated as subsections (e) and (f), respectively, and new subsection (d) is added after subsection (c), to read as follows:

[''(d) DETERMINATION OF UNFITNESS BY A STATE.—If a State that receives Motor Carrier Safety Assistance Program funds pursuant to section 31102 of this title determines, by applying the standards prescribed by the Secretary under subsection (b) of this section, that an owner or operator of commercial motor vehicles that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicles in the State, the Secretary shall prohibit the owner or operator from operating such vehicles in interstate commerce until the State determines that the owner or operator is fit.''.

[SEC. 4012. AUTHORITY TO STOP COMMERCIAL MOTOR VEHICLES.

[(a) Chapter 2 of title 18, United States Code, is amended by adding at the end new section 38, to read as follows:

[''§ 38. Commercial motor vehicles required to stop for inspections

[''(a) A driver of a commercial motor vehicle, as defined in 49 U.S.C. 31132(1), shall stop and submit to inspection of the vehicle, driver, cargo, and required records when directed to do so by a uniformed special agent of the Federal Motor Carrier Safety Administration, Department of Transportation, at or in the vicinity of an inspection site. The driver shall not leave the inspection site until authorized to do so by an agent.

[''(b) A driver of a commercial motor vehicle, as defined in subsection (a), who knowingly fails to stop for inspection when directed to do so by a uniformed special agent of the Federal Motor Carrier Safety Administration at or in the vicinity of an inspection site, or leaves the inspection site without authorization, shall be fined under this title or imprisoned not more than one year, or both.''.

[(b) Chapter 203 of title 18, United States Code, is amended by adding at the end new section 3064, to read as follows:

[''§ 3064. Powers of Federal Motor Carrier Safety Administration

[''Uniformed special agents of the Federal Motor Carrier Safety Administration may direct a driver of a commercial motor vehicle, as defined in 49 U.S.C. 31132(1), to stop for inspection of the vehicle, driver, cargo, and required records at or in the vicinity of an inspection site.''.

[(c) CONFORMING AMENDMENTS.—

[(1) The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 37 the following:

[''38. Commercial motor vehicles required to stop for inspections.''.

[(2) The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by inserting after the item relating to section 3063 the following:

[''3064. Powers of the Federal Motor Carrier Safety Administration.''.

[SEC. 4013. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER MANAGEMENT.

[(a) Section 31135 of title 49, United States Code, is amended by designating the existing text as subsection ''(a) IN GENERAL.—'' and adding new subsections (b), (c), (d), and (e), to read as follows:

[''(b) PATTERN OF NONCOMPLIANCE.—If an officer of a motor carrier engages in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this subchapter, the Secretary may suspend, amend, or revoke any part of the motor carrier's registration under section 13905 of this title.

[''(c) LIST OF PROPOSED OFFICERS.—Each person seeking registration as a motor carrier under section 13902 of this title shall submit a list of the proposed officers of the motor carrier. If the Secretary determines that any of the proposed officers has previously engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing non-compliance, with regulations on commercial motor vehicle safety prescribed under this chapter, the Secretary may deny the person's application for registration as a motor carrier under section 13902(a)(3).

[''(d) REGULATIONS.—The Secretary shall by regulation establish standards to implement subsections (b) and (c).

[''(e) DEFINITIONS.—In this section —

[''(1) 'motor carrier' has the same meaning as in section 13102(12) of this title; and

[''(2) 'officer' means an owner, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor and driver supervisor of a motor carrier, regardless of the title attached to those functions.''.

[(b) Section 13902(a)(1)(B) of title 49, United States Code, is amended to read as follows:

[''(B) any safety regulations imposed by the Secretary; the duties of employers and employees established by the Secretary under section 31135; and the safety fitness requirements established by the Secretary under section 31144; and''.

[SEC. 4014. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.

[(a) IN GENERAL.—Title 49, United States Code, is amended by repealing section 31108 and inserting the following new section, to read as follows:

[''§ 31108. Motor carrier research and technology program

[''(a) RESEARCH, TECHNOLOGY AND TECHNOLOGY TRANSFER ACTIVITIES.—

[''(1) The Secretary of Transportation shall establish and carry out a motor carrier research and technology program. The Secretary may carry out research, development,

technology, and technology transfer activities with respect to—

[''(A) the causes of accidents, injuries and fatalities involving commercial motor vehicles; and

[''(B) means of reducing the number and severity of accidents, injuries and fatalities involving commercial motor vehicles.

[''(2) The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.

[''(3) The Secretary may use the funds appropriated to carry out this section for training or education of commercial motor vehicle safety personnel, including, but not limited to, training in accident reconstruction and detection of controlled substances or other contraband, and stolen cargo or vehicles.

[''(4) The Secretary may carry out this section—

[''(A) independently;

[''(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

[''(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, any Federal laboratory, State agency, authority, association, institution, for-profit or non-profit corporation, organization, foreign country, or person.

[''(5) The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.

[''(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

[(1) To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

[''(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and

[''(B) Federal laboratories.

[''(2) In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

[''(3)(A) The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

[''(B) All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

[''(4) The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

[''(5) Section 3705 of title 41, United States Code, shall not apply to a contract or agreement entered into under this section.

[''(c) AVAILABILITY OF AMOUNTS.—The amounts made available under section 4001(b) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall remain available until expended.

[''(d) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under section 4001(b) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section imposes upon the United States Government a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.''.

[(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 311 of title 49, United States Code, is amended by revising the item relating to section 31108 to read as follows:

[''31108. Motor carrier research and technology program.''.

[SEC. 4015. INTERNATIONAL COOPERATION.

[(a) Chapter 311 of title 49, United States Code, is amended by inserting at the end the following:

[''SUBCHAPTER IV—MISCELLANEOUS

[''§ 31161. International cooperation

[''The Secretary is authorized to use funds appropriated under section 31104(i) of this title to participate and cooperate in international activities to enhance motor carrier, driver, and highway safety by such means as exchanging information, conducting research; and examining needs, best practices, and new technology.''.

[(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 311 of title 49, United States Code, is amended by adding at the end the following:

[''SUBCHAPTER IV—MISCELLANEOUS

[''31161. International cooperation.''.

[SEC. 4016. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT (PRISM).

[(a) Paragraphs (2) and (3) of section 31106(b) of title 49, United States Code, are amended to read as follows:

[''(2) The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—

[''(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and

[''(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.

[''(3) The Secretary shall require States, as a condition of participation in the program, to—

[''(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4); and

[''(B) possess or seek the authority to deny, suspend, or revoke commercial motor vehicle registrations based on the issuance of an operations out-of-service order by the Secretary.''.

[(b) DELETION.—Paragraph (4) of section 31106(b) of title 49, United States Code, is deleted.

[(c) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANTS.—

[(1) Chapter 311 of title 49, United States Code, as amended by this Act, is further amended by adding a new section after section 31108, to read as follows:

[''§ 31109. Performance and Registration Information System Management (PRISM)

[''(a) IN GENERAL.—From the funds authorized by section 4001(c)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary may make a grant in a fiscal year to a State to implement the Performance and Registration Information System Management requirements of 49 U.S.C. 31106(b).

[''(b) AVAILABILITY OF AMOUNTS.—Amounts made available to a State under section 4001(c)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall remain available until expended.

[''(c) SECRETARY'S APPROVAL.—Approval by the Secretary of a grant to a State under section 4001(c)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section is a contractual obligation of the Government for payment of the amount of the grant.''.

[(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 311 of title 49, United States Code, is amended after the item relating to section 31108 by adding the following:

[''31109. Performance and Registration Information System Management (PRISM).''.

[SEC. 4017. INFORMATION SYSTEMS AND DATA ANALYSIS.

[The Secretary of Transportation shall carry out a program to improve the collection and analysis of safety data on, including crash causation involving, commercial motor vehicles.

[SEC. 4018. OUTREACH AND EDUCATION.

[(a) IN GENERAL.—The Secretary shall conduct an outreach and education program to be administered by the Federal Motor Carrier Safety Administration. The program shall include expanded implementation of the ''Share the Road Safely'' and ''Safety is Good Business'' programs. The Federal Motor Carrier Safety Administration shall establish programs to directly educate the industry and public about the requirements of new and existing regulatory requirements. The Secretary, through the Federal Motor Carrier Safety Administration, may undertake other outreach and education initiatives that may reduce the number of accidents, injuries, and fatalities involving commercial motor vehicles.

[(b) LIKELY RISK FACTORS.—The Secretary, through the Federal Motor Carrier Safety Administration, shall conduct an outreach program to identify the practices of commercial motor vehicle drivers that are most likely to increase and decrease the risk of accidents.

[TITLE V—TRANSPORTATION RESEARCH AND EDUCATION

[Subtitle A—Funding

[SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

[(1) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT AND DEPLOYMENT PROGRAM.—To carry out sections 502, 503, 506 and 507 of title 23, United States Code, and section 5206 of this Act relating to research, development, technology transfer, technology deployment, and application activities, $199,000,000 for each of fiscal years 2004 through 2009.

[(2) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code, $26,000,000 for each of fiscal years 2004 through 2009.

[(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, the following:

[(A) $31,568,000 for fiscal year 2004.

[(B) $32,199,000 for fiscal year 2005.

[(C) $32,869,000 for fiscal year 2006.

[(D) $33,609,000 for fiscal year 2007.

[(E) $34,439,000 for fiscal year 2008.

[(F) $35,276,000 for fiscal year 2009.

[(4) UNIVERSITY TRANSPORTATION RESEARCH.—For carrying out section 5505 of title 49, United States Code, $26,500,000 for each of fiscal years 2004 through 2009.

[(5) INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH.—For carrying out the Intelligent Transportation Systems Act of 2003 under subtitle E of this title, $121,000,000 for each of fiscal years 2004 through 2009.

[(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—Section 502 of title 23, United States Code, is amended—

[(1) by striking subsection (b)(3); and

[(2) by redesignating subsections (b)(4) and (b)(5) as (b)(3) and (b)(4), respectively.

[(c) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using such funds shall be 100 percent unless otherwise determined by the Secretary or specified otherwise in this Act, and such funds shall remain available until expended.

[Subtitle B—Research, Technology, and Education

[SEC. 5201. RESEARCH, TECHNOLOGY, AND EDUCATION.

[(a) RESEARCH, TECHNOLOGY, AND EDUCATION.—Title 23, United States Code, is amended—

[(1) in the table of chapters by striking—

[''5. Research and Technology ..... 501'';

[and substituting—

[''5. Research, Technology, and Education ..... 501'';

[and

[(2) by striking the heading—

[''CHAPTER 5—RESEARCH AND TECHNOLOGY''

[and inserting—

[''CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION.''.

[(b) STATEMENT OF PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—Section 502 of title 23, United States Code, is amended—

[(1) by redesignating subsections (a) through (g) as subsections (b) through (h), respectively; and

[(2) by inserting a new subsection (a) at the beginning, to read as follows:

[''(a) BASIC PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—

[''(1) COVERAGE.—Surface transportation research and technology development (R&T) shall include all activities leading to technology development and transfer, as well as the introduction of new and innovative ideas, practices and approaches, through such mechanisms as field applications, education and training, and technical support.

[''(2) FEDERAL RESPONSIBILITY.—Funding and conducting surface transportation research and technology transfer activities shall be considered a basic responsibility of the Federal Government when—

[''(A) the work is of national significance;

[''(B) it supports research in which there is a clear public benefit and private sector investment is less than optimal due to market failure;

[''(C) it supports a Federal stewardship role in assuring that state and local governments use national resources efficiently; or

[''(D) it presents the best means to support Federal policy goals compared to other policy alternatives.

[''(3) ROLE.—Consistent with these Federal responsibilities, the Secretary of Transportation shall—

[''(A) conduct research;

[''(B) support and facilitate research and technology transfer activities by state highway agencies;

[''(C) share results of completed research; and

[''(D) support and facilitate technology and innovation deployment.

[''(4) PROGRAM CONTENT.—A surface transportation research program shall include—

[''(A) fundamental, long-term highway research;

[''(B) research aimed at significant highway research gaps, and emerging issues with national implications; and

[''(C) research related to policy and planning.

[''(5) STAKEHOLDER INPUT.—Federally sponsored surface transportation R&T activities shall address the needs of partners and stakeholders, and provide for stakeholder input in preparation of a strategic plan for surface transportation R&T.

[''(6) COMPETITION.—To the greatest extent possible, investment decisions for surface transportation R&T activities shall be based on the well-established principles of competition and merit review.

[''(7) PERFORMANCE REVIEW.—Surface transportation R&T activities shall include a component of performance measurement.''.

[(c) TRANSPORTATION POOLED FUND PROGRAM.—Section 502(b) of title 23, United States Code, as redesignated by this Act, is amended by inserting the following at the end:

[''(6) POOLED FUNDING.—

[''(A) To promote effective utilization of available resources, the Secretary may cooperate with the States and other appropriate agencies in funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.

[''(B) The Secretary may enter into contracts, cooperative agreements, grants, and other transactions as agent for all participating parties in carrying out such research, development, or technology transfer.''.

[(d) OPERATIONS ELEMENTS IN RESEARCH ACTIVITIES.—Section 502 of title 23, United States Code, is amended—

[(1) in subsection (b)(1), as redesignated by this Act, by striking subparagraphs (B) and (C) and inserting the following:

[''(B) all phases of transportation planning and development (including construction, transportation system management and operations, modernization, development, design, maintenance, safety, financing, and traffic conditions);

[''(C) freight security processes and procedures; and

[''(D) the effect of State laws on the activities described in subparagraphs (A) and (B).'';

[(2) in subsection (d)(5)(C), as redesignated by this Act, by inserting ''system management and'' after ''transportation''; and

[(3) in subsection (d), as redesignated by this Act, by inserting at the end:

[''(12) Investigation and development of various operational methodologies to reduce the occurrence and impact of recurrent congestion and non-recurrent congestion, and increase transportation system reliability.

[''(13) Investigate processes, procedures, and technologies to secure container and hazardous material transport, including the evaluation of regulations, liability, terrorist countermeasures, and the impact of good security practices on commerce and productivity.

[''(14) Research, development, and technology transfer related to asset management.''.

[(e) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—Section 502 of title 23, United States Code, is amended by inserting at the end the following:

[''(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—

[''(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.

[''(2) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support the—

[''(A) conduct of highway research and development related to new highway technology;

[''(B) development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality controlled construction practices, and durable materials; and

[''(C) development of innovative highway products and practices.''.

[(f) EXPLORATORY ADVANCED RESEARCH PROGRAM.—Section 502 of title 23, United States Code, is amended by striking subsection (e), as redesignated by this Act, and inserting the following:

[''(e) EXPLORATORY ADVANCED RESEARCH.—

[''(1) IN GENERAL.—The Secretary shall establish an exploratory advanced research program, consistent with the surface transportation research and technology development strategic plan developed under section 508, that involves and draws upon basic research results to provide a better understanding of problems and develop innovative solutions. The phrase ''exploratory advanced research'' conveys a more fundamental character, broader objective, multi-disciplinary nature, and greater uncertainty in expected outcomes than found in problem-solving research. In carrying out the program, the Secretary shall strive to develop partnerships with the public and private sectors.

[''(2) RESEARCH AREAS.—In carrying out the program, the Secretary may make grants and enter into cooperative agreements and contracts in such areas of surface transportation research and technology as the Secretary determines appropriate, including the following:

[''(A) Characterization of materials used in highway infrastructure, including analytical techniques, microstructure modeling, and the deterioration processes.

[''(B) Assessing the effects of transportation decisions on human health.

[''(C) Development of surrogate measures of safety.

[''(D) Environmental research.

[''(E) Data acquisition techniques for system condition and performance monitoring.

[''(F) System performance data and information processing needed to assess the day-to-day operational performance of the system in support of hour-to-hour operational decision making.''.

[(g) AUTHORITY TO PURCHASE PROMOTIONAL ITEMS.—Section 503 of title 23, United States Code, as amended by this Act, is further amended by inserting the following at the end:

[''(e) PROMOTIONAL AUTHORITY.—Funds authorized to be appropriated under this or any other Act for necessary expenses for administration and operation of the Federal Highway Administration shall be available to purchase promotional items of nominal value for use in the recruitment of individuals and to promote the programs of the Federal Highway Administration.''.

[(h) FACILITATING TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT PARTNERSHIPS.—Section 502(c) of title 23, United States Code, as redesignated by this Act, is

amended by striking paragraph (2) and inserting the following:

[''(2) COOPERATION, GRANTS, CONTRACTS AND AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may directly initiate contracts, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)), and other transactions to fund, and accept funds from, the National Research Council/ Transportation Research Board, American Association of State Highway and Transportation Officials, State Departments of Transportation, cities, and counties, and their agents to conduct joint transportation research and technology efforts.''.

[(i) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

[(1) SURFACE TRANSPORTATION RESEARCH.—Chapter 5 of title 23, United States Code is amended by adding after section 504 the following:

["§ 505. Surface transportation research

[''(a) AUTHORITY.—The Secretary of Transportation shall complete the 20-year long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section) and continued by the Intermodal Surface Transportation Efficiency Act of 1991 and the Transportation Equity Act For The 21st Century.

[''(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

[''(1) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

[''(2) analyze the data obtained in carrying out subparagraph (A); and

[''(3) prepare products to fulfill program objectives and meet future pavement technology needs.''.

[(2) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23 is amended by inserting after item 504 the following:

[''505. Surface transportation research.''.

[(j) PROCUREMENT FOR RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—Section 502(b) of title 23, United States Code, as redesignated by this Act, is amended by striking paragraph (3) and inserting the following:

[''(3) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out research, development, and technology transfer activities related to transportation—

[''(A) independently;

[''(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or

[''(C) by making grants to, or entering into contracts, cooperative agreements, and other transactions with the following: the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any Federal laboratory, Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.''.

[(k) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

[(1) TITLE 23 AMENDMENT.—Section 502(h)(1) of title 23, United States Code, as redesignated by this Act, is amended by striking ''Not later than January 31, 1999, and January 31 of every second year thereafter,'' and inserting ''Not later than July 31, 2004, and July 31 of every second year thereafter,''.

[(2) CONFORMING AMENDMENT TO TITLE 49, UNITED STATES CODE.—Section 308(e)(1) of title 49, United States Code, is amended by striking ''in March 1998, and in March of each even-numbered year thereafter'' and inserting ''not later than July 31, 2004, and July 31 of every second year thereafter,''.

[SEC. 5202. SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM.

[(a) SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM.—Chapter 5 of title 23, United States Code, is amended by striking section 507 and inserting the following:

["§ 507. Surface transportation environment and planning cooperative research program

[''(a) ESTABLISHMENT.—The Secretary shall establish and support a collaborative, public-private surface transportation environment and planning cooperative research program.

[''(b) AGREEMENT.—The Secretary shall enter into an agreement with the National Academy of Sciences or other organization to support and carry out administrative and management activities relating to the governance of the surface transportation environment and planning cooperative research program.

[''(c) ADVISORY BOARD.—The organization described in subsection (b) shall select an advisory board drawn from core partners that represent environment, transportation, and neutral interests, including the Department of Transportation, other Federal agencies, the States, local governments, nonprofit entities, academia, and the private sector.

[''(d) GOVERNANCE.—The surface transportation environment and planning cooperative research program established under this section shall include the following administrative and management elements:

[''(1) NATIONAL RESEARCH AGENDA.—The advisory board, in consultation with core partners and other stakeholders, shall develop and periodically update a national research agenda for the surface transportation environment and planning cooperative research program. The national research agenda shall include a multi-year strategic plan.

[''(2) STAKEHOLDER INVOLVEMENT.—Stakeholders may:

[''(A) submit research proposals;

[''(B) participate in merit reviews of research proposals and peer reviews of research products; and

[''(C) receive research results.

[''(3) OPEN COMPETITION AND PEER REVIEW OF RESEARCH PROPOSALS.—The organization described in subsection (b) may award research contracts and grants through open competition and merit review conducted on a regular basis.

[''(4) EVALUATION OF RESEARCH.—

[''(A) PEER REVIEW.—Research contracts and grants may allow peer review of the research results.

[''(B) PROGRAMMATIC EVALUATIONS.—The organization described in subsection (b) may conduct periodic programmatic evaluations on a regular basis.

[''(5) DISSEMINATION OF RESEARCH FINDINGS.—The organization described in subsection (b) shall disseminate research findings to researchers, practitioners, and decision-makers, through conferences and seminars, field demonstrations, workshops, training programs, presentations, testimony to Government officials, world wide web, and publications for the general public.

[''(e) CONTENTS.—The national research agenda for the surface transportation environment and planning cooperative research program required under subsection (c)(2) shall include research in the following areas for the purposes cited:

[''(1) HUMAN HEALTH.—Human health to establish the links between transportation activities and human health; substantiate the linkages between exposure to concentration levels, emissions, and health impacts; examine the potential health impacts from the implementation and operation of transportation infrastructure and services; develop strategies for avoidance and reduction of these impacts; and develop strategies to understand the economic value of health improvements; and for incorporating health considerations into valuation methods.

[''(2) ECOLOGY AND NATURAL SYSTEMS.—Ecology and natural systems to measure transportation's short- and long-term impact on natural systems; develop ecologically based performance measures; develop insight into both the spatial and temporal issues associated with transportation and natural systems; study the relationship between highway density and ecosystem integrity, including the impacts of highway density on habitat integrity and overall ecosystem health; develop a rapid assessment methodology for use by transportation and regulatory agencies in determining the relationship between highway density and ecosystem integrity; and develop ecologically based performance techniques to evaluate the success of highway project mitigation and enhancement measures.

[''(3) ENVIRONMENTAL AND SOCIOECONOMIC RELATIONSHIPS.—Environmental and socioeconomic relationships to understand differences in mobility, access, travel behavior, and travel preferences across socioeconomic groups; develop improved planning approaches that better reflect and respond to community needs; improve evaluation methods for examining the incidence of benefits and costs; examine the differential impacts of current methods of finance and explore alternatives; understand the socioeconomic implications of emerging land development patterns and new transportation technologies; develop cost-effective applications of technology that improve the equity of the transport system; and develop improved methods for community involvement, collaborative planning, and conflict resolution.

[''(4) EMERGING TECHNOLOGIES.—Emerging technologies to assist in the transition to environmentally benign fuels and vehicles for passengers and freight; develop responses to and demand for new technologies that could offer improved environmental performance; identify possible applications of Intelligent Transportation Systems technologies for environmental benefit; develop policy instruments that would encourage the development of beneficial new technologies in a cost-effective manner; and respond to the impact of new technologies.

[''(5) LAND USE.—Land use to assess land consumption trends and contributing factors of transportation investment, housing policies, school quality, and consumer preferences; incorporate impacts of transportation investments on location decision and land use; identify the costs and benefits of current development patterns and their transportation implications; determine the effect of the built environment on people's willingness to walk, drive, or take public transportation; determine the roles of public policy and institutional arrangements in current and prospective land use and transportation choices; and develop improved data, methods, and processes for considering land use, transportation, and the environment in an integrated, systematic fashion.

[''(6) PLANNING AND PERFORMANCE MEASURES.—Planning and performance measures to improve understanding of travel needs and preferences; improve planning methods for system analysis, forecasting, and decision making; expand information on consumer choice processes and travel and activity patterns for both local and long-distance trips and both passenger and freight transportation analysis of social, environmental, and

economic benefits and cost of various transport options; develop tools for measuring and forecasting complex transportation decision for all modes and users; and develop performance measures and policy analysis approaches that can be used to determine effectiveness.

[''(7) ADDITIONAL PRIORITIES.—Additional priorities to identify and address the emerging and future surface transportation research needs related to planning and environment. —

[''(f) FUNDING.—In addition to using funds authorized for this section, the organization that administers this program may seek and accept additional funding sources from public and private entities capable of attracting and accepting funding from the United States Department of Transportation (Federal Highway Administration, Federal Transit Administration, Federal Railroad Administration, Research and Special Programs Administration, and the National Highway Traffic Safety Administration), Environmental Protection Agency, Department of Energy, Fish and Wildlife and other Federal environmental agencies, States, local governments, nonprofit foundations, and the private sector.''.

[(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of title 23, United States Code, is amended by striking the item related to section 507 and inserting the following:

[''507. Surface transportation environment and planning cooperative research program.''.

[SEC. 5203. LONG-TERM BRIDGE PERFORMANCE PROGRAM; INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.

[(a) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—Section 502 of title 23, United States Code, is amended by striking 502(g), as redesignated by this Act, and inserting the following:

[''(g) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—

[''(1) AUTHORITY.—The Secretary shall establish a 20 year long-term bridge performance program.

[''(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

[''(A) monitor, material-test, and evaluate test bridges;

[''(B) analyze the data obtained in carrying out subparagraph (A); and

[''(C) prepare products to fulfill program objectives and meet future bridge technology needs.''.

[(b) INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.—

[(1) IN GENERAL.—Section 503(b) of title 23, United States Code, is amended by striking 503(b)(1) and inserting:

[''(1) IN GENERAL.—The Secretary shall establish and carry out a program to promote, demonstrate, evaluate, and document the application of innovative designs, materials and construction methods in the construction, repair, and rehabilitation of bridges and other highway structures.''.

[(2) GOALS.—Section 503(b)(2) of such title is amended by striking 503(b)(2) and inserting:

[''(2) GOALS.—The goals of the program shall include—

[''(A) the development of new, cost-effective, innovative highway bridge applications;

[''(B) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

[''(C) the development of engineering design criteria for innovative products, materials, and structural systems for use in highway bridges and structures;

[''(D) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

[''(E) the development of highway bridges and structures that will withstand natural disasters and terrorist attacks;

[''(F) the documentation and wide dissemination of objective evaluations of the performance and benefits of these innovative designs, materials, and construction methods; and

[''(G) the effective transfer of resulting information and technology.''.

[SEC. 5204. TECHNOLOGY DEPLOYMENT.

[(a) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 503(a) of title 23, United States Code, is amended—

[(1) in the subsection heading, by striking ''initiatives and partnerships'';

[(2) by striking paragraph (1) and inserting the following:

[''(1) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment program.''.

[(3) by striking paragraph (7) and inserting the following:

[''(7) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

[''(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials.

[''(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve the applications based on whether the project that is the subject of the grant meets the goals of the program described in paragraph (2).'';

[(4) by striking paragraph (8);

[(5) by redesignating paragraph (9) as paragraph (10); and

[(6) by inserting after paragraph (7) the following:

[''(8) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

[''(9) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.''.

[(b) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—Section 503 of title 23, United States Code, is amended by adding after subsection (b) the following:

[''(c) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—

[''(1) IN GENERAL.—The Secretary shall establish and implement a program to promote, demonstrate, support, and document the application of innovative pavement technologies, practices, performance, and benefits.

[''(2) GOALS.—The goals of the innovative pavement research and deployment program shall include—

[''(A) the deployment of new, cost-effective innovative designs, materials, and practices to extend pavement life and performance and to improve customer satisfaction;

[''(B) the reduction of initial costs and life-cycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;

[''(C) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;

[''(D) the deployment of engineering design criteria and specifications for innovative practices, products, and materials for use in highway pavements;

[''(E) the deployment of new nondestructive and real time pavement evaluation technologies and techniques;

[''(F) evaluation, refinement, and documentation of the performance and benefits of innovative technologies deployed to improve life, performance, cost effectiveness, safety, and customer satisfaction;

[''(G) effective technology transfer and information dissemination to accelerate implementation of innovative technologies and to improve life, performance, cost effectiveness, safety, and customer satisfaction; and

[''(H) the development of designs and materials to reduce storm water runoff.''.

[(c) SAFETY INNOVATION DEPLOYMENT PROGRAM.—Section 503 of title 23, United States Code, as amended by this Act, is further amended by adding the following:

[''(d) SAFETY INNOVATION DEPLOYMENT PROGRAM.—

[''(1) IN GENERAL.—The Secretary shall establish and implement a program to demonstrate the application of innovative technologies in highway safety.

[''(2) GOALS.—The goals of the program shall include—

[''(A) the deployment and evaluation of safety technologies and innovations at state and local levels; and

[''(B) the deployment of best practices in training, management, design, and planning.

[''(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

[''(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations for research, development, and technology transfer for innovative safety technologies.

[''(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve the applications based on whether the project that is the subject of the grant meets the goals of the program described in paragraph (2).

[''(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

[''(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.''.

[SEC. 5205. TRAINING AND EDUCATION.

[(a) NATIONAL HIGHWAY INSTITUTE.—Section 504(a) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

[''(3) COURSES.—The Institute may develop and administer courses in modern developments, techniques, methods, regulations, management, and procedures in areas including surface transportation, environmental stewardship and streamlining, acquisition of rights-of-way, relocation assistance, engineering, safety, transportation system management and operations, construction, maintenance, contract administration, inspection, and highway finance.''.

[(b) FEDERAL SHARE.—Section 504(b) of title 23, United States Code, is amended by adding at the end the following:

[''(3) FEDERAL SHARE.—

[''(A) GRANTS.—The grant funds authorized to carry out this subsection may be used to cover up to 50 percent of the program costs relating to local technical assistance. Funds available for technology transfer and training purposes under this title and title 49 may be used to cover the remaining 50 percent of the program costs.

[''(B) TRIBAL TECHNICAL ASSISTANCE CENTERS.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (b)(2)(D)(ii) of this subsection shall be 100 percent.''.

[(c) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—Section 504 of title 23, United States Code, is amended by adding at the end the following:

[''(d) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—

[''(1) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned to it under sections 104(b)(1), (3), and (4) and 144(e) of this title for surface transportation workforce development, training and education, including:

[''(A) tuition and direct educational expenses, excluding salaries, in connection with the education and training of employees of State and local transportation agencies;

[''(B) employee professional development;

[''(C) student internships;

[''(D) university or community college support; or

[''(E) education outreach activities to develop interest and promote participation in surface transportation careers.

[''(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent.''.

[(d) DEFINITIONS AND DECLARATION OF POLICY.—Section 101(a) of title 23, United States Code, as amended by this Act, is further amended—

[(1) in paragraph (3), by—

[(A) striking ''and'' after subparagraph (H);

[(B) striking the period after subparagraph (I) and inserting ''; and''; and

[(C) adding after subparagraph (I) the following:

[''(J) surface transportation workforce development, training, and education.'';

[(2) by redesignating paragraphs (36) through (39), as redesignated by this Act, as paragraphs (37) through (40) respectively; and

[(3) by adding after paragraph (35), as redesignated by this Act, the following:

[''(36) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—The term 'surface transportation workforce development, training, and education' means activities associated with surface transportation career awareness, student transportation career preparation, and training and professional development for surface transportation workers.''.

[SEC. 5206. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

[(a) CONTINUATION AND ACCELERATION OF TRANSIMS DEPLOYMENT.—The Secretary shall accelerate the deployment of the advanced transportation model known as the Transportation Analysis Simulation System (''TRANSIMS''), developed by the Los Alamos National Laboratory. The program shall assist State departments of transportation and metropolitan planning organizations in the implementation of TRANSIMS, develop methods for TRANSIMS applications to transportation planning and air quality analysis, and provide training and technical assistance for the implementation of TRANSIMS. The program may support the development of methods to plan for the transportation response to chemical and biological terrorism and other security concerns.

[(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available under section 5101(a)(1) of this Act to—

[(1) provide funding to State departments of transportation and metropolitan planning organizations serving transportation management areas designated under the metropolitan planning section of chapter 52 of title 49, United States Code, representing a diversity of populations, geographic regions and analytic needs to implement TRANSIMS;

[(2) develop methods to demonstrate a wide spectrum of TRANSIMS applications to support metropolitan and statewide transportation planning, including integrating highway and transit operational considerations into the transportation planning process; and

[(3) 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.

[(c) ALLOCATION OF FUNDS.—Not more than 75 percent of the funds made available to carry out this section may be allocated to activities described in subsection (b)(1).

[Subtitle C—Multimodal Research Programs; Scholarship Opportunities

[SEC. 5301. UNIVERSITY TRANSPORTATION RESEARCH.

[Section 5505 of title 49, United States Code, is revised to read as follows:

[''§ 5505. University transportation research

[''(a) UNIVERSITY INDUSTRY GOVERNMENT PARTNERSHIPS.—The Secretary of Transportation shall make grants to nonprofit institutions of higher learning to address transportation management and research and development matters, with special attention to increasing the number of highly skilled individuals entering the field of transportation.

[''(b) OBJECTIVES.—

[''(1) Each university receiving a grant under this section shall conduct the following programs and activities:

[''(A) Basic and applied research that supports the Department's transportation research agenda, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation.

[''(B) An education program that includes multidisciplinary course work, faculty and student participation in research, and an opportunity for practical experience.

[''(C) An ongoing program of technology transfer that makes the results of research and education activities broadly available to potential users in a form that can be implemented, utilized, or otherwise applied.

[''(2) Each university shall elect as its primary objective either subsection (b)(1)(A) or (b)(1)(B) of this section and shall direct at least 50 percent of total costs to the accomplishment thereof.

[''(c) SELECTION OF GRANT RECIPIENTS.—

[''(1) In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

[''(2) The Secretary shall select each recipient of a grant under this section through a competitive process in which applications are evaluated on the basis of the following:

[''(A) The demonstrated research and extension resources available to the applicant to carry out this section.

[''(B) The capability of the applicant to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

[''(C) The applicant's demonstrated commitment of at least $200,000 in regularly-budgeted institutional amounts each year to support ongoing transportation research and education programs.

[''(D) The amount of matching funds for which the applicant has obtained binding commitments.

[''(E) Evidence of the applicant's research and education partnerships with at least one private sector partner and at least one non-Federal Government partner.

[''(F) The applicant's demonstrated ability to disseminate results of transportation research and education programs through national and statewide or regionwide continuing education and capacity-building programs.

[''(G) The strategic plan the applicant proposes to achieve the objectives of the grant and—

[''(i) if the applicant's primary objective is subsection (b)(1)(A) of this section, the strategic plan shall include a research plan that addresses more than one mode of transportation; or

[''(ii) if the applicant's primary objective is subsection (b)(1)(B) of this section, the strategic plan shall include an education plan that addresses multimodal issues.

[''(d) MAINTENANCE OF EFFORT.—In order to be eligible to receive a grant under this section, a recipient shall enter into an agreement with the Secretary to ensure that the recipient will maintain total expenditures from all other sources to carry out the objectives of a grant at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

[''(e) FEDERAL SHARE.—The Federal share of the costs of activities carried out using a grant made under this section shall not exceed 50 percent of costs. The non-Federal share may include funds provided to a recipient under section 503, or 104(i) of title 23, United States Code.

[''(f) PROGRAM ADMINISTRATION.—

[''(1) The Secretary shall conduct all grant management and administration functions necessary to facilitate the research, education, training, and technology transfer activities that grant recipients carry out under this section; to coordinate these activities among the grant recipients; to ensure that the results of the research, education, training and technology transfer activities are widely disseminated; and to ensure the effective use of program resources.

[''(2) At least annually and consistent with the plan developed under section 508 of title 23, United States Code, the Secretary shall review and evaluate programs the grant recipients carry out.

[''(3) The Secretary may not use more than 1 percent of amounts made available from Government sources to carry out this subsection.

[''(g) USE OF TRANSPORTATION RESEARCH INFORMATION SERVICES (TRIS) DATABASES.—

[(1) Recipients of awards under this section shall make use of the National Research Council (NRC), Transportation Research Board (TRB), Transportation Research Information Services (TRIS) online databases for the following purposes:

[''(A) Program development and strategic planning.

[''(B) Reporting of active R&T activities undertaken with funding provided here.

[''(C) Input and dissemination of results and reports from completed research.

[''(2) Recipients shall recommend a representative to serve as liaison to the Transportation Research Board.

[''(h) LIMITATION ON AVAILABILITY OF FUNDS.— Funds made available to carry out this program shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which such funds are authorized.''.

[SEC. 5302. MULTIMODAL RESEARCH PROGRAM.

[(a) IN GENERAL.—Section 5506 of title 49, United States Code, is revised to read as follows:

[''§ 5506. Multimodal research program

[''(a) PURPOSE.—The Secretary shall establish a program to encourage and promote the research, development, demonstration and testing of technologies that have multimodal transportation applications, and shall foster adoption of those technologies in transportation through demonstration and testing to remove impediments to an efficient, safe, and cost-effective national transportation system.

[''(b) OTHER RESEARCH ACTIVITIES.—To ensure the activities performed pursuant to this section achieve the maximum benefit, the Secretary, the Secretary of Energy, the Administrator of the Environmental Protection Agency, and other relevant Federal agencies shall coordinate their research, development and demonstration activities related to heavy-duty vehicle technologies and hydrogen transportation and refueling infrastructure. Nothing in this section may be construed to authorize the Secretary to conduct research, development, demonstration or testing activities that the Secretary of Energy or the Administrator of the Environmental Protection Agency is authorized to conduct, or to modify the authorities of the Secretary of Energy or the Administrator of the Environmental Protection Agency.

[''(c) ADVANCED HEAVY-DUTY VEHICLE TECHNOLOGIES.—

[''(1) The Secretary of Transportation shall conduct research, development, demonstration and testing to integrate emerging multimodal heavy-duty vehicle technologies in order to provide seamless, safe, secure and efficient transportation.

[''(2) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph $24,000,000 for fiscal year 2005, $25,000,000 for fiscal year 2006, $23,000,000 for fiscal year 2007, $18,000,000 for fiscal year 2008, and $10,000,000 for fiscal year 2009.

[''(3) The funding made available under paragraph (2) of this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

[''(d) HYDROGEN INFRASTRUCTURE SAFETY RESEARCH AND DEVELOPMENT.—

[''(1) The Secretary of Transportation is authorized to conduct research, development, demonstration and testing on the safety aspects of hydrogen transportation and refueling infrastructure necessary to support the use of next generation vehicle technologies.

[''(2) To carry out this subsection, there is authorized to be appropriated $1,000,000 for fiscal years 2004, $15,000,000 for fiscal year 2005, $13,000,000 for fiscal year 2006, $11,000,000 for fiscal year 2007, $9,000,000 for fiscal year 2008, and $6,000,000 for fiscal year 2009.

[''(e) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.— The Secretary may enter into grants, cooperative agreements, and other transactions with Federal and other public agencies (including State and local governments) and private organizations and other persons to carry out this section.

[''(f) COST SHARING.—At least 50 percent of the funding for projects authorized in this section must be provided by non-Federal sources.''.

[(b) CONFORMING AMENDMENT.—The analysis of chapter 55 of title 49, United States Code, is amended by substituting the following for the item designated 5506:

[''Sec. 5506. Multimodal research program.''.

[SEC. 5303. COMMERCIAL REMOTE SENSING PRODUCTS.

[Section 5113 of the Transportation Equity Act of the 21st Century (23 U.S.C. 502 note) is amended by revising subsection (b) to read as follows:

[''(b) PROGRAM.—

[''(1) NATIONAL POLICY.—The Secretary shall establish and maintain a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.

[''(2) POLICY IMPLEMENTATION.—The Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy established and maintained under (b)(1) of this section.''.

[SEC. 5304. TRANSPORTATION SCHOLARSHIP OPPORTUNITIES PROGRAM.

[(a) IN GENERAL.—(1) The Secretary may establish and implement a scholarship program for the purpose of attracting qualified students for transportation-related critical jobs.

[(2) The Secretary may accomplish this objective by developing a program in partnership with appropriate non-governmental institutions.

[(b) PARTICIPATION AND FUNDING.—An operating administration of the Department of Transportation and the Office of Inspector General of the Department of Transportation (DOT) may participate in the scholarship program. Notwithstanding any other law, the Secretary may use funds available to an operating administration or from the Office of Inspector General for the purpose of carrying out this provision.

[Subtitle D—Transportation Data and Analysis

[SEC. 5401. BUREAU OF TRANSPORTATION STATISTICS.

[Section 111 of title 49, United States Code, is amended by deleting subsections (b) through (k) and inserting the following new subsections, as follows:

[''(b) DIRECTOR.—

[''(1) The Bureau shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

[''(2) The Director shall be appointed from among individuals who are qualified to serve by virtue of their training and experience in the collection, analysis and use of transportation data.

[''(3) The Director shall report directly to the Secretary of Transportation.

[''(4) The term of the Director shall be 4 years. The Director may continue to serve after the expiration of the term until a successor is appointed and confirmed.

[''(c) RESPONSIBILITIES.—The Director of the Bureau shall serve as the Secretary's senior advisor on data and statistics and be responsible for carrying out the following duties:

[''(1) Collecting, analyzing and disseminating data concerning the domestic and international movement of freight.

[''(2) Collecting, analyzing and disseminating data concerning travel patterns for local and long-distance travel, at the local, State, national and international levels.

[''(3) Developing, analyzing and disseminating information on the economics of transportation.

[''(4) Building and disseminating the transportation layer of the National Spatial Data Infrastructure, including coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by others.

[''(5) Developing, publishing and disseminating a comprehensive set of measures of investment, use, costs, performance and impacts of the national transportation system, including publishing an annual transportation statistics abstract; and identifying information needs and reviewing such needs at least annually with the Advisory Council on Transportation Statistics.

[''(6) Conducting or supporting research relating to methods of gathering or analyzing transportation statistics and issuing guidelines for the collection of information by the Department in order to ensure that such information is accurate, relevant, comparable, accessible and in a form that permits systematic analysis.

[''(d) COORDINATING COLLECTION OF INFORMATION.—The Director shall work with the operating administrations of the Department to establish and implement the Bureau's data programs and to improve the coordination of information collection efforts with other Federal agencies.

[''(e) SUPPORTING TRANSPORTATION DECISIONMAKING.—The Director shall ensure that the statistics compiled under this section are relevant for transportation policy, planning, and decision making by the Federal Government, State and local governments, transportation-related associations, private businesses, and the public. The Director shall provide, to the Department's other operating administrations, technical assistance on collecting, compiling, analyzing and verifying transportation data and statistics and the design of surveys.

[''(f) RESEARCH AND DEVELOPMENT GRANTS.—

[(1) The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) if the grants—

[''(A) provide for an alternative means of accomplishing program-related research;

[''(B) contribute to research and development of new methods of data collection; or

[''(C) improve the methods for sharing geographic data.

[''(2) Not more than $500,000 of the amounts made available to carry out this section in a fiscal year may be used for Research and Development Grants.

[''(g) TRANSPORTATION STATISTICS ANNUAL REPORT.—By March 31 of each year, the Director shall transmit to the President and Congress a report that includes information on the subjects covered by subsection (c) of this section, documentation of the methods used to obtain the information and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.

[''(h) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

[''(i) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

[''(1) authorize the Bureau to require any other department or agency to collect data; or

[''(2) reduce the authority of any other officer of the Department of Transportation to collect and disseminate data independently.

[''(j) MANDATORY RESPONSE AUTHORITY FOR FREIGHT DATA COLLECTION.—Whoever, being the owner, official, agent, person in charge, or assistant to the person in charge, of any corporation, company, business, institution, establishment, or organization of any nature whatsoever, neglects or refuses, when requested by the Director or other authorized officer, employee or contractor of the Bureau, to answer completely and correctly to the best of his/her knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization, or to records or statistics in his/her official custody, contained in a data collection request prepared and submitted under the authority of subsection (c)(1), shall be fined not more than $500; and if the individual willfully gives a false answer to a question, shall be fined not more than $10,000.

[''(k) PROHIBITION ON CERTAIN DISCLOSURES.—

[''(1) An officer, employee or contractor of the Bureau may not—

[''(A) make any disclosure in which the data provided by an individual or organization under subsection (c) can be identified;

[''(B) use the information provided under subsection (c) for a nonstatistical purpose; or

[''(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c).

[''(2)(A) No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c) with the Bureau or retained by an individual respondent.

[''(B) A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

[''(i) shall be immune from legal process; and

[''(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

[''(C) This subsection shall apply only to reports that permit information concerning an individual or organization to be reasonably inferred by direct or indirect means.

[''(3) In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.

[''(l) DATA ACCESS.—The Director shall have access to transportation and transportation-related information in the possession of any Federal agency except information—

[''(1) the disclosure of which to another Federal agency is expressly prohibited by law; or

[''(2) the disclosure of which the agency so requested determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.

[''(m) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—

[''(1) The Bureau of Transportation Statistics has an Advisory Council on Transportation Statistics.

[''(2) It shall be the function of the advisory council established under this subsection to advise the Director of the Bureau of Transportation Statistics on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau of Transportation Statistics are of high quality and are based upon the best available objective information.

[''(3) The advisory council established under this subsection shall be composed of not more than 6 members appointed by the Director who are not officers or employees of the United States and who have expertise in transportation data collection or analysis or application (except for 1 member who shall have expertise in economics and 1 member who shall have expertise in statistics).

[''(4) The Federal Advisory Committee Act (5 App. U.S.C.) shall apply to the advisory council established under this section, except that section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee established under this section.''.

[Subtitle E—Intelligent Transportation Systems Research

[SEC. 5501. SHORT TITLE.

[This subtitle may be cited as the ''Intelligent Transportation Systems Act of 2003''.

[SEC. 5502. GOALS AND PURPOSES.

[(a) GOALS.—The goals of the intelligent transportation system program include—

[(1) Enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services, and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

[(2) Achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles as well as improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

[(3) Protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

[(4) Accommodation of the needs of all users of surface transportation systems, including operators of commercial vehicles, passenger vehicles, and motorcycles, including individuals with disabilities; and

[(5) Improvement of the Nation's ability to respond to security related or other man made emergencies and natural disasters and enhancement of national defense mobility.

[(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

[(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

[(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

[(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

[(4) promote the innovative use of private resources;

[(5) facilitate, in cooperation with the motor vehicle industry, the introduction of a vehicle-based safety enhancing system;

[(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial vehicle operations; and

[(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems.

[SEC. 5503. GENERAL AUTHORITIES AND REQUIREMENTS.

[(a) SCOPE.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and advance nationwide deployment of such systems as a component of the surface transportation systems of the United States.

[(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this subtitle shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

[(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State and local governments and other public entities, the United States private sector, the Federal laboratories, and colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

[(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary, as appropriate, shall consult with the Secretary of Commerce, the Secretary of the Treasury, the Administrator of the Environmental Protection Agency, the Secretary of Homeland Security, the Director of the National Science Foundation, and the heads of other Federal departments and agencies.

[(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

[(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.

[(g) INFORMATION CLEARINGHOUSE.—

[(1) IN GENERAL.—The Secretary shall—

[(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle; and

[(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

[(2) AGREEMENT.—

[(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A) of this subsection.

[(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal financial assistance under this section.

[(h) ADVISORY COMMITTEES.—

[(1) IN GENERAL.—In carrying out this subtitle, the Secretary may use one or more advisory committees.

[(2) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

[(i) EVALUATIONS.—

[(1) GUIDELINES AND REQUIREMENTS.—

[(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the

evaluation of operational tests and deployment projects carried out under this subtitle.

[(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.

[(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test or project that ensure adequate evaluation of the results of the test or project.

[(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44.

[(j) USE OF RIGHTS-OF-WAY.—Intelligent transportation system projects specified in sections 5117(b)(3) and 5117(b)(6) of the Transportation Equity Act for the 21st Century and involving privately owned intelligent transportation system components that are carried out using funds made available from the Highway Trust Fund shall not be subject to any law or 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 utilized for planning, design, construction, or maintenance, if the Secretary of Transportation determines that such use is in the public interest. Nothing in this subsection shall affect the authority of a State or political subdivision of a State to regulate highway safety.

[SEC. 5504. NATIONAL ARCHITECTURE AND STANDARDS.

[(a) IN GENERAL.—

[(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

[(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

[(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary may use the services of such standards development organizations as the Secretary determines to be appropriate.

[(b) PROVISIONAL STANDARDS.—

[(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard after consultation with affected parties, and using, to the extent practicable, the work product of appropriate standards development organizations.

[(2) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) or (2) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.

[(c) CONFORMITY WITH NATIONAL ARCHITECTURE.—

[(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

[(2) SECRETARY'S DISCRETION.—The Secretary may authorize exceptions to paragraph (1) for—

[(A) projects designed to achieve specific research objectives outlined in the National ITS Program Plan or the Surface Transportation Research and Development Strategic Plan developed under section 508 of title 23, United States Code; or

[(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subtitle, if the Secretary determines that the upgrade or expansion—

[(i) would not adversely affect the goals or purposes of this subtitle;

[(ii) is carried out before the end of the useful life of such system; and

[(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).

[(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subtitle.

[SEC. 5505. RESEARCH AND DEVELOPMENT.

[(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subtitle.

[(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—

[(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems;

[(2) enhance safety through improved crash-avoidance and protection, crash and other notification, commercial vehicle operations, and infrastructure-based or cooperative safety systems;

[(3) enhance security through improved response to security related emergencies, and improved transportation security systems; and

[(4) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.

[(c) FEDERAL SHARE.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80 percent.

[SEC. 5506. USE OF FUNDS.

[(a) OUTREACH AND PUBLIC RELATIONS LIMITATION.—

[(1) IN GENERAL.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subtitle shall be used for intelligent transportation system outreach, public relations, displays, scholarships, tours, and brochures.

[(2) APPLICABILITY.—Paragraph (1) shall not apply to intelligent transportation system training or the publication or distribution of research findings, technical guidance, or similar documents.

[(b) INFRASTRUCTURE DEVELOPMENT.—Funds made available to carry out this subtitle for operational tests—

[(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

[(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

[SEC. 5507. DEFINITIONS.

[In this subtitle, the following definitions apply:

[(1) INCIDENT.— In this section, the term ''incident'' means a crash, a natural disaster, work zone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.

[(2) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term ''intelligent transportation infrastructure'' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

[(3) INTELLIGENT TRANSPORTATION SYSTEM.—The term ''intelligent transportation system'' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

[(4) NATIONAL ARCHITECTURE.—The term ''national architecture'' means the common framework for interoperability that defines—

[(A) the functions associated with intelligent transportation system user services;

[(B) the physical entities or subsystems within which the functions reside;

[(C) the data interfaces and information flows between physical subsystems; and

[(D) the communications requirements associated with the information flows.

[(5) PROJECT.—The term ''project'' means a undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.

[(6) STANDARD.—The term ''standard'' means a document that—

[(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

[(B) may support the national architecture and promote—

[(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

[(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

[(7) STATE.—The term ''State'' has the meaning given the term under section 101 of title 23, United States Code.

[(8) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The term ''transportation systems management and operations'' has the meaning given the term under section 101(a) of title 23, United States Code, as amended by section 1701 of this Act.

[SEC. 5508. REPEAL.

[The Transportation Equity Act for the 21st Century is amended by striking subtitle C of title V.

[TITLE VI—TRANSPORTATION PLANNING; INTERMODAL FACILITIES

[SEC. 6001. TRANSPORTATION PLANNING.

[(a) IN GENERAL.—Subtitle III of title 49, United States Code, is amended by adding the following after chapter 51:

[“CHAPTER 52—TRANSPORTATION PLANNING

[“Sec.
[“5201. Policy.
[“5202. Definitions.
[“5203. Metropolitan transportation planning.
[“5204. Statewide transportation planning.

[“§ 5201. Policy

[“(a) It is in the national interest to—

[“(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air and water pollution through metropolitan and statewide transportation planning processes identified in this chapter;

[“(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State Departments of Transportation, and public transit operators through the use of performance-based approaches in the development of transportation plans and investments as guided by the planning factors identified in subsection 5203(f) and 5204(d) of this chapter; and

[“(3) encourage private enterprise participation in projects and transportation services.

[“(b) The provisions of sections 5203–5204 of this chapter shall be jointly administered by the Federal Highway and Federal Transit Administrators.

[“§ 5202. Definitions

[“(a) Unless otherwise specified in subsection (b), the definitions in section 101(a) of title 23 and section 5302 of this title are applicable to this chapter.

[“(b) As used in this chapter—

[“(1) CONSULTATION.—The term ‘consultation’ means that one party confers with another identified party in accordance with an established process and, prior to taking action(s), considers that party’s views and periodically informs that party about action(s) taken.

[“(2) METROPOLITAN PLANNING AREA.—The term ‘metropolitan planning area’ means the geographic area determined by agreement between the metropolitan planning organization and the Governor as defined in section 5203(c) of this title.

[“(3) METROPOLITAN PLANNING ORGANIZATION (MPO).—The term ‘metropolitan planning organization’ means the Policy Board of the organization created as a result of the designation process defined in section 5203(b) of this title.

[“(4) NON-METROPOLITAN AREA.—The term ‘non-metropolitan area’ means the geographic area outside designated metropolitan planning areas.

[“(5) NON-METROPOLITAN LOCAL OFFICIAL.—The term ‘non-metropolitan local official’ means elected and appointed officials of general purpose local government, in non-metropolitan areas, with jurisdiction/responsibility for transportation.

[“(6) URBANIZED AREA.—The term ‘urbanized area’ means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

[“(7) STATE.—The term ‘State’ means a State of the United States, the District of Columbia, and Puerto Rico.

[“§ 5203. Metropolitan transportation planning

[“(a) GENERAL REQUIREMENTS.—

[“(1) DEVELOPMENT OF PLANS.—To accomplish the objectives stated in section 5201, metropolitan planning organizations designated under subsection (b) of this section, in cooperation with the State and public transportation operators, shall develop transportation plans for metropolitan planning areas of the State.

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

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

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

[“(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

[“(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization (MPO) shall be designated for each urbanized area with a population of more than 50,000 individuals—

[“(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

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

[“(2) STRUCTURE.—Each metropolitan planning organization that serves an area identified as a transportation management area, when designated or redesignated under this subsection, shall consist of—

[“(A) local elected officials;

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

[“(C) appropriate State officials.

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

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

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

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

[“(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

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

[“(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

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

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

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

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

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

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

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

[“(A) shall be established in the manner described in subsection (b)(1);

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

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

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

[“(d) COORDINATION IN MULTISTATE AREAS.—

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

[“(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

[“(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

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

[''(3) LAKE TAHOE REGION.—

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

[''(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—

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

[''(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5204.

[''(C) INTERSTATE COMPACT.—

[''(i) IN GENERAL.—Subject to clause (ii), notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

[''(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

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

[''(II) FUNDING.—In addition to funds made available to the metropolitan planning organization under other provisions of title 23 and under chapter 53 of this title, not more than 1 percent of the funds allocated under section 202 of title 23 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

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

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

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

[''(e) COORDINATION OF MPOS.—

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

[''(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the highway trust fund, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans regarding the transportation improvement.

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

[''(4) COORDINATION WITH OTHER PLANNING PROCESSES.—The Secretary shall encourage each MPO to coordinate its planning process, to the maximum extent practicable, with those officials responsible for other types of planning activities that are affected by transportation, including State and local planned growth, economic development, environmental protection, airport operations, and freight. The metropolitan planning process shall develop transportation plans with due consideration of, and in coordination with, other related planning activities within the metropolitan area. This should include the design and delivery of transportation services within the metropolitan area that are provided by—

[''(A) recipients of assistance under chapter 53 of this title;

[''(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide non-emergency transportation services; and

[''(C) recipients of assistance under section 204 of title 23.

[''(f) SCOPE OF PLANNING PROCESS.—

[''(1) IN GENERAL.—The goals and objectives developed through the metropolitan planning process for a metropolitan planning area under this section shall address the following factors as they relate to the performance of the metropolitan area transportation systems to—

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

[''(B) increase the safety of the transportation system for motorized and nonmotorized users;

[''(C) increase the security of the transportation system for motorized and nonmotorized users;

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

[''(E) protect and enhance the environment, promote energy conservation, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;

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

[''(G) promote efficient system management and operation; and

[''(H) emphasize the preservation of the existing transportation system, including services provided by public and private operators.

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

[''(g) DEVELOPMENT OF TRANSPORTATION PLAN.—

[''(1) IN GENERAL.—Each metropolitan planning organization shall prepare, and update at least every five years a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection.

[''(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:

[''(A) An identification of transportation facilities (including but not necessarily limited to major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (f) as such factors relate to a 20-year forecast period.

[''(B) A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. However, no illustrative project may be advanced without an action of the Secretary. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator and State shall cooperatively develop estimates of funds that will be available to support plan implementation.

[''(C) Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.

[''(D) Capital investment and other strategies to preserve the existing metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.

[''(E) Proposed transportation and transit enhancement activities.

[''(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.

[''(4) TRANSPORTATION CONFORMITY.—

[''(A) For the purposes of Section 7506 of title 42, United States Code, the transportation plan shall be considered to be a transportation plan or a portion of a transportation plan, developed pursuant to this section that extends for the longest of the following periods—

[''(i) the first 10-year period of any such plan,

[''(ii) the latest year in the area's applicable implementation plan which contains a motor vehicle emissions budget, or

[''(iii) the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination.

[''(B) A regional motor vehicle emissions analysis for the last year of the transportation plan shall be developed for information purposes only, if such year extends beyond the time frame established by subparagraph (A). The results of the analysis shall be provided to involved governors, the Administrator of the Environmental Protection Agency, and the Secretary of the Department of Transportation, and should be considered by air quality and transportation

planning agencies in subsequent updates of air quality and transportation plans. The results of this analysis shall be made available to the public.

[''(5) PARTICIPATION BY INTERESTED PARTIES.—Before the approval of a transportation plan by the Governor and metropolitan planning organization, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transit, representatives of users of pedestrian walkways and bicycle transportation facilities, and other interested parties with a reasonable opportunity to comment on the transportation plan, in a manner that the Secretary deems appropriate.

[''(6) APPROVAL OF TRANSPORTATION PLAN.—

[''(A) Each transportation plan prepared by a metropolitan planning organization shall be—

[''(i) approved by the MPO, and

[''(ii) submitted to the Governor for approval of the first five years of the plan.

[''(B) The projects listed in the first five years of the plan may be selected for advancement consistent with the project selection requirements. Major amendments (addition, deletion, or concept and scope change of a regionally significant project) to this list would require appropriate public involvement, financial planning, transportation conformity analyses and a finding by the FHWA and FTA that the amended plan was produced in a manner consistent with this section.

[''(7) INCLUDED PROJECTS.—

[''(A) PROJECTS UNDER CHAPTER 1 OF TITLE 23 AND CHAPTER 53 OF TITLE 49.—A transportation plan developed under this section for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under chapter 1 of title 23 and chapter 53 of title 49.

[''(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23—REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the metropolitan transportation plan.

[''(C) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the metropolitan transportation plan.

[''(8) SELECTION OF PROJECTS.—

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

[''(i) by—

[''(I) in the case of projects under chapter 1 of title 23, the State;

[''(II) in the case of projects under section 5307 of this title, the designated transit funding recipients; and

[(III) in the case of projects under 5308, 5310, 5311, and 5317, the State; and

[''(ii) in cooperation with the metropolitan planning organization.

[''(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project from the first five years of the plan included in the approved transportation plan in place of another project in the same five-year period.

[''(9) PUBLICATION.—

[''(A) PUBLICATION OF TRANSPORTATION PLAN.—A transportation plan involving federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.

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

[''(h) TRANSPORTATION MANAGEMENT AREAS.—

[''(1) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.

[''(2) TRANSPORTATION PLANS.—In a metropolitan planning area serving a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and transit operators.

[''(3) CONGESTION MANAGEMENT SYSTEM.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and chapter 53 of this title through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than one-year after the identification of a transportation management area.

[''(4) SELECTION OF PROJECTS.—

[''(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of this title shall be selected for implementation from the approved transportation plan by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

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

[''(5) CERTIFICATION.—

[''(A) IN GENERAL.—The Secretary shall—

[''(i) ensure that the metropolitan planning process of an MPO serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and

[''(ii) subject to subparagraph (B), certify, not less often than once every 5 years that the requirements of this paragraph are met with respect to the metropolitan planning process.

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

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

[''(ii) there is a transportation plan for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.

[''(C) EFFECT OF FAILURE TO CERTIFY.—

[''(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of an metropolitan planning organization serving a TMA is not certified, the Secretary may withhold a portion or all of the funds available to metropolitan planning area of the metropolitan planning organization for projects funded under title 23 and chapter 53 of this title.

[''(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.

[''(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

[''(i) ABBREVIATED PLANS FOR CERTAIN AREAS.—

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

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

[''(j) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

[''(1) IN GENERAL.—Notwithstanding any other provisions of title 23 or chapter 53 of this title, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.

[''(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

[''(k) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under title 23 or chapter 53 of this title.

[''(l) FUNDING.—Funds set aside under section 104(f) of title 23 or section 5305(h) of this title shall be available to carry out this section.

[''(m) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans described in this section are subject to a reasonable opportunity for public comment, individual projects included in plans are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and decisions by the Secretary concerning plans described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan described in this section shall not be considered to be

a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

[''(n) RELATIONSHIP TO THE NEPA PROCESS.—

[''(1) To expedite the planning and development of transportation improvements in compliance with this section and section 5204 and the National Environmental Policy Act (42 U.S.C. 4321 et seq.), to facilitate compliance with the Clean Water Act (33 U.S.C. 1251 et seq.) and other Federal environmental laws, and to fulfill the directive in section 1308 of the Transportation Equity Act for the 21st Century, Public Law 105–206, to integrate the major investment study requirement into the transportation planning and National Environmental Policy Act processes, the Secretary and heads of other Federal agencies shall presume that the results of studies developed as part of the planning process establish the basis for an environmental assessment or impact statement, provided that such studies, pursuant to the provisions of this section—

[''(A) are consistent with subsection (a)(4) of this section;

[''(B) provided opportunities for citizens and interested parties to participate during the studies;

[''(C) included consideration of an appropriate range of alternatives, such as alternative modes, technologies, general alignments, and policies; and

[''(D) considered the planning factors of subsection (f)(1).

[''(2) The results of studies developed as part of the planning process and that are presumed to establish the basis for an environmental assessment or impact statement, as described in subsection (1) of this section, include, but are not limited to—

[''(A) the purpose and need;

[''(B) the alternatives selected for evaluation in an environmental assessment or impact statement; and

[''(C) an assessment of environmental impacts related to development growth, including indirect and cumulative effects, that is consistent with local land use, growth management, or development plans.

[''(3) The results of studies developed during the planning process may be appended to or incorporated by reference in and used to substantiate an environmental assessment or impact statement.

["§ 5204. Statewide transportation planning

[''(a) GENERAL REQUIREMENTS.—

[''(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 5201, each State shall develop a statewide transportation plan and a statewide Transportation Improvement Program (STIP) for all areas of the State subject to section 5203.

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

[''(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the STIP shall provide for consideration of all modes of transportation and the policies stated in section 5201, and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

[''(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—

[''(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5203 of this title for metropolitan areas of the State and with other related Statewide planning activities such as trade and economic development and related multi-State planning efforts,

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

[''(3) participate in the integration of planning and environmental studies pursuant to section 5203(n) of this chapter.

[''(c) INTERSTATE AGREEMENTS.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.

[''(d) SCOPE OF PLANNING PROCESS.—

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

[''(A) support the economic vitality of the United States, the States, non-metropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;

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

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

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

[''(E) protect and enhance the environment, promote energy conservation, promote consistency between transportation improvements and State and local planned growth and economic development patterns, and improve the quality of life;

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

[''(G) promote efficient system management and operation; and

[''(H) emphasize the preservation of the existing transportation system.

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

[''(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—

[''(1) with respect to non-metropolitan areas, the concerns of affected local officials with responsibility for transportation;

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

[''(3) coordination of transportation plans, the STIP, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States;

[''(f) STATEWIDE TRANSPORTATION PLAN.—

[''(1) DEVELOPMENT.—Each State shall develop a statewide transportation plan, with a minimum 20-year forecast period, updated at least every five years, for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

[''(2) CONSULTATION WITH GOVERNMENTS.—

[''(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5203.

[''(B) NON-METROPOLITAN AREAS.—With respect to non-metropolitan areas, the statewide transportation plan shall be developed in consultation with affected non-metropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.

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

[''(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the statewide transportation plan, the State shall—

[''(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

[''(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

[''(4) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

[''(5) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (4).

[''(6) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.

[''(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM (STIP).—

[''(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program for all areas of the State.

[''(2) CONSULTATION WITH GOVERNMENTS.—

[''(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5203.

[''(B) NON-METROPOLITAN AREAS.—With respect to each non-metropolitan area in the State, the program shall be developed in consultation with affected non-metropolitan local officials with responsibility for transportation. The Secretary shall not review or

approve the specific consultation process in the State.

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

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

[''(4) INCLUDED PROJECTS.—

[''(A) IN GENERAL.—A transportation improvement program developed under this subsection for a state shall include federally supported surface transportation expenditures within the boundaries of the State. The program shall cover a minimum of five years, identify projects by year, be fiscally constrained by year, and be updated at least every five years. An annual listing of projects for which funds have been obligated in the preceding five years in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program. Other projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually. The listing shall be consistent with the funding categories identified in the first five years of each metropolitan transportation plan.

[''(B) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—

[''(i) consistent with the statewide transportation plan developed under this section for the State;

[''(ii) identical to the project or phase of the project as described in each year of the initial five years of an approved metropolitan transportation plan; and

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

[''(C) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The STIP shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

[''(D) FINANCIAL PLAN.—The STIP may include a financial plan that demonstrates how the approved STIP can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the STIP, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.

[''(E) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—

[''(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (D), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (D).

[''(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (D) for inclusion in an approved STIP.

[''(F) PRIORITIES.—The STIP shall reflect the priorities for programming and expenditures of funds, including transportation and transit enhancement activities, required by title 23 and chapter 53 of this title, and transportation control measures included in the State's air quality implementation plan.

[''(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved STIP (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the interstate maintenance program under title 23 or sections 5308, 5310, 5311, and 5317 of this title), by the State in cooperation with the affected non-metropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the interstate maintenance program under title 23 or under sections 5308, 5310, 5311, and 5317 of this title shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials with responsibility for transportation.

[''(6) STIP APPROVAL.—A STIP developed under this subsection shall be reviewed and based on a current Planning Finding approved at least every five years by the Secretary.

[''(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every five years that the transportation planning process(es) through which statewide transportation plans and programs are developed are consistent with this section and section 5203.

[''(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved STIP in place of another project in the program.

[''(h) FUNDING.—Funds set aside pursuant to section 104(i) of title 23 and 5305(h) of this title shall be available to carry out this section.

[''(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT SYSTEMS.—For purposes of this section and section 5203 of this title, State laws, rules or regulations pertaining to congestion management systems or programs may constitute the congestion management system under section 5203(h)(3) if the Secretary finds that the State laws, rules or regulations are consistent with, and fulfill the intent of, the purposes of section 5203, as appropriate.

[''(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the STIP described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the STIP are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the STIP described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the STIP described in this section shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

[''(k) INTEGRATION OF PLANNING AND ENVIRONMENTAL STUDIES.—Section 5203(n) of this chapter shall also apply to the planning process established under this section, except that the planning factors to be considered shall be those set forth in subsection (d) of this section.''.

[(b) CONSISTENCY OF CONFORMITY TIMING WITH THE TRANSPORTATION PLAN.—Section 7506(c)(4) of title 42, United States Code, is amended—

[(1) in subparagraph (B)(ii) by striking '', but in no case shall such determinations for transportation plans and programs be less frequent than every three years'', and inserting ''but the frequency for making conformity determinations for transportation plans must be consistent with subparagraph (E)''; and

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

[''(E) The frequency for making conformity determinations on updated transportation plans shall be every five years, except when:

[''(i) the metropolitan planning organization chooses to update a transportation plan more frequently, or

[''(ii) changes to the applicable implementation plan trigger a new conformity determination, as provided in regulations promulgated by the Administrator pursuant to subparagraph (A) above.''.

[(c) CONFORMING CLARIFICATION.—Upon date of enactment of this Act, the references to ''program'' and ''improvement program'' in section 7506 of title 42, United States Code, shall refer to the transportation plan developed pursuant to section 5203 of title 49, United States Code.

[(d) STREAMLINED STATE CONFORMITY RULE REQUIREMENTS.—Section 7506(c)(4)(C) of title 42, United States Code, is amended to read as follows:

[''(C) Such procedures shall also include a requirement that each State shall submit to the Administrator and the Secretary of Transportation, within 24 months of such date of enactment, a revision to its implementation plan that includes criteria and procedures for consultation in accordance with the Administrator's criteria and procedures for consultation required by subparagraph (B)(i) of this paragraph.''.

[(e) CONFORMING AMENDMENTS.—(1) The table of chapters for title 49, United States Code, is amended by inserting the following after the item relating to chapter 51:

[''52. Transportation Planning ..... 5201''.

[(2) The chapter analysis for Subtitle III of title 49, United States Code, is amended by inserting the following after the item relating to chapter 51:

[''52. Transportation Planning ..... 5201''.

[SEC. 6002. INTERMODAL PASSENGER FACILITIES.

[(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding the following at the end:

[''SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

[§ 5571. Policy and purposes

[''(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

[''(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal

integration among North America's passenger transportation modes through—

[''(1) assuring intercity public transportation access to intermodal passenger facilities;

[''(2) encouraging the development of an integrated system of public transportation information; and

[''(3) providing intercity bus intermodal passenger facility grants.

[§ 5572. Definitions

[''In this subchapter—

[''(1) 'capital project' means a project for—

[''(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

[''(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

[''(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

[''(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

[''(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intra-city rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

[''(5) 'local governmental authority' includes—

[''(A) a political subdivision of a State;

[''(B) an authority of at least one State or political subdivision of a State;

[''(C) an Indian tribe; and

[''(D) a public corporation, board, or commission established under the laws of the State.

[''(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

[''(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

[''(8) 'Secretary' means the Secretary of Transportation.

[''(9) 'state' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

[''(10) 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

["§ 5573. Assurance of access to intermodal passenger facilities

[''Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities including, but not limited to, those passenger facilities seeking funding under section 5574.

["§ 5574. Intercity bus intermodal passenger facility grants

[''(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project, as defined in section 5572 of this chapter, only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

[''(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

[''(c) SHARE OF NET PROJECT COSTS.—

[''(1) A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

[''(2) The portion of the net costs of an eligible project that is not funded under this section shall be from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital and may include up to 30 percent from amounts appropriated to or made available to a department or agency of the Federal government that are eligible to be expended for transportation.

[''(d) REGULATIONS.—The Secretary may issue regulations necessary to carry out this section.

["§ 5575. Funding

[''(a) MASS TRANSIT ACCOUNT.—

[''(1) FUNDING.—To carry out this Subchapter, there is authorized to be appropriated for each of fiscal years 2005 through 2009 from the Mass Transit Account of the Highway Trust Fund the amounts made available under section 5338(a)(2)(O) of this title.

[''(2) CONTRACTUAL OBLIGATIONS.—A grant approved by the Secretary of Transportation that is financed with amounts made available under subsection (a) of this section is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

[''(b) HIGHWAY ACCOUNT.—

[''(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $10,000,000 for each of fiscal years 2005 through 2009.

[''(2) The funding made available under paragraph (1) of this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

[''(c) PERIOD OF AVAILABILITY.—Amounts made available by subsection (a) of this section shall remain available until expended.''.

[(b) CONFORMING AMENDMENT.—The table of contents for chapter 55 of title 49, United States Code, is amended by inserting the following at the end:

[''SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

[Sec.

[''5571. Policy and Purposes.

[''5572. Definitions.

[''5573. Assurance of access to intermodal facilities.

[''5574. Intercity bus intermodal facility grants.

[''5575. Funding.''.

[TITLE VII—MISCELLANEOUS

[Subtitle A—Railroads

[SEC. 7101. RAIL CORRIDOR PLANNING.

[Section 26101(b)(1) of title 49, United States Code, is amended in the first sentence thereof by adding ''(1)'' after the word ''determines'' and by adding ''or (2) that it is necessary to help promote an effective and efficient system of conventional speed intercity rail passenger operations'' after the word ''improvements''.

[SEC. 7102. HIGH SPEED RAIL AUTHORIZATIONS.

[Section 26104 of Title 49, United States Code, is revised to read as follows:

["§ 26104. Authorization of appropriations

[''(a) There are authorized to be appropriated to the Secretary $25,000,000 each year for fiscal years 2004 through 2009 for carrying out section 26101 (including payment of administrative expenses related thereto).

[''(b) There are authorized to be appropriated to the Secretary $25,000,000 each year for fiscal years 2004 through 2009 for carrying out section 26102 (including payment of administrative expenses related thereto).''

[''(c) Funds made available under this section shall remain available until expended.''.

[Subtitle B—Miscellaneous Technical Corrections to Title 49

[SEC. 7201. CORRECTION OF OBSOLETE REFERENCES TO INTERSTATE COMMERCE COMMISSION.

[(a) Except as otherwise provided, a reference in this section to an amendment to, or a repeal of, a section or other provision is deemed to be a reference to a section or other provision of title 49, United States Code.

[(b)(1) Section 307 (Safety information and intervention in Interstate Commerce Commission proceedings) is repealed.

[(2) The analysis of chapter 3 is amended by striking the item designated ''307''.

[(c) Subsections (d)(1)(C) and (e) of section 333 (Responsibility for rail transportation unification and coordination projects) are amended by striking ''Interstate Commerce Commission'' and ''Commission'' each place the words appear and substituting ''Surface Transportation Board'' and ''Board'', respectively.

[(d) Section 10903(b)(2) is amended by striking ''24706(c) of this title'' and substituting ''24706(c) of this title before May 31, 1998''.

[(e) Section 13541(a) is amended by striking ''finds that'' and all that follows, and substituting—''finds that the exemption is in the public interest and that the application of that provision—

[''(1) is not necessary to carry out the transportation policy of section 13101; and

[''(2) is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope.''.

[(f)(1) Section 14704 (Rights and remedies of persons injured by carriers or brokers) is amended as follows:

[(A) In subsection (a) —

[(i) strike ''IN GENERAL.—'' and all that follows through ''injured'' and substitute ''ENFORCEMENT OF ORDER.—A person injured''; and

[(ii) redesignate paragraph (2) as subsection (b)(2); and

[(B) In subsection (b), by striking ''Liability and damages'' and all that follows through ''A carrier'' and substitute ''LIABILITY AND DAMAGES.—(1) A carrier''.

[(2) Section 14705(c) is amended by striking ''14704(b)'' and substituting ''14704(b)(2)''.

[(g)(1) Subsection (c)(3) of section 24307 (Special transportation) is amended by striking ''Interstate Commerce Commission'' and substituting ''Surface Transportation Board''.

[(2) Section 24308 (Use of facilities and providing services to Amtrak) is amended by striking ''Interstate Commerce Commission'' and ''Commission'' each place the words appear and substituting ''Surface Transportation Board'' and ''Board'', respectively.

[(3) Section 24311 (Acquiring interests in property by eminent domain) is amended by striking ''Interstate Commerce Commission'' and ''Commission'' each place the words appear and substituting ''Surface Transportation Board'' and ''Board'', respectively.

[(4) Section 24902 (Goals and requirements) is amended by striking ''Interstate Commerce Commission'' and ''Commission'' each place the words appear and substituting ''Surface Transportation Board'' and ''Board'', respectively.

[(5) Section 24904 (General authority) is amended by striking ''Interstate Commerce Commission'' and ''Commission'' each place the words appear and substituting ''Surface Transportation Board'' and ''Board'', respectively.

[Subtitle C—Hazardous Material Transportation

[SEC. 7301. DEFINITIONS.

[Section 5102 of title 49, United States Code, is amended by revising paragraph (1) to read as follows:

[''(1) 'commerce' means trade or transportation in the jurisdiction of the United States

[''(A) between a place in a State and a place outside of the State;

[''(B) that affects trade or transportation between a place in a State and a place outside of the State; or

[''(C) on a United States-registered aircraft.''

[SEC. 7302. REPRESENTATIONS AND TAMPERING WITH HAZARDOUS MATERIAL PACKAGING.

[Section 5103(b)(1) of title 49, United States Code, is amended by revising subparagraph (A) to read as follows:

[''(A) apply to a person that—

[''(i) transports a hazardous material in commerce;

[''(ii) causes a hazardous material to be transported in commerce;

[''(iii) manufactures, designs, inspects, tests, reconditions, marks, or repairs a packaging or packaging component represented as qualified for use in transporting hazardous material in commerce;

[''(iv) prepares, accepts, or rejects hazardous material for transportation in commerce;

[''(v) is responsible for the safety of transporting hazardous material in commerce;

[''(vi) certifies compliance with any requirement issued under this chapter;

[''(vii) misrepresents whether it is engaged in any of the above activities; or

[''(viii) performs any other act or function relating to the transportation in commerce of a hazardous material; and''.

[SEC. 7303. HAZARDOUS MATERIAL TRANSPORTATION SAFETY AND SECURITY.

[(a) ENHANCED AUTHORITY TO DISCOVER HIDDEN SHIPMENTS OF HAZARDOUS MATERIAL.—Section 5121 of title 49, United States Code, is amended by revising subsection (c) to read as follows:

[''(c) INSPECTIONS AND INVESTIGATIONS.—(1) A designated officer or employee of the Secretary may—

[''(A) inspect and investigate, at a reasonable time and in a reasonable way, records and property related to a function described in section 5103(b)(1) of this chapter;

[''(B) except for the packaging immediately adjacent to its hazardous material contents, gain access to, open, and examine a package offered for, or in, transportation when the officer or employee has an objectively reasonable and articulable belief that the package may contain a hazardous material;

[''(C) remove from transportation a package or related packages in a shipment offered for or in transportation, and for which such officer or employee has an objectively reasonable and articulable belief that the package or packages may pose an imminent hazard, and for which the officer or employee contemporaneously documents that belief in accordance with procedures established by the Secretary;

[''(D) gather information from the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package or packages, to ascertain the nature and hazards of the contents of the package or packages;

[''(E) as necessary, under terms and conditions specified by the Secretary, order the offeror, carrier, packaging manufacturer or retester, or other person responsible for the package or packages to have the package or packages transported to, opened and the contents examined and analyzed at a facility appropriate for the conduct of this activity; and

[''(F) when safety might otherwise be compromised, authorize properly qualified personnel to assist in the activities conducted under this subsection.

[''(2) An officer or employee acting under this subsection shall display proper credentials when requested.

[''(3) For instances when, as a result of the inspection or investigation, an imminent hazard is not found to exist, the Secretary shall develop procedures to assist in the safe resumption of transportation of the package or transport unit.''.

[(b) EMERGENCY AUTHORITY FOR HAZARDOUS MATERIAL TRANSPORTATION.—Section 5121 is amended by striking subsection (e), redesignating subsection (d) as subsection (e), and adding a new subsection (d) to read as follows:

[''(d) EMERGENCY ORDERS.—

[''(1) If, upon inspection, investigation, testing, or research, the Secretary determines that either a violation of a provision of this chapter or a regulation issued under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

[''(2) The Secretary's action under paragraph (1) of this subsection shall be in a written order describing the violation, condition or practice that is causing the imminent hazard, and stating the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed. The order also shall describe the standards and procedures for obtaining relief from the emergency order.

[''(3) After taking action under paragraph (1) of this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5, if a petition for review is filed within 20 calendar days after issuance of the order.

[''(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.

[''(5) For purposes of this subsection, ''out-of-service order'' means a mandate that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, portable tank, or other package not be moved until specified conditions have been met.''

[(c) SECURITY-SENSITIVE INFORMATION.—Section 5121 is revised by adding a new subsection (f) to read as follows:

[''(f) SECURITY-SENSITIVE INFORMATION.—

[''(1) If the Secretary determines that particular information may reveal a vulnerability of a hazardous material to attack during transportation in commerce, or may facilitate the diversion of hazardous material during transportation in commerce for use in an attack on people or property, the information may be disclosed only—

[''(A) to an owner, custodian, offeror or carrier of the hazardous material;

[''(B) to an officer, employee or agent of a Federal, State, or local government, including a volunteer fire department, concerned with carrying out transportation safety laws, protecting hazardous material during the course of transportation in commerce, protecting public safety, or national security issues, or enforcing federal laws designed to protect public health or the environment; or

[''(C) in an administrative or judicial proceeding brought under this chapter, under other federal law designed to protect public health or the environment, or one that addresses terrorist actions or threats of such actions.

[''(2) The Secretary may make a determination under subsection (1) of this section with respect to a category of information by regulation.

[''(3) A release of information pursuant to a determination under subsection (1) of this section is not a release to the public within the meaning of 5 U.S.C. 552.''.

[(d) ENHANCEMENTS TO SECURITY RISK ASSESSMENT AND EMERGENCY PREPAREDNESS.—Section 5121 is amended by inserting the following after subsection (f):

[''(g) AUTHORITY FOR GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other entity to expand the risk assessment and emergency response capability with respect to hazardous materials security issues and to carry out this chapter.''.

[(e) CARGO INSPECTION PROGRAM.—The Secretary of Transportation may randomly inspect cargo at U.S. Customs ports of entry in order to determine the extent to which undeclared hazardous material is being offered for transportation in commerce. Under this program, an officer or employee of the Secretary may open and inspect any cargo shipment at a U.S. Customs port of entry if that shipment has been randomly selected for inspection by a Department supervisor who is not on site. The Department of Transportation shall ensure that random inspections under this program are coordinated in advance with the Department of Homeland Security and provide for the effective handling and disposition of any violations found. The Secretary shall initiate such a program within one year after the date of enactment of this Act.''

[SEC. 7304. ADMINISTRATIVE AUTHORITY FOR TRANSPORTATION SERVICE AND INFRASTRUCTURE ASSURANCE RESEARCH.

[Section 112 of title 49, United States Code, is amended by adding the following new subsection to the end:

[''(f) ADMINISTRATIVE AUTHORITY.—

[''(1) GRANTS, COOPERATIVE AGREEMENTS, AND OTHER TRANSACTIONS.—The Administrator may enter into grants, cooperative agreements, and other transactions with Federal or other public agencies (including State and local governments) and private organizations and other persons to conduct research into transportation service and infrastructure assurance and to carry out research activities of the Administration.

[''(2) PROHIBITION ON CERTAIN DISCLOSURES.—If the Administrator determines that particular information developed in research sponsored by the Administration may reveal a systemic vulnerability of transportation service or infrastructure, the information may be disclosed only to a person responsible for the security of the transportation service or infrastructure or with protecting public safety or to an officer, employee, or agent of a Federal, State or local government unit whose need for the information in the performance of duties is concurred in by the Administrator. A release of information subject to a determination under this section is not a release to the public within the meaning of 5 U.S.C. 552.''.

[SEC. 7305. POSTAL SERVICE CIVIL PENALTY AUTHORITY.

[(a) Section 3001 of title 39, United States Code, is amended by adding a new subsection (o) as follows:

[''(o)(1) Except as permitted by law and Postal Service regulation, hazardous material is nonmailable.

[''(2) For purposes of this section, the term 'hazardous material' means a substance or material the Secretary of Transportation designates under section 5103(a) of title 49.''.

[(b) Chapter 30 of title 39, United States Code, is amended by adding a new section 3018 at the end as follows:

[''Sec. 3018. Hazardous material; civil penalty

[''(a) REGULATIONS.—The Postal Service shall prescribe regulations for the safe transportation of hazardous material in the mail.

[''(b) HAZARDOUS MATERIAL IN THE MAIL.—No person may—

[''(1) mail or cause to be mailed a hazardous material that has been declared by statute or Postal Service regulation to be nonmailable;

[''(2) mail or cause to be mailed a hazardous material in violation of any statute or Postal Service regulation restricting the time, place, or manner in which a hazardous material may be mailed; or

[''(3) manufacture, distribute, or sell any container, packaging kit, or similar device that—

[''(A) is represented, marked, certified, or sold by such person for use in the mailing of a hazardous material; and

[''(B) fails to conform with any statute or Postal Service regulation setting forth standards for a container, packaging kit, or similar device used for the mailing of a hazardous material.

[''(c) CIVIL PENALTY.—

[''(1) A person that knowingly violates this section or a regulation issued under this section is liable to the Postal Service for a civil penalty of at least $250 but not more than $100,000 for each violation, and for any clean-up costs and damages. A person acts knowingly when—

[''(A) the person has actual knowledge of the facts giving rise to the violation; or

[''(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

[''(2) Knowledge by the person of the existence of a statutory provision, or a regulation or requirement prescribed by the Postal Service is not an element of an offense under this section.

[''(3) A separate violation occurs for each day a hazardous material, mailed or caused to be mailed in noncompliance with this section or a regulation issued under this section, is in the mail.

[''(4) A separate violation occurs for each item containing a hazardous material that is mailed or caused to be mailed in noncompliance with this section or a regulation issued under this section.

[''(d) HEARING REQUIREMENT.—The Postal Service may find that a person has violated this section or a regulation issued under this section only after notice and an opportunity for a hearing. Under this section, the Postal Service shall impose a penalty and recover clean-up costs and damages by giving the person written notice of the amount of the penalty, clean-up costs, and damages.

[''(e) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section, the Postal Service shall consider—

[''(1) the nature, circumstances, extent, and gravity of the violation;

[''(2) with respect to the person who committed the violation, the degree of culpability, any history of prior violations, the ability to pay, and any effect on the ability to continue in business;

[''(3) the impact on postal operations; and

[''(4) other matters that justice requires.

[''(f) CIVIL ACTIONS TO COLLECT.—

[''(1) In accordance with section 409(d) of this title, a civil action may be commenced in an appropriate district court of the United States to collect a civil penalty, clean-up costs, or damages assessed under this section. In such action, the validity, amount, and appropriateness of the civil penalty, clean-up costs, or damages shall not be subject to review.

[''(2) The Postal Service may compromise the amount of a civil penalty, clean-up costs, or damages assessed under this section before civil action is taken to collect the penalty, costs, or damages.

[''(g) CIVIL JUDICIAL PENALTIES.—At the request of the Postal Service, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Postal Service in an administrative case under this section.

[''(h) DEPOSITING AMOUNTS COLLECTED.—Amounts collected under this section shall be paid into the Postal Service Fund established by section 2003 of this title.''.

[(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 30 of title 39, United States Code, is amended by adding the following:

[''3018. Hazardous material; civil penalty.''.

[SEC. 7306. REGISTRATION.

[(a) IN GENERAL.—Section 5108 of title 49, United States Code, is amended—

[(1) by striking ''class A or B explosive'' in subsection (a)(1)(B) and inserting ''Division 1.1, 1.2, or 1.3 explosive material''; and

[(2) by revising subsection (a)(2)(B) to read as follows:

[''(B) a person manufacturing, designing, inspecting, testing, reconditioning, marking, or repairing a packaging or packaging component represented as qualified for use in transporting a hazardous material in commerce.''.

[(b) CLARIFICATION OF TITLE 18 EXEMPTION.—Section 845(a)(1) of title 18, United States Code, is amended to read as follows:

[''(1) aspects of the transportation of explosive materials via railroad, water, highway, or air that pertain to safety, including security, and are regulated by the Department of Transportation or the Department of Homeland Security;''.

[SEC. 7307. SHIPPING PAPER RETENTION.

[Section 5110 of title 49, United States Code, is amended—

[(1) in subsection (a), by striking ''under subsection (b) of this section'' and inserting ''by regulation'';

[(2) by striking subsection (b) and redesignating subsections (c)–(e) as subsections (b)–(d); and

[(3) by revising the first sentence in subsection (d), as redesignated, to read as follows: ''The person that provided the shipping paper and the carrier required to keep it under this section shall retain the paper, or an electronic image of it, for a period of 3 years after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business.''.

[SEC. 7308. PLANNING AND TRAINING GRANTS.

[(a) Section 5116 of title 49, United States Code, is amended—

[(1) in the second sentence of subsection (e), by striking ''of the State or tribe under subsections (a)(2)(A) and (b)(2)(A)'' and inserting ''received by the State or tribe under subsections (a)(1) and (b)(1)'';

[(2) revising subsection (f) to read as follows:

[''(f) MONITORING AND TECHNICAL ASSISTANCE.—The Secretary of Transportation shall monitor public-sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.'';

[(3) in subsection (g), by striking ''Government grant'' and inserting ''Federal financial assistance'';

[(4) by revising subsection (i) to read as follows:

[''(i) EMERGENCY PREPAREDNESS FUND.—The Secretary of the Treasury shall establish an Emergency Preparedness Fund account in the Treasury into which the Secretary of the Treasury shall deposit amounts the Secretary of Transportation transfers to the Secretary of the Treasury under section 5108(g)(2)(C) of this title. Without further appropriation, amounts in the account are available—

[''(1) to make grants under this section;

[''(2) to monitor and provide technical assistance under subsection (f) of this section;

[''(3) to publish and distribute the Emergency Response Guidebook;

[''(4) to pay administrative costs of carrying out this section and sections 5108(g)(2) and 5115 of this title, except that not more than 10 percent of the amounts made available from the account in a fiscal year to carry out these sections may be used to pay those costs.''; and

[''(5) by striking subsection (k).''.

[(b) Chapter 51 is amended by—

[(1) revising the section heading for section 5116 to read ''Planning and training grants; emergency preparedness fund''; and

[(2) striking the item for section 5116 in the analysis of the chapter and inserting ''5116. Planning and training grants; emergency preparedness fund.''.

[SEC. 7309. ENFORCEMENT.

[Section 5122 of title 49, United States Code, is amended—

[(1) in subsection (a), by revising the last sentence to read as follows: ''The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123 of this chapter.''; and

[(2) in subparagraph (b)(1)(B), by striking ''or ameliorate the'' and inserting ''or mitigate the''.

[SEC. 7310. PENALTIES.

[(a) Section 5123 of title 49, United States Code, is amended—

[(1) by revising subsection (a) to read as follows:

[''(a) PENALTY.—

[''(1) A person that knowingly violates this chapter, or a regulation, order, special permit, or approval issued under this chapter, is liable to the United States Government for a civil penalty of at least $250 but not more than $100,000 for each violation.

[''(2) Knowledge by the person of the existence of a statutory provision, or a regulation or requirement prescribed by the Secretary is not an element of an offense under this section.

[''(3) A separate violation occurs for each day the violation, committed by a person that transports or causes to be transported hazardous material, continues''; and

[(2) by redesignating subsections (b)–(g) as subsections (c)–(h) and inserting a new subsection (b) to read as follows:

[''(b) KNOWING VIOLATIONS.—In this section, a person acts knowingly when—

[''(1) the person has actual knowledge of the facts giving rise to the violation; or–

[''(2) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.'';

[(3) in subsection (c), as redesignated, by striking the first sentence and inserting the following: ''The Secretary of Transportation may find that a person has violated this chapter, or a regulation, order, special permit or approval issued under this chapter, only after notice and an opportunity for a hearing.'';

[(4) by revising subsection (e), as redesignated, to read as follows:

[''(e) CIVIL ACTIONS TO COLLECT.—The Attorney General may bring a civil action in an appropriate district court of the United States to collect a civil penalty under this section and any accrued interest on that penalty calculated in the manner described under section 2705 of title 33. In such action, the validity, amount, and appropriateness of the civil penalty shall not be subject to review.''.

[(b) Section 5124 is revised to read as follows:

["§ 5124. Criminal penalty

[''(a) GENERAL.—A person knowingly violating section 5104(b) of this title or willfully or recklessly violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

[''(b) AGGRAVATED VIOLATIONS.—A person knowingly violating section 5104(b) of this chapter, or willfully or recklessly violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of a hazardous material, shall be fined under title 18, imprisoned for not more than 20 years, or both.

[''(c) KNOWING VIOLATIONS.—In this section, a person acts knowingly when—

[''(1) the person has actual knowledge of the facts giving rise to the violation; or

[''(2) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge.

[''(d) WILLFUL VIOLATIONS.—In this section, a person acts willfully when—

[''(1) the person has knowledge of the facts giving rise to the violation; and

[''(2) the person has knowledge that the conduct was unlawful.

[''(e) RECKLESS VIOLATIONS.—In this section, a person acts recklessly when the person displays a deliberate indifference or conscious disregard for the consequences of that person's conduct.

[''(f) KNOWLEDGE OF REQUIREMENTS.—Knowledge by a person of the existence of a statutory provision, or a regulation or requirement prescribed by the Secretary, is not an element of an offense under this section.

[''(g) SEPARATE VIOLATIONS.—A separate violation occurs for each day the violation, committed by a person who transports hazardous material or who causes hazardous material to be transported, continues.''.

[(c) Section 46312 is amended—

[(1) in subparagraph (a), by striking ''under this part'' and inserting ''under this part or under chapter 51 of this title''; and

[(2) in subparagraph (b), by striking ''by the Secretary'' and inserting ''by the Secretary under this part or under chapter 51 of this title''.

[(d) Section 3663, title 18 United States Code, is amended in subparagraph (a)(1)(A) by striking ''or section 46312, 46502, or 46504 of title 49'' and inserting ''or section 5124, 46312, 46502, or 46504 of title 49.''.

[SEC. 7311 EMERGENCY WAIVER OF PREEMPTION.

[''Section 5125 of title 49, United States Code, is amended by adding new subsections (h), (i), and (j) to read as follows:

[''(h) EMERGENCY WAIVER OF PREEMPTION.—

[''(1) The Secretary, upon a finding of good cause, may waive preemption on an expedited basis without notice and public procedure. Good cause exists when there is a possible threat that hazardous material being transported in commerce may be used in an attack on people or property, and notice and public procedure are impracticable or contrary to the public interest.

[''(2) An emergency waiver of preemption shall remain in effect for no more than 6 months unless, prior to its expiration, the Secretary determines that a possible threat that hazardous material being transported in commerce may be used in an attack on people or property continues to exist.

[''(3) An action of the Secretary under paragraphs (1) and (2) of this subsection shall be in writing and shall describe the standards and procedures for seeking reconsideration of the Secretary's action.

[''(4) After taking action under paragraphs (1) or (2) of this subsection, the Secretary shall provide an opportunity for review of that action if a petition for reconsideration is filed within 20 calendar days after the Secretary issues or extends an emergency waiver.

[''(5) If a petition for reconsideration is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the emergency waiver will cease to be effective at the end of that period unless the Secretary determines, in writing, that a possible threat that hazardous material being transported in commerce may be used in an attack on people or property continues to exist.

[''(i) INDEPENDENT APPLICATION OF EACH STANDARD.—Each preemption standard in subsections (b), (c)(1), (d), and (e) of this section and in section 5119(b) of this chapter is independent in its application to a requirement of any State, political subdivision of a State, or Indian tribe.

[''(j) NONFEDERAL ENFORCEMENT STANDARDS.—This section does not apply to procedure, penalty, or required mental state or other standard used by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to transportation of a hazardous material.''.

[SEC. 7312. JUDICIAL REVIEW.

[Chapter 51 of title 49, United States Code, is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

"§ 5127. Judicial review

[''(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person suffering legal wrong or adversely affected or aggrieved by a final action of the Secretary of Transportation under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary's action becomes final.

[''(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

[''(c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in the Administrative Procedure Act, 5 U.S.C. 551 et seq., to affirm or set aside any part of the Secretary's final action and may order the Secretary to conduct further proceedings. Findings of fact by the Secretary, if supported by substantial evidence, are conclusive.

[''(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.''.

[(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

[''5127. Judicial review.

[''5128. Authorization of appropriations.''.

[Subtitle D—Sanitary Food Transportation

[SEC. 7401. SHORT TITLE.

[This Subtitle may be cited as the ''Sanitary Food Transportation Act of 2003''.

[SEC. 7402. RESPONSIBILITIES OF THE SECRETARY OF HEALTH AND HUMAN SERVICES.

[(a) UNSANITARY TRANSPORT DEEMED ADULTERATION.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following new subsection:

[''(i) If it is transported under conditions that are not in compliance with the sanitary transportation practices prescribed by the Secretary under section 416.''.

[(b) SANITARY TRANSPORTATION REQUIREMENTS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following new section:

"§ 416. Sanitary transportation of food

[''(a) SANITARY TRANSPORTATION PRACTICES.—The Secretary shall establish by regulation sanitary transportation practices which shippers, carriers, receivers, and other

persons engaged in the transportation of food shall be required to follow to ensure that the food is not transported under conditions that may render it adulterated, including such practices as the Secretary may find appropriate relating to—

[''(1) sanitation;

[''(2) packaging, isolation, and other protective measures;

[''(3) limitations on the use of vehicles;

[''(4) information to be disclosed—

[''(A) to a carrier by a person arranging for the transport of food, and

[''(B) to a manufacturer or other persons arranging for the transport of food by a carrier or other person furnishing a tank or bulk vehicle for the transport of food; and

[''(5) recordkeeping.

[''(b) LIST OF UNACCEPTABLE NONFOOD PRODUCTS.—The Secretary, by publication in the Federal Register, may establish and periodically amend—

[''(1) a list of nonfood products that the Secretary determines may, if shipped in a tank or bulk vehicle, render adulterated food transported subsequently in such vehicle; and

[''(2) a list of nonfood products that the Secretary determines may, if shipped in a motor or rail vehicle (other than a tank or bulk vehicle), render adulterated food transported simultaneously or subsequently in such vehicle.

[''(c) WAIVER AUTHORITY.—

[''(1) IN GENERAL.—The Secretary may waive all or part of this section, or any requirement under this section, with respect to any class of persons, of vehicles, of food, or of nonfood products, if the Secretary determines that such waiver—

[''(A) will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

[''(B) will not be contrary to the public interest or this Act.

[''(2) PUBLICATION.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

[''(d) PREEMPTION.—

[''(1) IN GENERAL.—No State or political subdivision of a State may directly or indirectly establish or continue in effect, as to any food in interstate commerce, any authority or requirement concerning that transportation of food that is not identical to the requirement of this section.

[''(2) EFFECTIVE DATE.—The provisions of this subsection apply only with respect to transportation occurring on or after the effective date of regulations prescribed under subsection (a).

[''(e) ASSISTANCE OF OTHER AGENCIES.—The Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies, as appropriate, shall provide assistance upon request, to the extent resources are available, to the Secretary of Health and Human Services for the purposes of carrying out this section.

[''(f) DEFINITIONS.—For purposes of the section:

[''(1) The term 'transportation' means any movement of property in commerce by motor vehicle or rail vehicle.

[''(2) The term 'tank or bulk vehicle' includes any vehicle in which food is shipped in bulk and in which the food comes directly into contact with the vehicle, including tank trucks, hopper trucks, rail tank cars, hopper cars, cargo tanks, portable tanks, freight containers, or hopper bins.''.

[(c) INSPECTION OF TRANSPORTATION RECORDS.—

[(1) REQUIREMENT.—Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by inserting after section 703 the following new section:

[''§ 703A. Food transportation records

[''Shippers, carriers by motor vehicle or rail vehicle, and other persons subject to section 416 shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee, at reasonable times, to have access to and to copy all records that the Secretary requires them to make or retain under section 416(a)(5) of this Act.''.

[(2) CONFORMING AMENDMENT.—Section 703 of the Act (21 U.S.C. 373) is amended by striking ''in the usual course of business as carriers.'' and inserting ''in the usual course of business as carriers, unless otherwise explicitly provided.''.

[(d) PROHIBITED ACTS.—

[(1) RECORDS INSPECTION.—Section 301(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended—

[(A) by striking ''or 703'' and inserting '', 703, or 703A''; and

[(B) by inserting ''416,'' before ''504''.

[(2) UNSAFE FOOD TRANSPORTATION.—Section 301 of the Act (21 U.S.C. 331) is further amended by adding at the end the following new subsection:

[''(gg) The failure, by a shipper, carrier, receiver, or any other person engaged in the transportation of food, to comply with the sanitary transportation practices prescribed by the Secretary under section 416.''.

[SEC. 7403. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.

[Chapter 57 of title 49, relating to sanitary food transportation is revised to read as follows:

[''CHAPTER 57—SANITARY FOOD TRANSPORTATION

[''Sec.

[''5701. Food transportation safety inspections.

[''§ 5701. Food transportation safety inspections

[''(a) INSPECTION PROCEDURES.—

[''(1) The Secretary of Transportation, in consultation with the Secretaries of Health and Human Services and Agriculture, shall establish procedures to be used in performing transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of food that may violate regulations issued under section 416 of title 21, United States Code, and of meat and poultry products subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672) and section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a), and shall train personnel of the Department of Transportation in the appropriate use of such procedures.

[''(2) The procedures established under paragraph (1) of this subsection shall apply, at a minimum, to the Department of Transportation personnel who perform commercial motor vehicle and railroad safety inspections.

[''(b) NOTIFICATION OF SECRETARIES OF HEALTH AND HUMAN SERVICES AND AGRICULTURE.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential food contamination or adulteration of a food identified during transportation safety inspections.

[''(c) USE OF STATE EMPLOYEES.—The means by which the Secretary of Transportation carries out subsection (b) of this section may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104 of this title.''.

[SEC. 7404. EFFECTIVE DATE OF THE SUBTITLE.

[Unless otherwise specified, the provisions of this title are effective October 1, 2003.

[Subtitle E—Sport Fishing and Boating Safety

[SEC. 7501. SPORT FISH RESTORATION ACCOUNT AMENDMENTS.

[(a) IN GENERAL.—Section 4 of the Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes'' (August 9, 1950)(16 U.S.C. 777c) is amended—

[(1) in subsection (b),

[(A) by striking ''2003'' each place it appears and inserting ''2009''; and

[(B) by striking ''Secretary of Transportation'' each place it appears and inserting ''Secretary of Homeland Security''; and

[(2) in subsection (c)(5), by striking ''fiscal year 2003'' and inserting ''fiscal years 2003 through 2009''.

[(b) CLEAN MARINA INITIATIVES.—To further enhance the natural environment, Federal agencies administering programs funded under the Aquatic Resources Trust Fund should promote, to the extent practicable, ''Clean Marina Initiatives'' in each of the following programs:

[(1) Clean Vessel Act ''Pumpout'' Program.

[(2) Boating Infrastructure Grant Program.

[(3) National Outreach and Communications Program.

[(4) Recreational Boating Access Facilities.

[TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE AND BUDGET OFFSETS

[SEC. 8101. DISCRETIONARY SPENDING CATEGORIES.

[(a) DEFINITION OF HIGHWAY CATEGORY AND MASS TRANSIT CATEGORY.—

[(1) Section 250(c)(4)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by—

[(A) striking ''Transportation Equity Act for the 21st Century'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003''; and

[(B) adding after item (iv) the following new clauses:

[''(v) 69–8158–0–7–401 (Motor Carrier Safety Grants).

[''(vi) 69–8159–0–7–401 (Motor Carrier Safety Operations and Programs).''.

[(2) Section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended to read as follows:

[''(C) The term 'mass transit category' refers to the following budget accounts or portions thereof that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 or for which appropriations are provided pursuant to authorizations contained in that Act:

[''(i) 69–1120–0–1–401 (Administrative Expenses).

[''(ii) 69–1134–0–1–401 (Capital Investment Grants).

[''(iii) 69–8191–0–7–401 (Discretionary Grants).

[''(iv) 69–1129–0–1–401 (Formula Grants).

[''(v) 69–8303–0–7–401 (Formula Grants and Research).

[''(vi) 69–1127–0–1–401 (Interstate Transfer Grants—Transit).

[''(vii) 69–1125–0–1–401 (Job Access and Reverse Commute).

[''(viii) 69–1122–0–1–401 (Miscellaneous Expired Accounts).

[''(ix) 69–1139–0–1–401 (Major Capital Investment Grants).

[''(x) 69–1121–0–1–401 (Research, Training and Human Resources).

[''(xi) 69–8350–0–7–401 (Trust Fund Share of Expenses).

[''(xii) 69–1137–0–1–401 (Transit Planning and Research).

[''(xiii) 69–1136–0–1–401 (University Transportation Research).

[''(xiv) 69–1128–0–1–401 (Washington Metropolitan Area Transit Authority).''.

[(b) CONTINUATION OF SEPARATE CATEGORIES.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new paragraphs:

[''(8) with respect to fiscal year 2004—

[''(A) for the highway category: $29,990,000,000 in outlays; and

[''(B) for the mass transit category: $6,909,000,000 in outlays.

[''(9) with respect to fiscal year 2005—

[''(A) for the highway category: $30,589,000,000 in outlays; and

[''(B) for the mass transit category: $6,462,000,000 in outlays.

[''(10) with respect to fiscal year 2006—

[''(A) for the highway category: $31,249,000,000 in outlays; and

[''(B) for the mass transit category: $6,070,000,000 in outlays.

[''(11) with respect to fiscal year 2007—

[''(A) for the highway category: $32,402,000,000 in outlays; and

[''(B) for the mass transit category: $5,843,000,000 in outlays.

[''(12) with respect to fiscal year 2008—

[''(A) for the highway category: $33,358,000,000 in outlays; and

[''(B) for the mass transit category: $6,374,000,000 in outlays.

[''(13) with respect to fiscal year 2009—

[''(A) for the highway category: $34,109,000,000 in outlays; and

[''(B) for the mass transit category: $6,470,000,000 in outlays.''.

[(c) HIGHWAY FUNDING REVENUE ALIGNMENT.—Section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) is amended—

[(1) in clause (i),

[(A) by inserting ''for fiscal year 2006, 2007, 2008, or 2009'' after ''submits the budget'';

[(B) by inserting ''the obligation limitation and outlay limit for'' after ''adjustments to'';

[(C) by striking ''provided in clause (ii)(I)(cc).'' and substituting ''follows:''; and

[(D) by inserting the following at the end:

[''(I) OMB shall calculate the change in the obligation limitation for the highway category for the budget year by taking the actual level of highway receipts for the year before the current year and subtracting the sum of the estimated level of highway receipts in clause (iii) plus any amount previously calculated under clause (ii) for that year.

[''(II) OMB shall take the amount calculated under subclause (I) and add that amount to the obligation limitation set forth in section 8102(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the obligation limitation set forth in that section for the budget year by adding the amount calculated under subclause (I).'';

[(2) by striking clause (ii) and substituting the following:

[''(ii) When the President submits the supplementary budget estimates for fiscal year 2006, 2007, 2008, or 2009, under section 1106 of title 31, United States Code, OMB's Mid-Session Review shall include adjustments to the obligation limitation and outlay limit for the highway category for the budget year and each outyear as follows:

[''(I) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of highway receipts in clause (iii) for that year.

[''(II) OMB shall take the amount calculated under subclause (I) and add that amount to the amount of obligations set forth in section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the highway category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the amount of obligations set forth in that section for the budget year by adding the amount calculated under subclause (I).''; and

[(3) by inserting the following at the end:

[''(iii) The estimated level of highway receipts for the purposes of this subparagraph are—

[''(I) for fiscal year 2004, $30,119,000,000;

[''(II) for fiscal year 2005, $31,109,000,000;

[''(III) for fiscal year 2006, $32,191,000,000;

[''(IV) for fiscal year 2007, $33,146,000,000;

[''(V) for fiscal year 2008, $34,018,000,000; and

[''(VI) for fiscal year 2009, $34,844,000,000.

[''(iv) In this subparagraph, the term ''highway receipts'' means the governmental receipts credited to the highway account of the Highway Trust Fund.''.

[(d) TRANSIT FUNDING REVENUE ALIGNMENT.—Section 251(b)(1)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(C)) is amended to read as follows:

[''(C) ADJUSTMENT TO ALIGN MASS TRANSIT SPENDING WITH REVENUES.—

[''(i) When the President submits the budget for fiscal year 2006, 2007, 2008, or 2009, under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include adjustments to the obligation limitation and outlay limit for the mass transit category for the budget year and each outyear as follows:

[''(I) OMB shall calculate the change in the obligation limitation for the mass transit category for the budget year by taking the actual level of mass transit receipts for the year before the current year and subtract the sum of the estimated level of mass transit receipts in clause (iii) plus any amount previously calculated under clause (ii) for that year.

[''(II) OMB shall take the amount calculated under subclause (I) and add that amount to the amount of obligation limitation set forth in section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the mass transit category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the obligation limitation set forth in that section for the budget year by adding the amount calculated under subclause (I).

[''(ii) When the President submits the supplementary budget estimates for fiscal year 2006, 2007, 2008, or 2009, under section 1106 of title 31, United States Code, OMB's Mid-Session Review shall include adjustments to the obligation limitation and outlay limit for the mass transit category for the budget year and each outyear as follows:

[''(I) OMB shall take the current estimate of mass transit receipts for the current year and subtract the estimated level of mass transit receipts in clause (iii) for that year.

[''(II) OMB shall take the amount calculated under subclause (I) and add that amount to the obligation limitation set forth in section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the mass transit category for the budget year, and calculate the outlay change resulting from that change in obligations relative to that amount for the budget year and each outyear using current estimates. After making the calculation under the preceding sentence, OMB shall adjust the obligation limitation set forth in that section for the budget year by adding the amount calculated under subclause (I).

[''(iii) The estimated level of mass transit receipts for the purposes of this subparagraph are—

[''(I) for fiscal year 2004, $4,793,000,000;

[''(II) for fiscal year 2005, $4,926,000,000;

[''(III) for fiscal year 2006, $5,050,000,000;

[''(IV) for fiscal year 2007, $5,164,000,000;

[''(V) for fiscal year 2008, $5,270,000,000; and

[''(VI) for fiscal year 2009, $5,377,000,000.

[''(iv) In this subparagraph, the term ''mass transit receipts'' means the governmental receipts credited to the Mass Transit Account of the Highway Trust Fund.''.

[(e) ADDITIONAL ADJUSTMENTS.—Section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)) is further amended—

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

[(2) in subparagraph (E)(i) as redesignated—

[(A) by striking ''1999'' and substituting ''2005;

[(B) by striking ''2000'' and substituting ''2006'';

[(C) by striking ''2003'' and substituting ''2009; and

[(D) by striking ''section 8103 of the Transportation Equity Act for the 21st Century'' and substituting ''section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003'';

[(3) in subparagraph (E)(ii) as redesignated—

[(A) by striking ''2000, 2001, 2002, or 2003'' and substituting ''2006, 2007, 2008, and 2009; and

[(B) by striking ''by subparagraphs (B) and (C)'' and substituting ''made by subparagraphs (B), (C), and (D)'';

[(4) in subparagraph (F) as redesignated, by striking ''(B) and (C)'' and substituting ''(B), (C), and (D)''; and

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

[''(D) In addition to the adjustments required by subparagraphs (B) and (C), when the President submits the budget for fiscal year 2006, 2007, 2008, or 2009, under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—

[''(i) the outlays for the applicable category calculated assuming obligation levels consistent with the estimates prepared pursuant to subparagraph (E), as adjusted, using current technical assumptions; minus

[''(ii) the outlays for the applicable category set forth in the subparagraph (E) estimates, as adjusted.''.

[(f) ENFORCEMENT OF GUARANTEE.—Rule XXI of the Rules of the House of Representatives is amended by striking ''section 8103 of the Transportation Equity Act for the 21st Century'' in clause 3 and substituting ''section 8102 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003''.

[SEC. 8102. LEVEL OF OBLIGATION LIMITATIONS.

[(a) HIGHWAY CATEGORY.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the

level of obligation limitations for the highway category is—

[(1) for fiscal year 2004, $30,280,000,000;

[(2) for fiscal year 2005, $31,270,000,000;

[(3) for fiscal year 2006, $32,352,000,000;

[(4) for fiscal year 2007, $33,307,000,000;

[(5) for fiscal year 2008, $34,179,000,000; and

[(6) for fiscal year 2009, $35,005,000,000.

[(b) MASS TRANSIT CATEGORY.—

[(1) For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the mass transit category is—

[(A) for fiscal year 2004, $5,936,000,000;

[(B) for fiscal year 2005, $6,054,720,000;

[(C) for fiscal year 2006, $6,180,659,000;

[(D) for fiscal year 2007, $6,319,723,000;

[(E) for fiscal year 2008, $6,475,820,000; and

[(F) for fiscal year 2009, $6,633,183,000.

[(2) For purposes of this subsection, the term ''obligation limitations'' means the sum of budget authority and obligation limitations.

[SEC. 8103. EFFECTIVENESS OF TITLE.

[This title, and the amendments made by this title, become effective on the day that section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 comes into effect after the enactment of this Act.

[TITLE IX—AMENDMENTS OF INTERNAL REVENUE CODE OF 1986

[SEC. 9001. SHORT TITLE; AMENDMENT OF 1986 CODE.

[(a) SHORT TITLE.—This title may be cited as the ''Surface Transportation Revenue 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.

[SEC. 9002. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUSTFUND.

[(a) EXTENSION OF TAXES.—

[(1) IN GENERAL.—The following provisions are each amended by striking ''2005'' each place it appears and inserting ''2011'':

[(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).

[(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 ''2011'', and

[(B) by striking ''2006'' each place it appears and inserting ''2012''.

[(b) EXTENSION OF CERTAIN EXEMPTIONS.—The following provisions are each amended by striking ''2005'' and inserting ''2011'':

[(1) Section 4221(a) (relating to certain tax-free sales).

[(2) Section 4483(g) (relating to termination of exemptions for highway use tax).

[(c) EXTENSION OF DEPOSITS INTO, AND CERTAIN TRANSFERS FROM, TRUST FUND.—Subsections (b), (c)(2), and (c)(3) of section 9503 (relating to the Highway Trust Fund) are amended—

[(1) by striking ''2005'' each place it appears and inserting ''2011'', and

[(2) by striking ''2006'' each place it appears and inserting ''2012''.

[(d) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUND.—

[(1) HIGHWAY ACCOUNT.—Section 9503 is amended by striking subsection (c)(1) and inserting the following:

[''(1) FEDERAL-AID HIGHWAY AND SAFETY PROGRAMS.—Except as provided in subsection (e), amounts in the Highway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures authorized by law to be paid out of the Highway Trust Fund before October 1, 2011, to meet those obligations of the United States heretofore or hereafter incurred under the following Acts, as in effect on the date of enactment of the last Act listed:

[''(A) The Highway Revenue Act of 1956.

[''(B) The Surface Transportation Assistance Act of 1982.

[''(C) The Surface Transportation and Uniform Relocation Assistance Act of 1987.

[''(D) The Intermodal Surface Transportation Efficiency Act of 1991.

[''(E) The Transportation Equity Act for the 21st Century.

[''(F) The Motor Carrier Safety Improvement Act of 1999.

[''(G) The Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.''.

[(2) MASS TRANSIT ACCOUNT.—Section 9503(e)(3) is amended to read as follows:

[''(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Mass Transit Account shall be available, as provided by appropriation Acts, for making capital or capital-related expenditures before October 1, 2011 (including capital expenditures for new projects) in accordance with the following Acts and provisions of law, as in effect on the date of enactment of the last Act listed:

[''(A) Section 5338(a)(1) or (b)(1) of title 49.

[''(B) The Intermodal Surface Transportation Efficiency Act of 1991.

[''(C) The Transportation Equity Act for the 21st Century.

[''(D) The Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.''.

[SEC. 9003. EXTENSION OF TAX BENEFITS FOR ALCOHOL FUELS.

[(a) EXTENSION OF TAX BENEFITS.—

[(1) EXTENSION.—The following provisions are each amended by striking ''2007'' each place it appears and inserting ''2014'':

[(A) Section 4041(b)(2)(C)(ii) and (D) (relating to termination of reduction in tax for qualified methanol and ethanol fuel).

[(B) Section 4041(k)(3) (relating to termination of rates relating to fuels containing alcohol).

[(C) Section 4081(c)(8) (relating to termination of special rate for taxable fuels mixed with alcohol).

[(D) Section 4091(c)(5) (relating to termination of reduced rate of tax for aviation fuel in alcohol mixture, etc.).

[(E) Section 40(h) (relating to termination of credit for ethanol blenders).

[(2) EXTENSION OF REFUND AUTHORITY.—Paragraph (4) of section 6427(f) (relating to refund for gasoline, diesel fuel, and aviation fuel used to produce certain alcohol fuels), as amended by the Taxpayer Relief Act of 1997, is amended by striking ''2007'' and inserting ''2012''.

[(3) CREDIT FOR ALCOHOL USED AS A FUEL.—Paragraph (1) of section 40(e) (relating to termination of credit for alcohol used as a fuel) is amended—

[(A) by striking ''December 31, 2007'' in subparagraph (A) and inserting ''December 31, 2014'', and

[(B) by striking ''January 1, 2008'' and inserting ''January 1, 2015''.

[(4) TARIFF SCHEDULE.—Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are each amended in the effective period column by striking ''10/1/2007'' each place it appears and inserting ''10/1/2014''.

[(b) CONFORMING AMENDMENTS.—

[(1) AMOUNT OF REDUCED CREDIT FOR ETHANOL BLENDERS.—The table in paragraph (2) of 40(h) is amended by striking ''2005, 2006, or 2007'' and inserting ''2005 through 2014''.

[(2) APPLICABLE BLENDER RATE FOR EXEMPTED QUALIFIED METHANOL AND ETHANOL FUEL.—Section 4041(b)(2)(C) is amended by striking ''2001'' and inserting ''2008''.

[SEC. 9004. PRIVATE ACTIVITY BONDS FOR SURFACE TRANSPORTATION INFRASTRUCTURE.

[(a) EXEMPT FACILITY BONDS.—Section 142 is amended—

[(1) in subsection (a) by—

[(A) striking ''or'' at the end of paragraph (12);

[(B) striking the period at the end of paragraph (13) and inserting a comma; and

[(C) adding after paragraph (13) the following new paragraphs:

[''(14) highway facilities, or

[''(15) surface freight transfer facilities.''; and

[(2) by adding new subsections (l), (m), and (n) at the end, as follows:

[''(l) HIGHWAY FACILITIES.—For purposes of subsection (a)(14), the term 'highway facilities' means—

[''(1) a surface transportation project eligible for Federal assistance under title 23, United States Code (as in effect on the date of enactment of this subsection), or

[''(2) a project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible.

[''(m) SURFACE FREIGHT TRANSFER FACILITIES.—For purposes of subsection (a)(15), the term ''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).

[''(n) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING FOR HIGHWAY FACILITIES AND SURFACE FREIGHT TRANSFER FACILITIES.

[''(1) IN GENERAL.—The aggregate face amount of bonds issued pursuant to subsections (a)(14) (relating to highway facilities) and (a)(15) (relating to surface freight transfer facilities) shall not exceed $15,000,000,000, determined without regard to any bond the proceeds of which are used exclusively to refund a bond issued pursuant to either of such subsections (or a bond which is a part of a series of refundings of a bond so issued) if the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

[''(2) ALLOCATION.—The Secretary of Transportation shall allocate the amount described in paragraph (1) among eligible projects satisfying the requirements of subsection (a)(14) or (a)(15).''.

[(b) VOLUME CAP, EXCEPTION FOR CERTAIN BONDS.—Section 146(g) is amended in paragraph (3), by—

[(1) striking ''(12), or (13)'' and inserting ''(12), (13), (14), or (15)''; and

[(2) striking ''and qualified public educational facilities'' and inserting ''qualified public educational facilities, highway facilities, and surface freight transfer facilities''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

[SEC. 9005. ALL ALCOHOL FUEL TAXES TRANSFERRED TO HIGHWAY TRUST FUND.

[(a) IN GENERAL.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended—

[(1) by adding ''or'' at the end of subparagraph (C);

[(2) in subparagraph (D)(iii), by striking '', and'' after ''2005'' and inserting a period; and

[(3) by striking subparagraphs (E) and (F).

[(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes imposed after September 30, 2003.

[SEC. 9006. TRANSFER FROM HIGHWAY TRUST FUND TO BOAT SAFETY ACCOUNT.

[(a) IN GENERAL.—Section 9503(c)(4)(A) is amended by striking ''2005'' and inserting ''2011''.

[(b) 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. 4601–11(b)) is amended—

[(1) by striking ''2003'' and inserting ''2009'', and

[(2) by striking ''2004'' each place it appears and inserting ''2010''.

[(c) TECHNICAL CORRECTION TO HOMELAND SECURITY ACT.—Section 1511(e)(2) of the Homeland Security Act of 2002 (Public Law No. 107–296) is amended by striking ''and to any funds provided to the Coast Guard from the Aquatic Resources Trust Fund of the Highway Trust Fund for boating safety programs'', and inserting ''and any funds provided to the Coast Guard from the Highway Trust Fund and transferred into the Boat Safety Account of the Aquatic Resources Trust Fund for boating safety programs.''.

[(d) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Section 9504(c) is amended by striking ''2003'' and inserting ''2009''.

[SEC. 9007. EXTENSION OF SMALL-ENGINE FUEL TAXES TRANSFERRED TO SPORT FISH RESTORATION ACCOUNT.

[Section 9503(c)(5)(A) is amended by striking the year ''2005'' and inserting ''2011''.

[SEC. 9008. TECHNICAL CORRECTION.

[The last sentence of paragraph (2) of section 9504(b) is amended by striking ''subparagraph (B)'', and inserting ''subparagraph (C)''.

[SEC. 9009. TRANSFER BY REGISTERED PIPELINE, VESSEL, OR BARGE REQUIRED FOR FUEL TAX EXEMPTION OF BULK TRANSFERS TO REGISTERED TERMINALS OR REFINERIES; DISPLAY OF REGISTRATION REQUIREMENT.

[(a) IN GENERAL.—Section 4081(a)(1)(B) (relating to exemption for bulk transfers to registered terminals or refineries) is amended by inserting '', bulk carrier,'' after ''the taxable fuel''.

[(b) CIVIL PENALTY FOR CARRYING TAXABLE FUELS BY NONREGISTERED PIPELINES OR VESSELS.—

[(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:

[''§ 6717. Failure to register under section 4101

[''(a) FAILURE TO REGISTER.—Any person who fails to register with the Secretary as required by regulations under section 4101 shall pay a penalty of $1,000 for each day during the period of such failure in which such person engages in an activity for which registration is required.

[''(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.''.

[(2) CONFORMING 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:

[''6717. Failure to register under section 4101.''.

[(c) DISPLAY OF REGISTRATION.—

[(1) IN GENERAL.—Section 4101 (relating to registration and bond) is amended by adding at the end the following new subsection:

[''(e) DISPLAY OF REGISTRATION.—Every vessel operator required by the Secretary to register under this section with respect to the tax imposed by section 4081 shall display proof of such registration in such manner as the Secretary may prescribe.''.

[(2) CIVIL PENALTY FOR FAILURE TO DISPLAY REGISTRATION.—

[(A) 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:

[''§ 6718. Failure to display proof of registration by vessels or barges

[''(a) FAILURE TO DISPLAY PROOF OF REGISTRATION.—Every vessel operator who fails to display proof of registration when required to do so pursuant to section 4101(e) 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 or operator, subsection (a) shall be applied by increasing the amount imposed 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).''.

[(B) CONFORMING 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:

[''6718. Failure to display proof of registration by vessels or barges.''.

[(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of enactment of this Act.

[SEC. 9010. RETURNS FILED ELECTRONICALLY.

[(a) INFORMATION REPORTING.—Section 4101(d) (relating to information reporting) is amended to read as follows:

[''(d) INFORMATION REPORTING.—

[''(1) The Secretary may require—

[''(A) information reporting by any person registered under this section, and

[''(B) information reporting by such other persons as the Secretary deems necessary to carry out this part.

[''(2) Information reporting required by the Secretary under paragraph (1) of this subsection shall be by electronic format for any person having at least 25 reportable transactions in a month.''.

[(b) USE TAX ON CERTAIN VEHICLES.—Section 4481(b) is amended by adding the following new sentence at the end: ''Any return of tax imposed by this section reporting at least 25 vehicles shall be filed by electronic format.''.

[(c) ELECTRONIC FORMAT.—The Secretary of the Treasury shall describe the electronic formats for filing under subsections (a) and (b) not later than 90 days after the date of the enactment of this Act.

[(d) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns due after the date the Secretary of the Treasury describes the electronic format for filing under subsection (a) and the amendment made by subsection (b) shall apply to returns due after the date the Secretary of the Treasury describes the electronic format for filing under subsection (b).

[SEC. 9011. CIVIL PENALTY FOR REFUSAL OF ENTRY.

[(a) Section 4083(c)(3) is amended by adding at the end a new sentence as follows: ''For purposes of this subsection, the penalty provided by section 7342 shall be treated as an assessable penalty and assessed in accordance with section 6671.''.

[(b) EFFECTIVE DATE.— The amendments made by this section shall take effect 90 days after the date of enactment of this Act.

[SEC. 9012. REQUIREMENT OF TAX PAYMENT DECAL; ELIMINATION OF INSTALLMENT PAYMENTS OF HIGHWAY USE TAX.

[(a) DISPLAY OF PROOF OF PAYMENT OF TAX.—Section 4481(b) (relating to imposition of tax on use of certain highway motor vehicles) is amended by adding a sentence at the end as follows: ''Every person, agency, or instrumentality who has paid the tax imposed by this section shall display proof of such payment in a manner as the Secretary may prescribe.''.

[(b) CIVIL PENALTY FOR FAILURE TO DISPLAY PROOF OF TAX PAYMENT DECAL.—

[(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:

[''§ 6719. Failure to display proof of tax payment decal

[''(a) IMPOSITION OF PENALTY.—Each person, agency, or instrumentality who fails to display proof of payment of tax when required to do so pursuant to the last sentence of section 4481(b) (relating to the display of proof of payment of tax) shall pay a penalty of $50. With respect to any vehicle, 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, agency, or instrumentality, subsection (a) shall be applied by increasing the amount imposed in subsection (a) by the product of such amount and the number of prior penalties (if any) imposed by this section on such person, agency, or instrumentality. ''.

[(2) CONFORMING 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:

[''6719. Failure to display proof of tax payment decal.''.

[(c) ELIMINATION OF PRIVILEGE TO PAY HIGHWAY USE TAX IN INSTALLMENTS.—

[(1) REPEAL.—Section 6156 (relating to the privilege to pay in installments the tax imposed under section 4481 of such Code on use of highway motor vehicles) is repealed.

[(2) CONFORMING AMENDMENT.—The table of sections for subchapter A of chapter 62 is amended by striking the item relating to section 6156.

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

[SEC. 9013. ADDITIONAL RULES REGARDING INSPECTIONS OF RECORDS.

[(a) PROVISION OF COPIES OF RECORDS.—Section 4102 (relating to inspection of records by local officers) is amended by inserting '', and copies shall be furnished upon request of,'' after ''inspection by''.

[(b) INSPECTION BY OTHER ENFORCEMENT AGENCIES.—Section 4102 of the Internal Revenue Code of 1986, as amended by subsection (a), is amended by inserting ''; such records and information on returns required to be

filed with respect to taxes under section 4481 shall be open to inspection by officers of any State agency charged with the registration and licensing of vehicles described in such section and officers of any other Federal or State agency charged with the enforcement of Federal or State law regarding taxable fuels or criminal activities regarding taxable fuels'' after ''section 4083)''.

[(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Safe, Accountable, Flexible, and Efficient Transportation Equity 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. General definitions.
Sec. 3. Definitions for title 23.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

Sec. 1101. Authorization of appropriations.
Sec. 1102. Obligation ceiling.
Sec. 1103. Apportionments.
Sec. 1104. Minimum guarantee.
Sec. 1105. Revenue aligned budget authority.

Subtitle B—New Programs

Sec. 1201. Infrastructure performance and maintenance program.
Sec. 1202. Future of surface transportation system.
Sec. 1203. Freight transportation gateways; freight intermodal connections.
Sec. 1204. Construction of ferry boats and ferry terminal facilities.
Sec. 1205. Designation of Daniel Patrick Moynihan Interstate Highway.

Subtitle C—Finance

Sec. 1301. Federal share.
Sec. 1302. Transfer of highway and transit funds.
Sec. 1303. Transportation Infrastructure Finance and Innovation Act Amendments.
Sec. 1304. Facilitation of international registration plans and international fuel tax agreements.
Sec. 1305. National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System.
Sec. 1306. State infrastructure banks.

Subtitle D—Safety

Sec. 1401. Highway safety improvement program.
Sec. 1402. Operation lifesaver.
Sec. 1403. License suspension.
Sec. 1404. Bus axle weight exemption.
Sec. 1405. Safe routes to schools program.
Sec. 1406. Purchases of equipment.
Sec. 1407. Workzone safety.
Sec. 1408. Worker injury prevention and free flow of vehicular traffic.

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

Sec. 1501. Integration of natural resource concerns into State and metropolitan transportation planning.
Sec. 1502. Consultation between transportation agencies and resource agencies in transportation planning.
Sec. 1503. Integration of natural resource concerns into transportation project planning.
Sec. 1504. Public involvement in transportation planning and projects.
Sec. 1505. Project mitigation.

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

Sec. 1511. Transportation project development process.
Sec. 1512. Assumption of responsibility for categorical exclusions.
Sec. 1513. Surface transportation project delivery pilot program.
Sec. 1514. Regulations.

CHAPTER 3—MISCELLANEOUS

Sec. 1521. Critical real property acquisition.
Sec. 1522. Planning capacity building initiative.

Subtitle F—Environment

Sec. 1601. Environmental restoration and pollution abatement; control of invasive plant species and establishment of native species.
Sec. 1602. National scenic byways program.
Sec. 1603. Recreational trails program.
Sec. 1604. Exemption of Interstate System.
Sec. 1605. Standards.
Sec. 1606. Use of high occupancy vehicle lanes.
Sec. 1607. Bicycle transportation and pedestrian walkways.
Sec. 1608. Idling reduction facilities in interstate rights-of-way.
Sec. 1609. Toll programs.
Sec. 1610. Federal reference method.
Sec. 1611. Addition of particulate matter areas to CMAQ.
Sec. 1612. Addition to CMAQ-eligible projects.
Sec. 1613. Improved interagency consultation.
Sec. 1614. Evaluation and assessment of CMAQ projects.
Sec. 1615. Synchronized planning and conformity timelines, requirements, and horizon.
Sec. 1616. Transition to new air quality standards.
Sec. 1617. Reduced barriers to air quality improvements.
Sec. 1618. Air quality monitoring data influenced by exceptional events.
Sec. 1619. Conforming amendments.
Sec. 1620. Highway stormwater discharge mitigation program.

Subtitle G—Operations

Sec. 1701. Transportation systems management and operations.
Sec. 1702. Real-time system management information program.

Subtitle H—Federal-Aid Stewardship

Sec. 1801. Future Interstate System routes.
Sec. 1802. Stewardship and oversight.
Sec. 1803. Design-build contracting.
Sec. 1804. Program efficiencies—finance.
Sec. 1805. Set-asides for interstate discretionary projects.
Sec. 1806. Federal lands highways program.
Sec. 1807. Emergency relief.
Sec. 1808. Highway bridge program.
Sec. 1809. Appalachian development highway system.
Sec. 1810. Multistate corridor program.
Sec. 1811. Border planning, operations, technology, and capacity program.
Sec. 1812. Puerto Rico highway program.
Sec. 1813. National historic covered bridge preservation.
Sec. 1814. Transportation and community and system preservation pilot program.
Sec. 1815. Tribal-State road maintenance agreements.
Sec. 1816. Forest highways.
Sec. 1817. Territorial highway program.
Sec. 1818. Magnetic levitation transportation technology deployment program.
Sec. 1819. Donations and credits.
Sec. 1820. Disadvantaged business enterprises.

Subtitle I—Technical Corrections

Sec. 1901. Repeal or update of obsolete text.
Sec. 1902. Clarification of date.
Sec. 1903. Inclusion of requirements for signs identifying funding sources in title 23.
Sec. 1904. Inclusion of Buy America requirements in title 23.
Sec. 1905. Technical amendments to nondiscrimination section.

TITLE II—TRANSPORTATION RESEARCH

Subtitle A—Funding

Sec. 2001. Authorization of appropriations.
Sec. 2002. Obligation ceiling.
Sec. 2003. Notice.

Subtitle B—Research and Technology

Sec. 2101. Research and technology program.
Sec. 2102. Study of data collection and statistical analysis efforts.
Sec. 2103. Centers for surface transportation excellence.

Subtitle C—Intelligent Transportation System Research

Sec. 2201. Intelligent transportation system research and technical assistance program.

TITLE III—INTERMODAL PASSENGER FACILITIES

Sec. 3002. Intermodal passenger facilities.

TITLE IV—FEDERAL AID IN SPORT FISH RESTORATION ACT AMENDMENTS

Sec. 4001. Amendment of Federal Aid in Fish Restoration Act.
Sec. 4002. Authorization of appropriations.
Sec. 4003. Division of annual appropriations.
Sec. 4004. Maintenance of projects.
Sec. 4005. Boating infrastructure.
Sec. 4006. Requirements and restrictions concerning use of amounts for expenses for administration.
Sec. 4007. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, Commonwealth of the Northern Marina Islands, and Virgin Islands.
Sec. 4008. Multistate conservation grant program.

SEC. 2. GENERAL DEFINITIONS.

In this Act:

(1) DEPARTMENT.—The term ''Department'' means the Department of Transportation.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

SEC. 3. DEFINITIONS FOR TITLE 23.

Section 101 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

''(a) DEFINITIONS.—In this title:

''(1) APPORTIONMENT.—The term 'apportionment' includes an unexpended apportionment made under a law enacted before the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.

''(2) CARPOOL PROJECT.—

''(A) IN GENERAL.—The term 'carpool project' means any project to encourage the use of carpools and vanpools.

''(B) INCLUSIONS.—The term 'carpool project' includes a project—

''(i) to provide carpooling opportunities to the elderly and individuals with disabilities;

''(ii) to develop and implement a system for locating potential riders and informing the riders of carpool opportunities;

''(iii) to acquire vehicles for carpool use;

''(iv) to designate highway lanes as preferential carpool highway lanes;

''(v) to provide carpool-related traffic control devices; and

''(vi) to designate facilities for use for preferential parking for carpools.

''(3) CONSTRUCTION.—

''(A) IN GENERAL.—The term 'construction' means the supervision, inspection, and actual building of, and incurring of all costs incidental to the construction or reconstruction of a highway, including bond costs and other costs relating to the issuance in accordance with section 122 of bonds or other debt financing instruments and costs incurred by the State in performing Federal-aid project related audits that directly benefit the Federal-aid highway program.

''(B) INCLUSIONS.—The term 'construction' includes—

''(i) locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with specifications of the National Oceanic and Atmospheric Administration);

''(ii) resurfacing, restoration, and rehabilitation;

''(iii) acquisition of rights-of-way;

''(iv) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

''(v) elimination of hazards of railway grade crossings;

''(vi) elimination of roadside obstacles;

''(vii) improvements that directly facilitate and control traffic flow, such as—

''(I) grade separation of intersections;

''(II) widening of lanes;

''(III) channelization of traffic;

''(IV) traffic control systems; and

''(V) passenger loading and unloading areas;

''(viii) capital improvements that directly facilitate an effective vehicle weight enforcement program, such as—

''(I) scales (fixed and portable);

''(II) scale pits;

''(III) scale installation; and

''(IV) scale houses;

''(ix) improvements directly relating to securing transportation infrastructures for detection, preparedness, response, and recovery;

''(x) operating costs relating to traffic monitoring, management, and control;

''(xi) operational movements; and

''(xii) transportation system management and operations.

''(4) COUNTY.—The term 'county' includes—

''(A) a corresponding unit of government under any other name in a State that does not have county organizations; and

''(B) in those States in which the county government does not have jurisdiction over highways, any local government unit vested with jurisdiction over local highways.

''(5) FEDERAL-AID HIGHWAY.—

''(A) IN GENERAL.—The term 'Federal-aid highway' means a highway eligible for assistance under this chapter.

''(B) EXCLUSIONS.—The term 'Federal-aid highway' does not include a highway classified as a local road or rural minor collector.

''(6) FEDERAL-AID SYSTEM.—The term 'Federal-aid system' means any of the Federal-aid highway systems described in section 103.

''(7) FEDERAL LANDS HIGHWAY.—The term 'Federal lands highway' means—

''(A) a forest highway;

''(B) a recreation road;

''(C) a public Forest Service road;

''(D) a park road;

''(E) a parkway;

''(F) a refuge road;

''(G) an Indian reservation road that is a public road; and

''(H) a public lands highway.

''(8) FOREST HIGHWAY.—The term 'forest highway' means a forest road that is—

''(A) under the jurisdiction of, and maintained by, a public authority; and

''(B) is open to public travel.

''(9) FOREST ROAD OR TRAIL.—

''(A) IN GENERAL.—The term 'forest road or trail' means a road or trail wholly or partly within, or adjacent to, and serving National Forest System land that is necessary for the protection, administration, use, and development of the resources of that land.

''(B) INCLUSIONS.—The term 'forest road or trail' includes—

''(i) a classified forest road;

''(ii) an unclassified forest road;

''(iii) a temporary forest road; and

''(iv) a public forest service road.

''(10) FREIGHT TRANSPORTATION GATEWAY.—

''(A) IN GENERAL.—The term 'freight transportation gateway' means a nationally or regionally significant transportation port of entry or hub for domestic and global trade or military mobilization.

''(B) INCLUSIONS.—The term 'freight transportation gateway' includes freight intermodal and Strategic Highway Network connections that provide access to and from a port or hub described in subparagraph (A).

''(11) HIGHWAY.—The term 'highway' includes—

''(A) a road, street, and parkway;

''(B) a right-of-way, bridge, railroad-highway crossing, tunnel, drainage structure, sign, guardrail, and protective structure, in connection with a highway; and

''(C) a portion of any interstate or international bridge or tunnel (including the approaches to the interstate or international bridge or tunnel, and such transportation facilities as may be required by the United States Customs Service and the Bureau of Citizenship and Immigration Services in connection with the operation of an international bridge or tunnel), the cost of which is assumed by a State transportation department.

''(12) HIGHWAY SAFETY IMPROVEMENT PROJECT.—The term 'highway safety improvement project' means a project that meets the requirements of section 148.

''(13) 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

''(iii) an Indian or Alaska Native village, group, or community.

''(14) INTERSTATE SYSTEM.—The term 'Interstate System' means the Dwight D. Eisenhower National System of Interstate and Defense Highways described in section 103(c).

''(15) 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.

''(16) 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)).

''(17) 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.

''(18) NATIONAL HIGHWAY SYSTEM.—The term 'National Highway System' means the Federal-aid highway system described in section 103(b).

''(19) 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.

''(20) 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.

''(21) 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.

''(22) PARKWAY.—The term 'parkway' means a parkway authorized by an Act of Congress on land to which title is vested in the United States.

''(23) 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.

''(24) PROJECT AGREEMENT.—The term 'project agreement' means the formal instrument to be executed by the Secretary and a State transportation department under section 106.

''(25) 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.

''(26) 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.

''(27) 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.

''(28) 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.

''(29) 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.

''(30) 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.

''(31) 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.

''(32) RURAL AREA.—The term 'rural area' means an area of a State that is not included in an urban area.

''(33) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

''(34) STATE.—The term 'State' means—

''(A) a State;

''(B) the District of Columbia; and

''(C) the Commonwealth of Puerto Rico.

''(35) 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.

''(36) 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.

''(37) 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.

''(38) 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) Conduct of 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.

''(39) 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.

''(40) URBAN AREA.—The term 'urban area' means—

''(A) an urbanized area (or, in the case of an urbanized area encompassing more than 1 State, the portion of the urbanized area in each State); and

''(B) an urban place designated by the Bureau of the Census that—

''(i) has a population of 5,000 or more;

''(ii) is not located within any urbanized area; and

''(iii) is located within boundaries that—

''(I) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

''(II) encompass, at a minimum, the entire urban place designated by the Bureau of the Census (except in the case of cities in the State of Maine and in the State of New Hampshire).

''(41) URBANIZED AREA.—The term 'urbanized area' means an area that—

''(A) has a population of 50,000 or more;

''(B) is designated by the Bureau of the Census; and

''(C) is located within boundaries that—

''(i) are fixed cooperatively by responsible State and local officials, subject to approval by the Secretary; and

''(ii) encompass, at a minimum, the entire urbanized area within a State as designated by the Bureau of the Census.''.

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Funding

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code—

(A) $5,500,000,000 for fiscal year 2004;

(B) $6,300,000,000 for fiscal year 2005; and

(C) $6,550,000,000 for each of fiscal years 2006 through 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title—

(A) $6,650,000,000 for fiscal year 2004;

(B) $7,650,000,000 for fiscal year 2005; and

(C) $7,950,000,000 for each of fiscal years 2006 through 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title—

(A) $4,700,000,000 for fiscal year 2004;

(B) $5,400,000,000 for fiscal year 2005; and

(C) $5,600,000,000 for each of fiscal years 2006 through 2009.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title—

(A) $6,950,000,000 for fiscal year 2004;

(B) $7,950,000,000 for fiscal year 2005; and

(C) $8,250,000,000 for each of fiscal years 2006 through 2009.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title—

(A) $1,900,000,000 for fiscal year 2004;

(B) $2,150,000,000 for fiscal year 2005; and

(C) $2,225,000,000 for each of fiscal years 2006 through 2009.

(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of that title—

(A) $1,200,000,000 for fiscal year 2004;

(B) $1,300,000,000 for fiscal year 2005; and

(C) $1,350,000,000 for each of fiscal years 2006 through 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 170 of that title, $590,000,000 for each of fiscal years 2004 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of that title, $60,000,000 for each of fiscal years 2004 through 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;

(ii) $325,000,000 for fiscal year 2005;

(iii) $350,000,000 for fiscal year 2006;

(iv) $375,000,000 for fiscal year 2007;

(v) $400,000,000 for fiscal year 2008; and

(vi) $425,000,000 for fiscal year 2009.

(B) RECREATION ROADS.—For recreation roads under section 204 of that title, $50,000,000 for each of fiscal years 2004 through 2009.

(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;

(ii) $310,000,000 for fiscal year 2005; and

(iii) $320,000,000 for each of fiscal years 2006 through 2009.

(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $30,000,000 for each of fiscal years 2004 through 2009.

(E) PUBLIC LANDS HIGHWAYS.—For Federal lands highways under section 204 of that title, $300,000,000 for each of fiscal years 2004 through 2009.

(F) SAFETY.—For safety under section 204 of that title, $40,000,000 for each of fiscal years 2004 through 2009.

(10) MULTISTATE CORRIDOR PROGRAM.—For the multistate corridor program under section 171 of that title—

(A) $112,500,000 for fiscal year 2004;

(B) $135,000,000 for fiscal year 2005;

(C) $157,500,000 for fiscal year 2006;

(D) $180,000,000 for fiscal year 2007;

(E) $202,500,000 for fiscal year 2008; and

(F) $225,000,000 for fiscal year 2009.

(11) BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.—For the border planning, operations, and technology program under section 172 of that title—

(A) $112,500,000 for fiscal year 2004;

(B) $135,000,000 for fiscal year 2005;

(C) $157,500,000 for fiscal year 2006;

(D) $180,000,000 for fiscal year 2007;

(E) $202,500,000 for fiscal year 2008; and

(F) $225,000,000 for fiscal year 2009.

(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of that title—

(A) $34,000,000 for fiscal year 2004;

(B) $35,000,000 for fiscal year 2005;

(C) $36,000,000 for fiscal year 2006;

(D) $37,000,000 for fiscal year 2007; and

(E) $39,000,000 for each of fiscal years 2008 and 2009.

(13) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the

infrastructure performance and maintenance program under section 139 of that title—

(A) $2,500,000,000 for each of fiscal years 2004 through 2006;

(B) $2,000,000,000 for each of fiscal years 2007 and 2008; and

(C) $500,000,000 for fiscal year 2009.

(14) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $38,000,000 for each of fiscal years 2004 through 2009.

(15) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 173 of that title—

(A) $140,000,000 for fiscal year 2004;

(B) $145,000,000 for fiscal year 2005;

(C) $149,000,000 for fiscal year 2006;

(D) $154,000,000 for fiscal year 2007;

(E) $160,000,000 for fiscal year 2008; and

(F) $163,000,000 for fiscal year 2009.

SEC. 1102. OBLIGATION CEILING.

[RESERVED]

SEC. 1103. APPORTIONMENTS.

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

''(a) ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary of Transportation for administrative expenses of the Federal Highway Administration—

''(A) $450,000,000 for fiscal year 2004;

''(B) $465,000,000 for fiscal year 2005;

''(C) $480,000,000 for fiscal year 2006;

''(D) $495,000,000 for fiscal year 2007;

''(E) $510,000,000 for fiscal year 2008; and

''(F) $525,000,000 for fiscal year 2009.

''(2) PURPOSES.—The funds authorized by this subsection shall be used—

''(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

''(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

''(3) AVAILABILITY.—The funds made available under paragraph (1) shall remain available until expended.''.

(2) CONFORMING AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(A) in the matter preceding paragraph (1) of subsection (b), by striking ''the deduction authorized by subsection (a) and'';

(B) in the first sentence of subsection (e)(1), by striking '', and also'' and all that follows through ''this section''; and

(C) in subsection (i), by striking ''deducted'' and inserting ''made available''.

(b) METROPOLITAN PLANNING.—Section 104(f) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary shall set aside 1.5 percent of the funds authorized to be appropriated for expenditure upon programs authorized under this title to carry out the requirements of section 134.'';

(2) in paragraph (2), by striking ''per centum'' and inserting ''percent'';

(3) in paragraph (3)—

(A) by striking ''The funds'' and inserting the following:

''(A) IN GENERAL.—The funds''; and

(B) by striking ''These funds'' and all that follows and inserting the following:

''(B) UNUSED FUNDS.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135.''; and

(4) by adding at the end the following:

''(6) FEDERAL SHARE.—Funds apportioned to a State under this subsection shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without the match.''.

(c) ALASKA HIGHWAY.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking ''1998 through 2002'' and inserting ''2004 through 2009''.

SEC. 1104. MINIMUM GUARANTEE.

Section 105 of title 23, United States Code, is amended by striking subsections (a) through (f) and inserting the following:

''(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 90.5 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 infrastructure performance and maintenance program under section 139;

''(10) the metropolitan planning program under section 104(f);

''(11) the equity bonus program under this section;

''(12) the high priority projects program under section 1601 of the Transportation Equity Act for the 21st Century (112 Stat. 255);

''(13) the safe routes to school program under section 150; and

''(14) the railway-highway crossings under section 130.''.

SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.

Section 110 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraphs (1) and (2), by striking ''2000'' each place it appears and inserting ''2006''; and

(B) in paragraph (2)—

(i) by striking ''the succeeding'' and inserting ''that''; and

(ii) by striking ''and the motor carrier safety grant program'';

(2) in subsection (b)(1), by striking subparagraph (A) and inserting the following:

''(A) the sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for each of the Federal-aid highway and highway safety construction programs (other than the equity bonus program) and for which funds are allocated from the Highway Trust Fund by the Secretary under this title and the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003; bears to'';

(3) in subsection (c), by inserting ''the highway safety improvement program,'' after ''the surface transportation program,''; and

(4) by striking subsections (e), (f), and (g).

Subtitle B—New Programs

SEC. 1201. INFRASTRUCTURE PERFORMANCE AND MAINTENANCE 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. Infrastructure performance and maintenance program

''(a) ESTABLISHMENT.—The Secretary shall establish and implement an infrastructure performance and maintenance 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.

''(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 those 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 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 chapter 1 of title 23, United States Code, is amended by adding after the item relating to section 138 the following:

''139. Infrastructure performance and maintenance program.''.

SEC. 1202. FUTURE OF SURFACE TRANSPORTATION SYSTEM.

(a) DECLARATION OF POLICY.—Section 101 of title 23, United States Code, is amended—

(1) by striking ''(b) It is hereby declared to be'' and inserting the following:

''(b) DECLARATION OF POLICY.—

''(1) ACCELERATION OF CONSTRUCTION OF FEDERAL-AID HIGHWAY SYSTEMS.—Congress declares that it is'';

(2) in the second paragraph, by striking ''It is hereby declared'' and inserting the following:

''(2) COMPLETION OF INTERSTATE SYSTEM.—Congress declares''; and

(3) by striking the last paragraph and inserting the following:

''(3) TRANSPORTATION NEEDS OF 21ST CENTURY.—Congress declares that—

''(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st Century;

''(B) the current urban and long distance personal travel and freight movement demands have surpassed the original forecasts and travel demand patterns are expected to change;

''(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;

''(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—

''(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;

''(ii) flow of interstate and international commerce and freight transportation; and

''(iii) travel movements essential for national security;

''(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;

''(F) it is in the national interest to seek ways to eliminate barriers to transportation investment created by the current modal structure of transportation financing;

''(G) the connection between land use and infrastructure is significant;

''(H) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life; and

''(I) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.''.

(b) NATIONAL SURFACE TRANSPORTATION SYSTEM STUDY.—

(1) IN GENERAL.—The Secretary shall—

(A) conduct a complete investigation and study of the current condition and future needs of the surface transportation system of the United States, including—

(i) the National Highway System;

(ii) the Interstate System;

(iii) the strategic highway network;

(iv) congressional high priority corridors;

(v) intermodal connectors;

(vi) freight facilities;

(vii) navigable waterways;

(viii) mass transportation;

(ix) freight and intercity passenger rail infrastructure and facilities; and

(x) surface access to airports; and

(B) develop a conceptual plan, with alternative approaches, for the future to ensure that the surface transportation system will continue to serve the needs of the United States, including specific recommendations regarding design and operational standards, Federal policies, and legislative changes.

(2) SPECIFIC ISSUES.—In conducting the investigation and study, the Secretary shall specifically address—

(A) the current condition and performance of the Interstate System (including the physical condition of bridges and pavements and operational characteristics and performance), relying primarily on existing data sources;

(B) the future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year time periods;

(C) the expected demographics and business uses that impact the surface transportation system;

(D) the expected use of the surface transportation system, including the effects of changing vehicle types, modes of transportation, fleet size and weights, and traffic volumes;

(E) desirable design policies and standards for future improvements of the surface transportation system, including additional access points;

(F) the identification of urban, rural, national, and interregional needs for the surface transportation system;

(G) the potential for expansion, upgrades, or other changes to the surface transportation system, including—

(i) deployment of advanced materials and intelligent technologies;

(ii) critical multistate, urban, and rural corridors needing capacity, safety, and operational enhancements;

(iii) improvements to intermodal linkages;

(iv) security and military deployment enhancements;

(v) strategies to enhance asset preservation; and

(vi) implementation strategies;

(H) the improvement of emergency preparedness and evacuation using the surface transportation system, including—

(i) examination of the potential use of all modes of the surface transportation system in the safe and efficient evacuation of citizens during times of emergency;

(ii) identification of the location of critical bottlenecks; and

(iii) development of strategies to improve system redundancy, especially in areas with a high potential for terrorist attacks;

(I) alternatives for addressing environmental concerns in recommended alternatives;

(J) the evaluation and assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, and system operations and management; and

(K) a range of policy and legislative alternatives for addressing future needs for the surface transportation system, including funding needs and potential approaches to provide funds.

(3) TECHNICAL ADVISORY COMMITTEE.—The Secretary shall establish a technical advisory committee, in a manner consistent with the Federal Advisory Committee Act (5 U.S.C. App.), to collect and evaluate technical input from—

(A) the Department of Defense;

(B) appropriate Federal, State, and local officials with responsibility for transportation;

(C) appropriate State and local elected officials;

(D) transportation and trade associations;

(E) emergency management officials;

(F) freight providers;

(G) the general public; and

(H) other entities and persons determined appropriate by the Secretary to ensure a diverse range of views.

(4) REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, and make readily available to the public, a report on the results of the investigation and study conducted under this subsection.

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.

''(B) DUTIES.—The coordinator shall—

''(i) foster public and private sector collaboration needed to implement complex solutions to freight transportation and freight transportation gateway problems, including—

''(I) coordination of metropolitan and statewide transportation activities with trade and economic 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) 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.

''(d) 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 surface 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 and 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(d)(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—

''(i) 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; and

''(iii) projects to eliminate railroad crossings or make railroad crossing improvements.

''(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—

''(i) 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) 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.''.

SEC. 1204. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL 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 facilities

''(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

''(b) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals under this section shall be 80 percent.

''(c) SET ASIDE FOR PROJECTS ON NATIONAL HIGHWAY SYSTEM.—Before any apportionment is made under section 104(b)(3), the Secretary shall set aside $20,000,000 for each of fiscal years 2004 through 2009, for obligation by the Secretary, for—

''(1) the construction or refurbishment of ferry boats and ferry terminal facilities;

''(2) the acquisition of zero- or low-emission ferry boats, or projects that advance the shipbuilding capacities of the United States through the introduction of new technology; and

''(3) approaches to facilities described in paragraph (1) located within marine highway systems that are part of the National Highway System.

''(d) FUNDING.—There shall be made available to the Secretary to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), for obligation at the discretion of the Secretary and to remain available until expended, $38,000,000 for the period of fiscal years 2004 through 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

''147. Construction of ferry boats and ferry terminal facilities.''.

(2) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SEC. 1205. DESIGNATION OF DANIEL PATRICK MOYNIHAN INTERSTATE HIGHWAY.

(a) DESIGNATION.—Interstate Highway 86 in the State of New York, extending from the Pennsylvania border near Lake Erie through Orange County, New York, shall be known and designated as the ''Daniel Patrick Moynihan Interstate Highway''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in subsection (a) shall be deemed to be a reference to the Daniel Patrick Moynihan Interstate Highway.

Subtitle C—Finance

SEC. 1301. FEDERAL SHARE.

Section 120 of title 23, United States Code, is amended by striking subsection (d) and inserting the following:

''(d) INCREASED FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share payable under subsection (a) or (b) may be increased for projects and activities in each State in which is located—

''(A) nontaxable Indian land;

''(B) public land (reserved or unreserved);

''(C) a national forest; or

''(D) a national park and monument.

''(2) AMOUNT.—

''(A) IN GENERAL.—The Federal share for States described in paragraph (1) shall be increased by a percentage of the remaining cost that—

''(i) is equal to the percentage that—

''(I) the area of all land described in paragraph (1) in a State; bears to

''(II) the total area of the State; but

''(ii) does not exceed 95 percent of the total cost of the project or activity for which the Federal share is provided.

''(B) ADJUSTMENT.—The Secretary shall adjust the Federal share for States under subparagraph (A) as the Secretary determines necessary, on the basis of data provided by the Federal agencies that are responsible for maintaining the data.

''(C) DECREASED FEDERAL SHARE.—Unless the State voluntarily agrees to a decreased Federal share, the Secretary shall provide the maximum Federal share allowable under subsections (a) and (b), as adjusted by this subsection.''.

SEC. 1302. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code, is amended by striking subsection (k) and inserting the following:

''(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

''(1) TRANSFER OF HIGHWAY FUNDS FOR TRANSIT PROJECTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

''(B) NON-FEDERAL SHARE.—The provisions of this title relating to the non-Federal share shall apply to the transferred funds.

''(2) TRANSFER OF TRANSIT FUNDS FOR HIGHWAY PROJECTS.—Funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

''(3) TRANSFER OF HIGHWAY FUNDS TO OTHER FEDERAL AGENCIES.—

''(A) IN GENERAL.—Except as provided in clauses (i) and (ii) and subparagraph (B), funds made available under this title or any other Act that are derived from Highway Trust Fund (other than the Mass Transit account) may be transferred to another Federal agency if—

''(i)(I) an expenditure is specifically authorized in Federal-aid highway legislation or as a line item in an appropriation act; or

''(II) a State transportation department consents to the transfer of funds;

''(ii) the Secretary determines, after consultation with the State transportation department (as appropriate), that the Federal agency should carry out a project with the funds; and

''(iii) the other Federal agency agrees to accept the transfer of funds and to administer the project.

''(B) ADMINISTRATION.—

''(i) PROCEDURES.—A project carried out with funds transferred to a Federal agency under subparagraph (A) shall be administered by the Federal agency under the procedures of the Federal agency.

''(ii) APPROPRIATIONS.—Funds transferred to a Federal agency under subparagraph (A) shall not be considered an augmentation of the appropriations of the Federal agency.

''(iii) NON-FEDERAL SHARE.—The provisions of this title, or an Act described in subparagraph (A), relating to the non-Federal share shall apply to a project carried out with the transferred funds, unless the Secretary determines that it is in the best interest of the United States that the non-Federal share be waived.

''(4) TRANSFER OF FUNDS AMONG STATES OR TO FEDERAL HIGHWAY ADMINISTRATION.—

''(A) IN GENERAL.—Subject to subparagraphs (B) through (D), the Secretary may, at the request of a State, transfer funds apportioned or allocated to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more specific projects.

''(B) ADMINISTRATION.—The transferred funds shall be used for the same purpose and in the same manner for which the transferred funds were authorized.

''(C) APPORTIONMENT.—The transfer shall have no effect on any apportionment formula used to distribute funds to States under this section or section 105 or 144.

''(D) SURFACE TRANSPORTATION PROGRAM.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(2) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

''(5) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects are transferred under this subsection.''.

SEC. 1303. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.

(a) DEFINITIONS.—Section 181 of title 23, United States Code, is amended—

(1) in paragraph (3), by striking ''category'' and ''offered into the capital markets'';

(2) by striking paragraph (7) and redesignating paragraphs (8) through (15) as paragraphs (7) through (14) respectively;

(3) in paragraph (8) (as redesignated by paragraph (2))—

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

(B) by striking subparagraph (D) and inserting the following:

''(D) a project that—

''(i)(I) is a project for—

''(aa) a public freight rail facility or a private facility providing public benefit;

''(bb) an intermodal freight transfer facility;

''(cc) a means of access to a facility described in item (aa) or (bb);

''(dd) a service improvement for a facility described in item (aa) or (bb) (including a capital investment for an intelligent transportation system); or

''(II) comprises a series of projects described in subclause (I) with the common objective of improving the flow of goods;

''(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements; and

''(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port.''; and

(4) in paragraph (10) (as redesignated by paragraph (2)) by striking ''bond'' and inserting ''credit''.

(b) DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.—Section 182 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2) and inserting the following:

''(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.

''(2) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary shall submit a project application to the Secretary.'';

(B) in paragraph (3)(A)—

(i) in clause (i), by striking ''$100,000,000'' and inserting ''$50,000,000''; and

(ii) in clause (ii), by striking ''50'' and inserting ''20''; and

(C) in paragraph (4)—

(i) by striking ''Project financing'' and inserting ''The Federal credit instrument''; and

(ii) by inserting before the period at the end the following: ''that also secure the project obligations''; and

(2) in subsection (b)—

(A) in paragraph (1), by striking ''criteria'' the second place it appears and inserting ''requirements''; and

(B) in paragraph (2)(B), by inserting ''(which may be the Federal credit instrument)'' after ''obligations''.

(c) SECURED LOANS.—Section 183 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''of any project selected under section 182.'' at the end;

(ii) in subparagraphs (A) and (B), by inserting ''of any project selected under section 182'' after ''costs'' ; and

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

(B) in paragraph (4)—

(i) by striking ''funding'' and inserting ''execution''; and

(ii) by striking ''rating,'' and all that follows and inserting a period;

(2) in subsection (b)—

(A) by striking paragraph (2) and inserting the following:

''(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed the lesser of—

''(A) 33 percent of the reasonably anticipated eligible project costs; or

''(B) the amount of the senior project obligations.'';

(B) in paragraph (3)(A)(i), by inserting ''that also secure the senior project obligations'' after ''sources''; and

(C) in paragraph (4), by striking ''marketable''; and

(3) in subsection (c)—

(A) by striking paragraph (3);

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

(C) in paragraph (3) (as redesignated by subparagraph (B))—

(i) in subparagraph (A), by striking ''during the 10 years''; and

(ii) in subparagraph (B)(ii), by striking ''loan'' and all that follows and inserting ''loan.''.

(d) LINES OF CREDIT.—Section 184 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (3), by striking ''interest, any debt service reserve fund, and any other available reserve'' and inserting ''interest (but not including reasonably required financing reserves)'';

(B) in paragraph (4), by striking ''marketable United States Treasury securities as of the date on which the line of credit is obligated'' and inserting ''United States Treasury securities as of the date of execution of the line of credit agreement''; and

(C) in paragraph (5)(A)(i), by inserting ''that also secure the senior project obligations'' after ''sources''; and

(2) in subsection (c)—

(A) in paragraph (2)—

(i) by striking ''scheduled'';

(ii) by inserting ''be scheduled to'' after ''shall''; and

(iii) by striking ''be fully repaid, with interest,'' and inserting ''to conclude, with full repayment of principal and interest,''; and

(B) by striking paragraph (3).

(e) PROGRAM ADMINISTRATION.—Section 185 of title 23, United States Code, is amended to read as follows:

''§ 185. Program administration

''(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this subchapter.

''(b) FEES.—The Secretary may establish fees at a level to cover all or a portion of the costs to the Federal government of servicing the Federal credit instruments.

''(c) SERVICER.—

''(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.

''(2) DUTIES.—The servicer shall act as the agent for the Secretary.

''(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.

''(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.''.

(f) FUNDING.—Section 188 of title 23, United States Code, is amended to read as follows:

''§ 188. Funding

''(a) FUNDING.—

''(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $130,000,000 for each of fiscal years 2004 through 2009.

''(2) COLLECTED FEES.—All fees collected under this subchapter shall be made available to the Secretary, without further appropriation, to carry out this subchapter.

''(3) ADMINISTRATIVE COSTS.—Of amounts made available under paragraph (1), the Secretary may use for the administration of this subchapter not more than $2,000,000 for each of fiscal years 2004 through 2009.

''(4) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

''(b) CONTRACT AUTHORITY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit investment.

''(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.''.

(g) REPEAL.—Section 189 of title 23, United States code, is repealed.

(h) CONFORMING AMENDMENTS.—The analysis for chapter 1 of title 23, United States Code, is amended—

(1) by striking the item relating to section 185 and inserting the following:

''185. Program administration.'';

and

(2) by striking the item relating to section 189.

SEC. 1304. FACILITATION OF INTERNATIONAL REGISTRATION PLANS AND INTERNATIONAL FUEL TAX AGREEMENTS.

(a) IN GENERAL.—Chapter 317 of title 49, United States Code, is amended by adding at the end the following:

''§ 31708. Facilitation of international registration plans and international fuel tax agreements

''The Secretary may provide assistance to any State that is participating in the International Registration Plan and International Fuel Tax Agreement, as provided in sections 31704 and 31705, respectively, and that serves as a base jurisdiction for motor carriers that are domiciled in Mexico, to assist the State with administrative costs resulting from serving as a base jurisdiction for motor carriers from Mexico.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 317 of title 49, United States Code, is amended by adding at the end the following:

''31708. Facilitation of international registration plans and international fuel tax agreements.''.

SEC. 1305. NATIONAL COMMISSION ON FUTURE REVENUE SOURCES TO SUPPORT THE HIGHWAY TRUST FUND AND FINANCE THE NEEDS OF THE SURFACE TRANSPORTATION SYSTEM.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''National Commission on Future Revenue Sources to Support the Highway Trust Fund and Finance the Needs of the Surface Transportation System'' (referred to in this section as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 11 members, of whom—

(A) 3 members shall be appointed by the President;

(B) 2 members shall be appointed by the Speaker of the House of Representatives;

(C) 2 members shall be appointed by the minority leader of the House of Representatives;

(D) 2 members shall be appointed by the majority leader of the Senate; and

(E) 2 members shall be appointed by the minority leader of the Senate.

(2) QUALIFICATIONS.—Members appointed under paragraph (1) shall have experience in or represent the interests of—

(A) public finance, including experience in developing State and local revenue resources;

(B) surface transportation program administration;

(C) organizations that use surface transportation facilities;

(D) academic research into related issues; or

(E) other activities that provide unique perspectives on current and future requirements for revenue sources to support the Highway Trust Fund.

(3) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 120 days after the date of establishment of the Commission.

(4) TERMS.—A member shall be appointed for the life of the Commission.

(5) VACANCIES.—A vacancy on the Commission—

(A) shall not affect the powers of the Commission; and

(B) shall be filled in the same manner as the original appointment was made.

(6) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.

(7) MEETINGS.—The Commission shall meet at the call of the Chairperson.

(8) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(9) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among the members of the Commission.

(c) DUTIES.—

(1) IN GENERAL.—The Commission shall—

(A) conduct a comprehensive study of alternatives to replace or to supplement the fuel tax as the principal revenue source to support the Highway Trust Fund and suggest new or alternative sources of revenue to fund the needs of the surface transportation system over at least the next 30 years;

(B) conduct the study in a manner that builds on—

(i) findings, conclusions, and recommendations of the recent study conducted by the Transportation Research Board on alternatives to the fuel tax to support highway program financing; and

(ii) other relevant prior research;

(C) consult with the Secretary and the Secretary of the Treasury in conducting the study to ensure that the views of the Secretaries concerning essential attributes of Highway Trust Fund revenue alternatives are considered;

(D) consult with representatives of State Departments of Transportation and metropolitan planning organizations and other key interested stakeholders in conducting the study to ensure that—

(i) the views of the stakeholders on alternative revenue sources to support State transportation improvement programs are considered; and

(ii) any recommended Federal financing strategy takes into account State financial requirements; and

(E) based on the study, make specific recommendations regarding—

(i) actions that should be taken to develop alternative revenue sources to support the Highway Trust Fund; and

(ii) the time frame for taking those actions.

(2) SPECIFIC MATTERS.—The study shall address specifically—

(A) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;

(B) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;

(C) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various components of the transition strategy;

(D) recommendations for additional research that may be needed to implement recommended alternatives; and

(E) the extent to which revenues should reflect the relative use of the highway system.

(3) RELATED WORK.—To the maximum extent practicable, the study shall build on related work that has been done by—

(A) the Secretary of Transportation;

(B) the Secretary of Energy;

(C) the Transportation Research Board; and

(D) other entities and persons.

(4) FACTORS.—In developing recommendations under this subsection, the Commission shall consider—

(A) the ability to generate sufficient revenues from all modes to meet anticipated long-term surface transportation financing needs;

(B) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;

(C) administrative costs (including enforcement costs) to implement each option;

(D) the expected increase in non-taxed fuels and the impact of taxing those fuels;

(E) the likely technological advances that could ease implementation of each option;

(F) the equity and economic efficiency of each option;

(G) the flexibility of different options to allow various pricing alternatives to be implemented; and

(H) potential compatibility issues with State and local tax mechanisms under each alternative.

(5) REPORT AND RECOMMENDATIONS.—Not later than September 30, 2007, the Commission shall submit to Congress a final report that contains—

(A) a detailed statement of the findings and conclusions of the Commission; and

(B) the recommendations of the Commission for such legislation and administrative actions as the Commission considers appropriate.

(d) POWERS.—

(1) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(2) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.

(B) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(3) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(4) DONATIONS.—The Commission may accept, use, and dispose of donations of services or property.

(e) COMMISSION PERSONNEL MATTERS.—

(1) MEMBERS.—A member of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(2) CONTRACTOR.—The Commission may contract with an appropriate organization, agency, or entity to conduct the study required under this section, under the strategic guidance of the Commission.

(3) ADMINISTRATIVE SUPPORT.—On the request of the Commission, the Administrator of the Federal Highway Administration shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out the duties of the Commission under this section.

(4) DETAIL OF DEPARTMENT PERSONNEL.—

(A) IN GENERAL.—On the request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department to the Commission to assist the Commission in carrying out the duties of the Commission under this section.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(5) COOPERATION.—The staff of the Secretary shall cooperate with the Commission in the study required under this section, including providing such nonconfidential data and information as are necessary to conduct the study.

(f) RELATIONSHIP TO OTHER LAWS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), 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.

(2) FEDERAL SHARE.—The Federal share of the cost of the study and the Commission under this section shall be 100 percent.

(3) AVAILABILITY.—Funds made available to carry out this section shall remain available until expended.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $3,000,000 for fiscal year 2004.

(h) TERMINATION.—

(1) IN GENERAL.—The Commission shall terminate on the date that is 180 days after the date on which the Commission submits the report of the Commission under subsection (c)(5).

(2) RECORDS.—Not later than the termination date for the Commission, all records and papers of the Commission shall be delivered to the Administrator of General Services for deposit in the National Archives.

SEC. 1306. STATE INFRASTRUCTURE BANKS.

Section 1511(b)(1)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 181 note; 112 Stat. 251) is amended by striking ''Missouri,'' and all that follows through ''for the establishment'' and inserting ''Missouri, Rhode Island, Texas, and any other State that seeks such an agreement for the establishment''.

Subtitle D—Safety

SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.

(a) SAFETY IMPROVEMENT.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

''§ 148. Highway safety improvement program

''(a) DEFINITIONS.—In this section:

''(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

''(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

''(A) IN GENERAL.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—

''(i) corrects or improves a hazardous road location or feature; or

''(ii) addresses a highway safety problem.

''(B) INCLUSIONS.—The term 'highway safety improvement project' includes a project for—

''(i) an intersection safety improvement;

''(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);

''(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;

''(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;

''(v) an improvement for pedestrian or bicyclist safety;

''(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;

''(II) construction of a railway-highway crossing safety feature; or

''(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;

''(vii) construction of a traffic calming feature;

''(viii) elimination of a roadside obstacle;

''(ix) improvement of highway signage and pavement markings;

''(x) installation of a priority control system for emergency vehicles at signalized intersections;

''(xi) installation of a traffic control or other warning device at a location with high accident potential;

''(xii) safety-conscious planning;

''(xiii) improvement in the collection and analysis of crash data;

''(xiv) planning, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;

''(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;

''(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or

''(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.

''(3) SAFETY PROJECT UNDER ANY OTHER SECTION.—

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

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

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

''(ii) enforce highway safety laws.

''(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, if any;

''(iii) representatives of major modes of transportation;

''(iv) 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 in existence as of the date of enactment of this section;

''(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 receive funds under 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; and

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

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

''(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; and

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

''(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 this section 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 accidents;

''(iv) mitigating the consequences of roadway-related accidents; and

''(v) reducing the occurrences of roadway-railroad grade crossing accidents.

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

''(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—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.''.

(2) ALLOCATIONS OF APPORTIONED FUNDS.—Section 133(d) of title 23, United States Code, is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in the first sentence of subparagraph (A)—

(I) by striking ''subparagraphs (C) and (D)'' and inserting ''subparagraph (C)''; and

(II) by striking ''80 percent'' and inserting ''90 percent'';

(ii) by striking subparagraph (C);

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

(iv) in subparagraph (C) (as redesignated by clause (iii)), by adding a period at the end; and

(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking ''paragraph (2)'' and inserting ''paragraph (1)''.

(3) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:

''148. Highway safety improvement program.''.

(B) Sections 154, 164, and 409 of title 23, United States Code, are amended by striking ''152'' each place it appears and inserting ''148''.

(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting after ''Improvement program,'' the following: ''the highway safety improvement program,''; and

(2) by adding at the end the following:

''(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

''(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

''(i) 25 percent of the apportionments in the ratio that—

''(I) the total lane miles of Federal-aid highways in each State; bears to

''(II) the total lane miles of Federal-aid highways in all States.

''(ii) 40 percent of the apportionments in the ratio that—

''(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

''(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

''(iii) 35 percent of the apportionments 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.

''(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.''.

(c) ELIMINATION OF HAZARDS RELATING TO HIGHWAY FACILITIES.—

(1) FUNDS FOR PROTECTIVE DEVICES.—Section 130(e) of title 23, United States Code, is amended—

(A) in the heading, by striking ''PROTECTIVE DEVICES'' and inserting ''RAILWAY-HIGHWAY CROSSINGS'';

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

''(1) IN GENERAL.—For each fiscal year, at least $200,000,000 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings.''; and

(C) by striking ''Sums authorized'' and inserting the following:

''(2) OBLIGATION.—Sums authorized''.

(2) BIENNIAL REPORTS TO CONGRESS.—Section 130(g) of title 23, United States Code, is amended in the third sentence—

(A) by inserting ''and the Committee on Commerce, Science, and Transportation,'' after ''Public Works''; and

(B) by striking ''not later than April 1 of each year'' and inserting ''every other year''.

(3) EXPENDITURE OF FUNDS; APPORTIONMENT.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

''(k) EXPENDITURE OF FUNDS; APPORTIONMENT.—Funds made available to carry out this section shall be—

''(1) available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g); and

''(2) apportioned in accordance with section 104(b)(5).''.

(d) TRANSITION.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), to qualify for funding under section 148 of title 23, United States Code (as amended by subsection (a)), a State shall develop and implement a State strategic highway safety plan as required by subsection (c) of that section not later than October 1 of the second fiscal year after the date of enactment of this Act.

(2) INTERIM PERIOD.—

(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but demonstrates to the satisfaction of the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(C) PENALTY.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) shall be redistributed to other States in accordance with section 104(b) of title 23, United States Code.

SEC. 1402. OPERATION LIFESAVER.

Section 104(d)(1) of title 23, United States Code, is amended—

(1) by striking ''subsection (b)(3)'' and inserting ''subsection (b)(5)''; and

(2) by striking ''$500,000'' and inserting ''$600,000''.

SEC. 1403. LICENSE SUSPENSION.

Section 164(a) of title 23, United States Code, is amended by striking paragraph (3) and inserting the following:

''(3) LICENSE SUSPENSION.—The term 'license suspension' means—

''(A) the suspension of all driving privileges of an individual for the duration of the suspension period; or

''(B) a combination of suspension of all driving privileges of an individual for the first 90 days of the suspension period, followed by reinstatement of limited driving privileges requiring the individual to operate only motor vehicles equipped with an ignition interlock system or other device approved by the Secretary during the remainder of the suspension period.''.

SEC. 1404. BUS AXLE WEIGHT EXEMPTION.

Section 1023 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 105 Stat. 1951) is amended by striking subsection (h) and inserting the following:

''(h) OVER-THE-ROAD BUS AND PUBLIC TRANSIT VEHICLE EXEMPTION.—

''(1) IN GENERAL.—The second sentence of section 127 of title 23, United States Code (relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways), shall not apply to—

''(A) any over-the-road bus (as defined in section 301 of the Americans With Disabilities Act of 1990 (42 U.S.C. 12181)); or

''(B) any vehicle that is regularly and exclusively used as an intrastate public agency transit passenger bus.

''(2) STATE ACTION.—No State or political subdivision of a State, or any political authority of 2 or more States, shall impose any axle weight limitation on any vehicle described in paragraph (1) in any case in which such a vehicle is using the Dwight D. Eisenhower System of Interstate and Defense Highways.''.

SEC. 1405. SAFE ROUTES TO SCHOOLS PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter I of title 23, United States Code, is amended by inserting after section 149 the following:

''§ 150. Safe routes to schools program

''(a) DEFINITIONS.—In this section:

''(1) PRIMARY AND SECONDARY SCHOOL.—The term 'primary and secondary school' means a school that provides education to children in any of grades kindergarten through 12.

''(2) PROGRAM.—The term 'program' means the safe routes to schools program established under subsection (b).

''(3) VICINITY OF A SCHOOL.—The term 'vicinity of a school' means the area within 2 miles of a primary or secondary school.

''(b) ESTABLISHMENT.—The Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and secondary schools in accordance with this section.

''(c) PURPOSES.—The purposes of the program shall be—

''(1) to enable and to encourage children to walk and bicycle to school;

''(2) to encourage a healthy and active lifestyle by making walking and bicycling to school

safer and more appealing transportation alternatives; and

''(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety in the vicinity of schools.

''(d) ELIGIBLE RECIPIENTS.—A State shall use amounts apportioned under this section to provide financial assistance to State, regional, and local agencies that demonstrate an ability to meet the requirements of this section.

''(e) ELIGIBLE PROJECTS AND ACTIVITIES.—

''(1) INFRASTRUCTURE-RELATED PROJECTS.—

''(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects to encourage walking and bicycling to school, including—

''(i) sidewalk improvements;

''(ii) traffic calming and speed reduction improvements;

''(iii) pedestrian and bicycle crossing improvements;

''(iv) on-street bicycle facilities;

''(v) off-street bicycle and pedestrian facilities;

''(vi) secure bicycle parking facilities;

''(vii) traffic signal improvements; and

''(viii) pedestrian-railroad grade crossing improvements.

''(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on—

''(i) any public road in the vicinity of a school; or

''(ii) any bicycle or pedestrian pathway or trail in the vicinity of a school.

''(2) BEHAVIORAL ACTIVITIES.—

''(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for behavioral activities to encourage walking and bicycling to school, including—

''(i) public awareness campaigns and outreach to press and community leaders;

''(ii) traffic education and enforcement in the vicinity of schools; and

''(iii) student sessions on bicycle and pedestrian safety, health, and environment.

''(B) ALLOCATION.—Of the amounts apportioned to a State under this section for a fiscal year, not less than 10 percent shall be used for behavioral activities under this paragraph.

''(f) FUNDING.—

''(1) SET ASIDE.—Before apportioning amounts to carry out section 148 for a fiscal year, the Secretary shall set aside and use $70,000,000 to carry out this section.

''(2) APPORTIONMENT.—Amounts made available to carry out this section shall be apportioned to States in accordance with section 104(b)(5).

''(3) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State transportation department.

''(4) FEDERAL SHARE.—The Federal share of the cost of a project or activity funded under this section shall be 90 percent.

''(5) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b)(2), amounts apportioned under this section shall remain available until expended.''.

(b) CONFORMING AMENDMENTS.—The analysis for subchapter I of chapter 1 of title 23, United States Code is amended by inserting after the item relating to section 149 the following:

''150. Safe routes to school program.''.

SEC. 1406. PURCHASES OF EQUIPMENT.

(a) IN GENERAL.—Section 152 of title 23, United States Code is amended to read as follows:

''§ 152. Purchases of equipment

''(a) IN GENERAL.—Subject to subsection (b), a State or other entity carrying out a project under this chapter shall purchase device, tool or other equipment needed for the project only after completing and providing a written analysis demonstrating the cost savings associated with purchasing the equipment compared with renting the equipment from a qualified equipment rental provider before the project commences

''(b) APPLICABILITY.—This section shall apply to—

''(1) earth moving, road machinery, and material handling equipment, or any other item, with a purchase price in excess of $75,000; and

''(2) aerial work platforms with a purchase price in excess of $25,000.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 152 and inserting the following:

''152. Purchases of equipment.''.

SEC. 1407. WORKZONE SAFETY.

Section 358(b) of the National Highway System Designation Act of 1995 (109 Stat. 625) is amended by adding at the end the following:

''(7) Recommending all federally-assisted projects in excess of $15,000,000 to enter into contracts only with work zone safety services contractors, traffic control contractors, and trench safety and shoring contractors that carry general liability insurance in an amount not less than $15,000,000.

''(8) Recommending federally-assisted projects the costs of which exceed $15,000,000 to include work zone intelligent transportation systems that are—

''(A) provided by a qualified vendor; and

''(B) monitored continuously.

''(9) Recommending federally-assisted projects to fully fund not less than 5 percent of project costs for work zone safety and temporary traffic control measures, in addition to the cost of the project, which measures shall be provided by a qualified work zone safety or traffic control provider.''.

SEC. 1408. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.

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.

Subtitle E—Environmental Planning and Review

CHAPTER 1—TRANSPORTATION PLANNING

SEC. 1501. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO STATE AND METROPOLITAN TRANSPORTATION PLANNING.

(a) METROPOLITAN PLANNING.—Section 134(f) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after ''environment'' the following: ''(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)''; and

(ii) by inserting before the semicolon the following: ''(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the metropolitan area)''; and

(B) in subparagraph (G), by inserting ''and efficient use'' after ''preservation'';

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

''(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate for the metropolitan area to consider.''.

(b) STATEWIDE PLANNING.—Section 135(c) of title 23, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (D)—

(i) by inserting after ''environment'' the following: ''(including the protection of habitat, water quality, and agricultural and forest land, while minimizing invasive species)''; and

(ii) by inserting before the semicolon the following: ''(including minimizing adverse health effects from mobile source air pollution and promoting the linkage of the transportation and development goals of the State)''; and

(B) in subparagraph (G), by inserting ''and efficient use'' after ''preservation'';

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

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

SEC. 1502. CONSULTATION BETWEEN TRANSPORTATION AGENCIES AND RESOURCE AGENCIES IN TRANSPORTATION PLANNING.

(a) IN GENERAL.—Section 134(g) of title 23, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A) the following:

''(B) MITIGATION ACTIVITIES.—

''(i) IN GENERAL.—A long-range transportation plan shall include a discussion of—

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

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

''(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.'';

(2) by redesignating paragraphs (4), (5), and (6) as paragraphs (5), (6), and (7), respectively; and

(3) by inserting after paragraph (3) the following:

''(4) CONSULTATION.—

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

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

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

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

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

(b) IMPROVED CONSULTATION DURING STATE TRANSPORTATION PLANNING.—

(1) IN GENERAL.—Section 135(e)(2) of title 23, United States Code, is amended by adding at the end the following:

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

''(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State and local agencies responsible for—

''(I) land use management;

''(II) natural resources;

''(III) environmental protection;

''(IV) conservation; and

''(V) historic preservation.

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

''(I) comparison of transportation plans to State conservation plans or maps, if available;

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

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

(2) ADDITIONAL REQUIREMENTS.—Section 135(e) of title 23, United States Code, is amended—

(A) by redesignating paragraphs (4) and (5) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (3) the following:

''(4) MITIGATION ACTIVITIES.—

''(A) IN GENERAL.—A long-range transportation plan shall include a discussion of—

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

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

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

''(5) TRANSPORTATION STRATEGIES.—A long-range transportation plan shall identify transportation strategies necessary to efficiently serve the mobility needs of people.''.

SEC. 1503. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO TRANSPORTATION PROJECT PLANNING.

Section 109(c)(2) of title 23, United States Code, is amended—

(1) by striking ''consider the results'' and inserting ''consider—

''(A) the results'';

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(B) the publication entitled 'Flexibility in Highway Design' of the Federal Highway Administration;

''(C) 'Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design' developed by the conference held during 1998 entitled 'Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance'; and

''(D) any other material that the Secretary determines to be appropriate.''.

SEC. 1504. PUBLIC INVOLVEMENT IN TRANSPORTATION PLANNING AND PROJECTS.

(a) METROPOLITAN PLANNING.—

(1) PARTICIPATION BY INTERESTED PARTIES.—Section 134(g)(5) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended—

(A) by striking ''Before approving'' and inserting the following:

''(A) IN GENERAL.—Before approving''; and

(B) by adding at the end the following:

''(B) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—

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

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

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

(2) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Section 134(g)(6)(i) of title 23, United States Code (as redesignated by section 1502(a)(1)), is amended by inserting before the semicolon the following: '', including (to the maximum extent practicable) in electronically accessible formats and means such as the World Wide Web''.

(b) STATEWIDE PLANNING.—

(1) PARTICIPATION BY INTERESTED PARTIES.—Section 135(e)(3) of title 23, United States Code, is amended by striking subparagraph (B) and inserting the following:

''(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—

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

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

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

(2) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Section 135(e) of title 23, United States Code (as amended by section 1502(b)(2)), is amended by adding at the end the following:

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

SEC. 1505. PROJECT MITIGATION.

(a) MITIGATION FOR NATIONAL HIGHWAY SYSTEM PROJECTS.—Section 103(b)(6)(M) of title 23, United States Code, is amended—

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

(2) by adding at the end the following:

''(ii) State habitat, streams, and wetlands mitigation efforts under section 155.''.

(b) MITIGATION FOR SURFACE TRANSPORTATION PROGRAM PROJECTS.—Section 133(b)(11) of title 23, United States Code, is amended—

(1) by inserting ''(A)'' after ''(11)''; and

(2) by adding at the end the following:

''(B) State habitat, streams, and wetlands mitigation efforts under section 155.''.

(c) STATE HABITAT, STREAMS, AND WETLANDS MITIGATION FUNDS.—Section 155 of title 23, United States Code, is amended to read as follows:

''§ 155. State habitat, streams, and wetlands mitigation funds

''(a) ESTABLISHMENT.—A State should establish a habitat, streams, and wetlands mitigation fund (referred to in this section as a 'State fund').

''(b) PURPOSE.—The purpose of a State fund is to encourage efforts for habitat, streams, and wetlands mitigation in advance of or in conjunction with highway projects to—

''(1) ensure that the best habitat, streams, and wetland mitigation sites now available are used; and

''(2) accelerate transportation project delivery by making high-quality habitat, streams, and wetland mitigation credits available when needed.

''(c) FUNDS.—A State may deposit into a State fund part of the funds apportioned to the State under—

''(1) section 104(b)(1) for the National Highway System; and

''(2) section 104(b)(3) for the surface transportation program.

''(d) USE.—

''(1) IN GENERAL.—Amounts deposited in a State fund shall be used (in a manner consistent with this section) for habitat, streams, or wetlands mitigation related to 1 or more projects funded under this title, including a project under the transportation improvement program of the State developed under section 135(f).

''(2) ENDANGERED SPECIES.—In carrying out this section, a State and cooperating agency shall give consideration to mitigation projects, on-site or off-site, that restore and preserve the best available sites to conserve biodiversity and habitat for—

''(A) Federal or State listed threatened or endangered species of plants and animals; and

''(B) plant or animal species warranting listing as threatened or endangered, as determined by the Secretary of the Interior in accordance with section 4(b)(3)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(B)).

''(e) CONSISTENCY WITH APPLICABLE REQUIREMENTS.—Contributions from the State fund to mitigation efforts may occur in advance of project construction only if the efforts are consistent with all applicable requirements of Federal law (including regulations).''.

(d) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155 and inserting the following:

''155. State habitat, streams, and wetlands mitigation funds.''.

CHAPTER 2—TRANSPORTATION PROJECT DEVELOPMENT PROCESS

SEC. 1511. TRANSPORTATION PROJECT DEVELOPMENT PROCESS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1203(a)), is amended by inserting after section 325 the following:

''§ 326. Transportation project development process

''(a) DEFINITIONS.—In this section:

''(1) AGENCY.—The term 'agency' means any agency, department, or other unit of Federal, State, local, or tribal government.

''(2) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means a detailed statement of the environmental impacts of a project required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(3) ENVIRONMENTAL REVIEW PROCESS.—

''(A) IN GENERAL.—The term 'environmental review process' means the process for preparing, for a project—

''(i) an environmental impact statement; or

''(ii) any other document or analysis required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.)

''(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(4) PROJECT.—The term 'project' means any highway or transit project that requires the approval of the Secretary.

''(5) PROJECT SPONSOR.—The term 'project sponsor' means an agency or other entity (including any private or public-private entity), that seeks approval of the Secretary for a project.

''(6) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means any statewide agency of a State with responsibility for transportation.

''(b) PROCESS.—

''(1) LEAD AGENCY.—

''(A) IN GENERAL.—The Department of Transportation shall be the lead Federal agency in the environmental review process for a project.

''(B) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(C) CONCURRENCE OF PROJECT SPONSOR.—The lead agency may carry out the environmental review process in accordance with this section only with the concurrence of the project sponsor.

''(2) REQUEST FOR PROCESS.—

''(A) IN GENERAL.—A project sponsor may request that the lead agency carry out the environmental review process for a project or group of projects in accordance with this section.

''(B) GRANT OF REQUEST; PUBLIC NOTICE.—The lead agency shall—

''(i) grant a request under subparagraph (A); and

''(ii) provide public notice of the request.

''(3) EFFECTIVE DATE.—The environmental review process described in this section may be applied to a project only after the date on which public notice is provided under subparagraph (B)(ii).

''(c) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility to—

''(A) identify and invite cooperating agencies in accordance with subsection (d);

''(B) develop an agency coordination plan with review, schedule, and timelines in accordance with subsection (e);

''(C) determine the purpose and need for the project in accordance with subsection (f);

''(D) determine the range of alternatives to be considered in accordance with subsection (g);

''(E) convene dispute-avoidance and decision resolution meetings and related efforts in accordance with subsection (h);

''(F) take such other actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project; and

''(G) prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.

''(d) ROLES AND RESPONSIBILITIES OF COOPERATING AGENCIES.—

''(1) IN GENERAL.—With respect to a project, each Federal agency shall carry out any obligations of the Federal agency in the environmental review process in accordance with this section and applicable Federal law.

''(2) INVITATION.—

''(A) IN GENERAL.—The lead agency shall—

''(i) identify, as early as practicable in the environmental review process for a project, any other agencies that may have an interest in the project, including—

''(I) agencies with jurisdiction over environmentally-related matters that may affect the project or may be required by law to conduct an environmental-related independent review or analysis of the project or determine whether to issue an environmental-related permit, license, or approval for the project; and

''(II) agencies with special expertise relevant to the project;

''(ii) invite the agencies identified in clause (i) to become participating agencies in the environmental review process for that project; and

''(iii) grant requests to become cooperating agencies from agencies not originally invited.

''(B) RESPONSES.—The deadline for receipt of a response from an agency that receives an invitation under subparagraph (A)(ii)—

''(i) shall be 30 days after the date of receipt by the agency of the invitation; but

''(ii) may be extended by the lead agency for good cause.

''(3) DECLINING OF INVITATIONS.—A Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a cooperating agency by the lead agency, unless the invited agency informs the lead agency in writing, by the deadline specified in the invitation, that the invited agency—

''(A) has no jurisdiction or authority with respect to the project;

''(B) has no expertise or information relevant to the project; and

''(C) does not intend to submit comments on the project.

''(4) EFFECT OF DESIGNATION.—Designation as a cooperating agency under this subsection shall not imply that the cooperating agency—

''(A) supports a proposed project; or

''(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.

''(5) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—

''(A) IN GENERAL.—The Secretary may invite other agencies to become cooperating agencies for a category of projects.

''(B) DESIGNATION.—An agency may be designated as a cooperating agency for a category of projects only with the consent of the agency.

''(6) CONCURRENT REVIEWS.—Each Federal agency shall, to the maximum extent practicable—

''(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and

''(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.

''(e) DEVELOPMENT OF FLEXIBLE PROCESS AND TIMELINE.—

''(1) COORDINATION PLAN.—

''(A) IN GENERAL.—The lead agency shall establish a coordination plan, which may be incorporated into a memorandum of understanding, to coordinate agency and public participation in and comment on the environmental review process for a project or category of projects.

''(B) WORKPLAN.—

''(i) IN GENERAL.—The lead agency shall develop, as part of the coordination plan, a workplan for completing the collection, analysis, and evaluation of baseline data and future impacts modeling necessary to complete the environmental review process, including any data, analyses, and modeling necessary for related permits, approvals, reviews, or studies required for the project under other laws.

''(ii) CONSULTATION.—In developing the workplan under clause (i), the lead agency shall consult with—

''(I) each cooperating agency for the project;

''(II) the State in which the project is located; and

''(III) if the State is not the project sponsor, the project sponsor.

''(C) SCHEDULE.—

''(i) IN GENERAL.—The lead agency shall establish as part of the coordination plan, after consultation with each cooperating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.

''(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—

''(I) the responsibilities of cooperating agencies under applicable laws;

''(II) resources available to the cooperating agencies;

''(III) overall size and complexity of a project;

''(IV) the overall schedule for and cost of a project; and

''(V) the sensitivity of the natural and historic resources that could be affected by the project.

''(D) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (C) shall be consistent with any other relevant time periods established under Federal law.

''(E) MODIFICATION.—The lead agency may—

''(i) lengthen a schedule established under subparagraph (C) for good cause; and

''(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.

''(F) DISSEMINATION.—A copy of a schedule under subparagraph (C), and of any modifications to the schedule, shall be—

''(i) provided to all cooperating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and

''(ii) made available to the public.

''(2) COMMENTS AND TIMELINES.—

''(A) IN GENERAL.—A schedule established under paragraph (1)(C) shall include—

''(i) opportunities for comment, deadline for receipt of any comments submitted, deadline for lead agency response to comments; and

''(ii) except as otherwise provided under paragraph (1)—

''(I) an opportunity to comment by agencies and the public on a draft or final environmental impact statement for a period of not more than 60 days longer than the minimum period required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(II) for all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of not more than the longer of—

''(aa) 30 days after the final day of the minimum period required under Federal law (including regulations), if available; or

''(bb) if a minimum period is not required under Federal law (including regulations), 30 days.

''(B) EXTENSION OF COMMENT PERIODS.—The lead agency may extend a period of comment established under this paragraph for good cause.

''(C) LATE COMMENTS.—A comment concerning a project submitted under this paragraph after the date of termination of the applicable comment period or extension of a comment period shall not be eligible for consideration by the lead agency unless the lead agency or project sponsor determines there was good cause for the delay or the lead agency is required to consider significant new circumstances or information in accordance with sections 1501.7 and 1502.9 of title 40, Code of Federal Regulations.

''(D) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

''(i) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and

''(ii) every 60 day thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

''(3) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law (including a regulation).

''(f) DEVELOPMENT OF PROJECT PURPOSE AND NEED STATEMENT.—

''(1) IN GENERAL.—With respect to the environmental review process for a project, the purpose and need for the project shall be defined in accordance with this subsection.

''(2) AUTHORITY.—The lead agency shall define the purpose and need for a project, including the transportation objectives and any other

objectives intended to be achieved by the project.

''(3) INVOLVEMENT OF COOPERATING AGENCIES AND THE PUBLIC.—Before determining the purpose and need for a project, the lead agency shall solicit for 30 days, and consider, any relevant comments on the draft statement of purpose and need for a proposed project received from the public and cooperating agencies.

''(4) EFFECT ON OTHER REVIEWS.—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.

''(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 may determine that any of the following factors and documents are appropriate for consideration 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 purpose and need of the project; and

''(ii) 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.—Any other agency acting under or applying Federal law with respect to a project shall consider only the alternatives determined by the lead agency.

''(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 may determine that any of the following factors and documents are appropriate for consideration in determining the alternatives for a project:

''(A) The overall size and complexity of the proposed action.

''(B) The sensitivity of the potentially affected resources.

''(C) The overall schedule and cost of the project.

''(D) Transportation plans and related planning documents developed through the statewide and metropolitan transportation planning process under sections 134 and 135 of title 23 of the United States Code.

''(E) 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).

''(F) Economic development plans adopted by—

''(i) units of State, local, or tribal government; or

''(ii) established economic development planning organizations or authorities.

''(G) 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.

''(H) Any publicly available plans or policies relating to the national defense, national security, or foreign policy of the United States.

''(h) PROMPT ISSUE IDENTIFICATION AND RESOLUTION PROCESS.—

''(1) IN GENERAL.—The lead agency, the project sponsor, and the cooperating agencies shall work cooperatively, in accordance with this section, to identify and resolve issues that could—

''(A) delay completion of the environmental review process; or

''(B) result in denial of any approvals required for the project under applicable laws.

''(2) LEAD AGENCY RESPONSIBILITIES.—

''(A) IN GENERAL.—The lead agency, with the assistance of the project sponsor, shall make information available to the cooperating agencies, as early as practicable in the environmental review process, regarding—

''(i) the environmental and socioeconomic resources located within the project area; and

''(ii) the general locations of the alternatives under consideration.

''(B) BASIS FOR INFORMATION.—Information about resources in the project area may be based on existing data sources, including geographic information systems mapping.

''(3) COOPERATING AGENCY RESPONSIBILITIES.—

''(A) IN GENERAL.—Based on information received from the lead agency, cooperating agencies shall promptly identify to the lead agency any major issues of concern regarding the potential environmental or socioeconomic impacts of a project.

''(B) MAJOR ISSUES OF CONCERN.—A major issue of concern referred to in subparagraph (A) may include any issue that could substantially delay or prevent an agency from granting a permit or other approval that is needed for a project, as determined by a cooperating agency.

''(4) ISSUE RESOLUTION.—On identification of a major issue of concern under paragraph (3), or at any time upon the request of a project sponsor or the Governor of a State, the lead agency shall promptly convene a meeting with representatives of each of the relevant cooperating agencies, the project sponsor, and the Governor to address and resolve the issue.

''(5) NOTIFICATION.—If a resolution of a major issue of concern under paragraph (4) cannot be achieved by the date that is 30 days after the date on which a meeting under that paragraph is convened, the lead agency shall provide notification of the failure to resolve the major issue of concern to—

''(A) the heads of all cooperating agencies;

''(B) the project sponsor;

''(C) the Governor involved;

''(D) the Committee on Environment and Public Works of the Senate; and

''(E) the Committee on Transportation and Infrastructure of the House of Representatives.

''(i) PERFORMANCE MEASUREMENT.—

''(1) PROGRESS REPORTS.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

''(2) MINIMUM REQUIREMENTS.—The program shall include, at a minimum—

''(A) the establishment of criteria for measuring consideration of—

''(i) State and metropolitan planning, project planning, and design criteria; and

''(ii) environmental processing times and costs;

''(B) the collection of data to assess performance based on the established criteria; and

''(C) the annual reporting of the results of the performance measurement studies.

''(3) INVOLVEMENT OF THE PUBLIC AND COOPERATING AGENCIES.—

''(A) IN GENERAL.—The Secretary shall biennially conduct a survey of agencies participating in the environmental review process under this section to assess the expectations and experiences of each surveyed agency with regard to the planning and environmental review process for projects reviewed under this section.

''(B) PUBLIC PARTICIPATION.—In conducting the survey, the Secretary shall solicit comments from the public.

''(j) ASSISTANCE TO AFFECTED FEDERAL AND STATE AGENCIES.—

''(1) IN GENERAL.—The Secretary may approve a request by a State or recipient to provide funds, for a highway project made available under this title, or for a mass transit project made available under chapter 53 of title 49 to the State or recipient for the project, subject to the coordinated environmental review process established under this section, to affected Federal and State agencies to provide the resources necessary to meet any time limits established under this section.

''(2) AMOUNTS.—Such requests under paragraph (1) shall be approved only—

''(A) for such additional amounts as the Secretary determines are necessary for the affected Federal and State agencies to meet the time limits for environmental review; and

''(B) if those time limits are less than the customary time necessary for that review.''.

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 325 (as added by section 1203(f)) the following:

''326. Transportation project development process.''.

(2) Section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232) is amended—

(A) by striking subsections (a), (b), (c), (d), and (e);

(B) by redesignating subsections (f) and (g) as subsections (b) and (a), respectively, and moving the subsections so as to appear in alphabetical order; and

(C) in subsection (a) (as redesignated by subparagraph (B)), in the subsection heading, by

striking ''FEDERAL AGENCY DEFINED.—'' and inserting ''DEFINITION OF FEDERAL AGENCY.—''.

SEC. 1512. ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1511(a)), is amended by inserting after section 326 the following:

''§ 327. Assumption of responsibility for categorical exclusions

''(a) CATEGORICAL EXCLUSION DETERMINATIONS.—

''(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

''(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.

''(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(b) OTHER APPLICABLE FEDERAL LAWS.—

''(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.

''(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.

''(c) MEMORANDA OF UNDERSTANDING.—

''(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.

''(2) TERM.—A memorandum of understanding—

''(A) shall have term of not more than 3 years; and

''(B) shall be renewable.

''(3) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.

''(4) MONITORING.—The Secretary shall—

''(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and

''(B) take into account the performance by the State when considering renewal of the memorandum of understanding.

''(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.

''(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1511(b)), is amended by inserting after the item relating to section 326 the following:

''327. Assumption of responsibility for categorical exclusions.''.

SEC. 1513. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code (as amended by section 1512(a)), is amended by inserting after section 327 the following:

''§ 328. Surface transportation project delivery pilot program

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery pilot program (referred to in this section as the 'program').

''(2) ASSUMPTION OF RESPONSIBILITY.—

''(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to 1 or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—

''(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project; but

''(ii) the Secretary may not assign—

''(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or

''(II) any responsibility imposed on the Secretary by section 134 or 135.

''(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.

''(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.

''(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.

''(b) STATE PARTICIPATION.—

''(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the State of Oklahoma) to participate in the program.

''(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—

''(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;

''(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and

''(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.

''(3) PUBLIC NOTICE.—

''(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.

''(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.

''(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—

''(A) the regulatory requirements under paragraph (2) have been met;

''(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and

''(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).

''(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.

''(c) WRITTEN AGREEMENT.—A written agreement under this section shall—

''(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;

''(2) be in such form as the Secretary may prescribe;

''(3) provide that the State—

''(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);

''(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;

''(C) certifies that State laws (including regulations) are in effect that—

''(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and

''(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and

''(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.

''(d) JURISDICTION.—

''(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.

''(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.

''(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).

''(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (i).

''(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any

rulemaking authority of the Secretary under any Federal law.

''(g) AUDITS.—

''(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c)(1) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—

''(A) semiannual audits during each of the first 2 years of State participation; and

''(B) annual audits during each subsequent year of State participation.

''(2) PUBLIC AVAILABILITY AND COMMENT.—

''(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.

''(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).

''(h) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.

''(i) TERMINATION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the program shall terminate on the date that is 6 years after the date of enactment of this section.

''(2) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—

''(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;

''(B) the Secretary provides to the State—

''(i) notification of the determination of noncompliance; and

''(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and

''(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code (as amended by section 1512(b)), is amended by inserting after the item relating to section 327 the following:

''328. Surface transportation project delivery pilot program.''.

SEC. 1514. REGULATIONS.

Except as provided in section 1513, not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations necessary to implement the amendments made by chapter 1 and this chapter.

CHAPTER 3—MISCELLANEOUS

SEC. 1521. CRITICAL REAL PROPERTY ACQUISITION.

Section 108 of title 23, United States Code, is amended by adding at the end the following:

''(d) CRITICAL REAL PROPERTY ACQUISITION.—

''(1) IN GENERAL.—Subject to paragraph (2), funds apportioned to a State under this title may be used to pay the costs of acquiring any real property that is determined to be critical under paragraph (2) for a project proposed for funding under this title.

''(2) REIMBURSEMENT.—The Federal share of the costs referred to in paragraph (1) shall be eligible for reimbursement out of funds apportioned to a State under this title if, before the date of acquisition, the Secretary determines that—

''(A) the property is offered for sale on the open market;

''(B) in acquiring the property, the State will comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.); and

''(C) immediate acquisition of the property is critical because—

''(i) based on an appraisal of the property, the value of the property is increasing significantly;

''(ii) there is an imminent threat of development or redevelopment of the property; and

''(iii) the property is necessary for the implementation of the goals stated in the proposal for the project.

''(3) APPLICABLE LAW.—An acquisition of real property under this section shall be considered to be an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

''(4) ENVIRONMENTAL REVIEW.—

''(A) IN GENERAL.—A project proposed to be conducted under this title shall not be conducted on property acquired under paragraph (1) until any required environmental reviews for the project have been completed.

''(B) EFFECT ON CONSIDERATION OF PROJECT ALTERNATIVES.—The number of critical acquisitions of real property associated with a project shall not affect the consideration of project alternatives during the environmental review process.

''(5) PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.—Section 156(c) shall not apply to the sale, use, or lease of any real property acquired under paragraph (1).''.

SEC. 1522. PLANNING CAPACITY BUILDING INITIATIVE.

Section 104 of title 23, United States Code, is amended by adding at the end the following:

''(m) PLANNING CAPACITY BUILDING INITIATIVE.—

''(1) IN GENERAL.—The Secretary shall carry out a planning capacity building initiative to support enhancements in transportation planning to—

''(A) strengthen the processes and products of metropolitan and statewide transportation planning under this title;

''(B) enhance tribal capacity to conduct joint transportation planning under chapter 2;

''(C) participate in the metropolitan and statewide transportation planning programs under this title; and

''(D) increase the knowledge and skill level of participants in metropolitan and statewide transportation.

''(2) PRIORITY.—The Secretary shall give priority to planning practices and processes that support—

''(A) the transportation elements of homeland security planning, including—

''(i) training and best practices relating to emergency evacuation;

''(ii) developing materials to assist areas in coordinating emergency management and transportation officials; and

''(iii) developing training on how planning organizations may examine security issues;

''(B) performance-based planning, including—

''(i) data and data analysis technologies to be shared with States, metropolitan planning organizations, local governments, and nongovernmental organizations that—

''(I) participate in transportation planning;

''(II) use the data and data analysis to engage in metropolitan, tribal, or statewide transportation planning;

''(III) involve the public in the development of transportation plans, projects, and alternative scenarios; and

''(IV) develop strategies to avoid, minimize, and mitigate the impacts of transportation facilities and projects; and

''(ii) improvement of the quality of congestion management systems, including the development of—

''(I) a measure of congestion;

''(II) a measure of transportation system reliability; and

''(III) a measure of induced demand;

''(C) safety planning, including—

''(i) development of State strategic safety plans consistent with section 148;

''(ii) incorporation of work zone safety into planning; and

''(iii) training in the development of data systems relating to highway safety;

''(D) operations planning, including—

''(i) developing training of the integration of transportation system operations and management into the transportation planning process; and

''(ii) training and best practices relating to regional concepts of operations;

''(E) freight planning, including—

''(i) modeling of freight at a regional and statewide level; and

''(ii) techniques for engaging the freight community with the planning process;

''(F) air quality planning, including—

''(i) assisting new and existing nonattainment and maintenance areas in developing the technical capacity to perform air quality conformity analysis;

''(ii) providing training on areas such as modeling and data collection to support air quality planning and analysis;

''(iii) developing concepts and techniques to assist areas in meeting air quality performance timeframes; and

''(iv) developing materials to explain air quality issues to decisionmakers and the public; and

''(G) integration of environment and planning.

''(3) USE OF FUNDS.—The Secretary shall use amounts made available under paragraph (4) to make grants to, or enter into contracts, cooperative agreements, and other transactions with, a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education for research, program development, information collection and dissemination, and technical assistance.

''(4) SET-ASIDE.—

''(A) IN GENERAL.—On October 1 of each fiscal year, of the funds made available under subsection (a), the Secretary shall set aside $4,000,000 to carry out this subsection.

''(B) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using funds made available under subparagraph (A) shall be 100 percent.

''(C) AVAILABILITY.—Funds made available under subparagraph (A) shall remain available until expended.''.

Subtitle F—Environment

SEC. 1601. ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT; CONTROL OF INVASIVE PLANT SPECIES AND ESTABLISHMENT OF NATIVE SPECIES.

(a) MODIFICATION TO NHS/STP FOR ENVIRONMENTAL RESTORATION, POLLUTION ABATEMENT, AND INVASIVE SPECIES.—

(1) MODIFICATIONS TO NATIONAL HIGHWAY SYSTEM.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:

''(Q) Environmental restoration and pollution abatement in accordance with section 165.

''(R) Control of invasive plant species and establishment of native species in accordance with section 166.''.

(2) MODIFICATIONS TO SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, is amended by striking paragraph (14) and inserting the following:

''(14) Environmental restoration and pollution abatement in accordance with section 165.

''(15) Control of invasive plant species and establishment of native species in accordance with section 166.''.

(b) ELIGIBLE ACTIVITIES.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''§ 165. Eligibility for environmental restoration and pollution abatement

''(a) IN GENERAL.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of storm water treatment systems to meet Federal and

State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341, 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.

''(b) MAXIMUM EXPENDITURE.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for environmental restoration or pollution abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.

''§ 166. Control of invasive plant species and establishment of native species

''(a) DEFINITIONS.—In this section:

''(1) INVASIVE PLANT SPECIES—The term 'invasive plant species' means a nonindigenous species the introduction of which causes or is likely to cause economic or environmental harm or harm to human health.

''(2) NATIVE PLANT SPECIES.—The term 'native plant species' means, with respect to a particular ecosystem, a species that, other than as result of an introduction, historically occurred or currently occurs in that ecosystem.

''(b) CONTROL OF SPECIES.—

''(1) IN GENERAL.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for—

''(A) participation in the control of invasive plant species; and

''(B) the establishment of native species.

''(2) INCLUDED ACTIVITIES.—The participation and establishment under paragraph (1) may include—

''(A) participation in statewide inventories of invasive plant species and desirable plant species;

''(B) regional native plant habitat conservation and mitigation;

''(C) native revegetation; and

''(D) training.

''(3) CONTRIBUTIONS.—

''(A) IN GENERAL.—Subject to subparagraph (B), an activity described in paragraph (1) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.

''(B) CONDITION FOR ACTIVITIES CONDUCTED IN ADVANCE OF PROJECT CONSTRUCTION.—An activity described in paragraph (1) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.''.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

''165. Eligibility for environmental restoration and pollution abatement.''.

''166. Control of invasive plant species and establishment of native species.''.

SEC. 1602. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by striking ''the roads as'' and all that follows and inserting ''the roads as—

''(A) National Scenic Byways;

''(B) All-American Roads; or

''(C) America's Byways.'';

(2) in subsection (b)—

(A) in paragraph (1)(A), by striking ''designated as'' and all that follows and inserting ''designated as—

''(i) National Scenic Byways;

''(ii) All-American Roads; or

''(iii) America's Byways; and'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''Byway or All-American Road'' and inserting ''Byway, All-American Road, or 1 of America's Byways''; and

(ii) in subparagraph (B), by striking ''designation as a'' and all that follows and inserting ''designation as—

''(i) a National Scenic Byway;

''(ii) an All-American Road; or

''(iii) 1 of America's Byways; and''; and

(3) in subsection (c)(4), by striking ''passing lane,''.

(b) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—Section 162 of title 23, United States Code, is amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively;

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

''(d) RESEARCH, TECHNICAL ASSISTANCE, MARKETING, AND PROMOTION.—

''(1) IN GENERAL.—The Secretary may carry out technical assistance, marketing, market research, and promotion with respect to State Scenic Byways, National Scenic Byways, All-American Roads, and America's Byways.

''(2) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may make grants to, or enter into contracts, cooperative agreements, and other transactions with, any Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, or person, to carry out projects and activities under this subsection.

''(3) FUNDS.—The Secretary may use not more than $2,000,000 for each fiscal year of funds made available for the National Scenic Byways Program to carry out projects and activities under this subsection.

''(4) PRIORITY.—The Secretary shall give priority under this subsection to partnerships that leverage Federal funds for research, technical assistance, marketing and promotion.''; and

(3) in subsection (g) (as redesignated by paragraph (1)), by striking ''80 percent'' and inserting ''the share applicable under section 120(b), as adjusted under subsection (d) of that section''.

SEC. 1603. RECREATIONAL TRAILS PROGRAM.

(a) RECREATIONAL TRAILS PROGRAM FORMULA.—Section 104(h)(1) of title 23, United States Code, is amended—

(1) by striking ''Whenever'' and inserting the following:

''(A) IN GENERAL.—In any case in which'';

(2) by striking ''research and technical assistance under the recreational trails program and for the administration of the National Recreational Trails Advisory Committee'' and inserting ''research, technical assistance, and training under the recreational trails program''; and

(3) by striking ''The Secretary'' and inserting the following:

''(B) CONTRACTS AND AGREEMENTS.—The Secretary''.

(b) RECREATIONAL TRAILS PROGRAM ADMINISTRATION.—Section 206 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(B) by striking ''To be eligible for apportionments under this section'' and inserting the following:

''(1) IN GENERAL.—To be eligible for apportionments under this section''; and

(C) by adding at the end the following:

''(2) OBLIGATION REQUIREMENT.—If a State does not meet the requirements under paragraph (1) within a fiscal year, the State shall not be eligible for an apportionment in the following fiscal year.'';

(2) in subsection (d)—

(A) by striking paragraph (2) and inserting the following:

''(2) PERMISSIBLE USES.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

''(A) maintenance and restoration of recreational trails;

''(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

''(C) purchase and lease of recreational trail construction and maintenance equipment;

''(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal land, construction of the trails shall be—

''(i) permissible under other law;

''(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is—

''(I) required under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.); and

''(II) in effect;

''(iii) approved by the administering agency of the State designated under subsection (c)(1)(A); and

''(iv) approved by each Federal agency having jurisdiction over the affected land, under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including—

''(I) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(II) the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.); and

''(III) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

''(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

''(F) assessment of trail conditions for accessibility and maintenance;

''(G) use of trail crews, youth conservation or service corps, or other appropriate means to carry out activities under this section;

''(H) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, as those objectives relate to the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training, but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

''(I) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year to carry out this section.''; and

(B) in paragraph (3)—

(i) in subparagraph (D), by striking ''(2)(F)'' and inserting ''(2)(I)''; and

(ii) by adding at the end the following:

''(E) USE OF YOUTH CONSERVATION OR SERVICE CORPS.—A State shall make available not less than 10 percent of the apportionments of the State to provide grants to, or to enter into cooperative agreements or contracts with, qualified youth conservation or service corps to perform recreational trails program activities.''; and

(3) in subsection (f)—

(A) in paragraph (1)—

(i) by inserting ''and the Federal share of the administrative costs of a State'' after ''project''; and

(ii) by striking ''not exceed 80 percent'' and inserting in its place ''be determined in accordance with section 120(b)'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''80 percent of'' and inserting ''the amount determined in accordance with section 120(b) for''; and

(ii) in subparagraph (B), by inserting ''sponsoring the project'' after ''Federal agency'';

(C) by striking paragraph (5);

(D) by redesignating paragraph (4) as paragraph (5);

(E) by inserting after paragraph (3) the following:

''(4) USE OF RECREATIONAL TRAILS PROGRAM FUNDS TO MATCH OTHER FEDERAL PROGRAM FUNDS.—Notwithstanding any other provision of law, funds made available under this section may be used to pay the non-Federal matching share for other Federal program funds that are—

''(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

''(B) expended on a project that is eligible for assistance under this section.''; and

(F) in paragraph (5) (as redesignated by subparagraph (D)), by striking ''80 percent'' and inserting ''the Federal share as determined in accordance with section 120(b)''; and

(4) in subsection (h)—

(A) in paragraph (1), by inserting after subparagraph (B) the following:

''(C) PLANNING AND ENVIRONMENTAL ASSESSMENT COSTS INCURRED PRIOR TO PROJECT APPROVAL.—A project funded under any of subparagraphs (A) through (H) of subsection (d)(2) may permit preapproval planning and environmental compliance costs incurred not more than 18 months before project approval to be credited toward the non-Federal share in accordance with subsection (f).''; and

(B) by striking paragraph (2) and inserting the following:

''(2) WAIVER OF HIGHWAY PROGRAM REQUIREMENTS.—A project funded under this section—

''(A) is intended to enhance recreational opportunity;

''(B) is not considered to be a highway project; and

''(C) is not subject to—

''(i) section 112, 114, 116, 134, 135, 138, 217, or 301 of this title; or

''(ii) section 303 of title 49.''.

SEC. 1604. EXEMPTION OF INTERSTATE SYSTEM.

Subsection 103(c) of title 23, United States Code, is amended by adding at the end the following:

''(5) EXEMPTION OF INTERSTATE SYSTEM.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

''(B) INDIVIDUAL ELEMENTS.—A portion of the Interstate System that possesses an independent feature of historic significance, such as a historic bridge or a highly significant engineering feature, that would qualify independently for listing on the National Register of Historic Places, shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.''.

SEC. 1605. STANDARDS.

(a) IN GENERAL.—Section 109(a) of title 23, United States Code, is amended—

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

(2) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(3) consider the preservation, historic, scenic, natural environmental, and community values.''.

(b) CONTEXT SENSITIVE DESIGN.—Section 109 of title 23, United States Code, is amended by striking subsection (p) and inserting the following:

''(p) CONTEXT SENSITIVE DESIGN.—

''(1) IN GENERAL.—The Secretary shall encourage States to design projects funded under this title that—

''(A) allow for the preservation of environmental, scenic, or historic values;

''(B) ensure the safe use of the facility;

''(C) provide for consideration of the context of the locality;

''(D) encourage access for other modes of transportation; and

''(E) comply with subsection (a).

''(2) APPROVAL BY SECRETARY.—Notwithstanding subsections (b) and (c), the Secretary may approve a project described in paragraph (1) for the National Highway System if the project is designed to achieve the criteria specified in that paragraph.''.

SEC. 1606. USE OF HIGH OCCUPANCY VEHICLE LANES.

Section 102 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

''(a) HIGH OCCUPANCY VEHICLE LANE PASSENGER REQUIREMENTS.—

''(1) DEFINITIONS.—In this subsection:

''(A) RESPONSIBLE AGENCY.—The term 'responsible agency' means—

''(i) a State transportation department; and

''(ii) a local agency in a State that is responsible for transportation matters.

''(B) SERIOUSLY DEGRADED.—The term 'seriously degraded', with respect to a high occupancy vehicle lane, means, in the case of a high occupancy vehicle lane, the minimum average operating speed, performance threshold, and associated time period of the high occupancy vehicle lane, calculated and determined jointly by all applicable responsible agencies and based on conditions unique to the roadway, are unsatisfactory.

''(2) REQUIREMENTS.—

''(A) IN GENERAL.—Subject to subparagraph (B), for each State, 1 or more responsible agencies shall establish the occupancy requirements of vehicles operating on high occupancy vehicle lanes.

''(B) MINIMUM NUMBER OF OCCUPANTS.—Except as provided in paragraph (3), an occupancy requirement established under subparagraph (A) shall—

''(i) require at least 2 occupants per vehicle for a vehicle operating on a high occupancy vehicle lane; and

''(ii) in the case of a high occupancy vehicle lane that traverses an adjacent State, be established in consultation with the adjacent State.

''(3) EXCEPTIONS TO HOV OCCUPANCY REQUIREMENTS.—

''(A) MOTORCYCLES.—For the purpose of this subsection, a motorcycle—

''(i) shall not be considered to be a single occupant vehicle; and

''(ii) shall be allowed to use a high occupancy vehicle lane unless a responsible agency—

''(I) certifies to the Secretary the use of a high occupancy vehicle lane by a motorcycle would create a safety hazard; and

''(II) restricts that the use of the high occupancy vehicle lane by motorcycles.

''(B) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—

''(i) DEFINITION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—In this subparagraph, the term 'low emission and energy-efficient vehicle' means a vehicle that has been certified by the Administrator of the Environmental Protection Agency—

''(I)(aa) to have a 45-mile per gallon or greater fuel economy highway rating; or

''(bb) to qualify as an alternative fueled vehicle under section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211); and

''(II) as meeting Tier II emission level established in regulations promulgated by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle.

''(ii) EXEMPTION FOR LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—A responsible agency may permit qualifying low emission and energy-efficient vehicles that do not meet applicable occupancy requirements (as determined by the responsible agency) to use high occupancy vehicle lanes if the responsible agency—

''(I) establishes a program that addresses how those qualifying low emission and energy-efficient vehicles are selected and certified;

''(II) establishes requirements for labeling qualifying low emission and energy-efficient vehicles (including procedures for enforcing those requirements);

''(III) continuously monitors, evaluates, and reports to the Secretary on performance; and

''(IV) imposes such restrictions on the use on high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

''(C) TOLLING OF VEHICLES.—

''(i) IN GENERAL.—A responsible agency may permit vehicles, in addition to the vehicles described in paragraphs (A), (B), and (D) that do not satisfy established occupancy requirements, to use a high occupancy vehicle lane only if the responsible agency charges those vehicles a toll.

''(ii) APPLICABLE AUTHORITY.—In imposing a toll under clause (i), a responsible agency shall—

''(I) be subject to section 129;

''(II) establish a toll program that addresses ways in which motorists may enroll and participate in the program;

''(III) develop, manage, and maintain a system that will automatically collect the tolls from covered vehicles;

''(IV) continuously monitor, evaluate, and report on performance of the system;

''(V) establish such policies and procedures as are necessary—

''(aa) to vary the toll charged in order to manage the demand for use of high occupancy vehicle lanes; and

''(bb) to enforce violations; and

''(VI) establish procedures to impose such restrictions on the use of high occupancy vehicle lanes by vehicles that do not satisfy established occupancy requirements as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

''(D) DESIGNATED PUBLIC TRANSPORTATION VEHICLES.—

''(i) DEFINITION OF DESIGNATED PUBLIC TRANSPORTATION VEHICLE.—In this subparagraph, the term 'designated public transportation vehicle' means a vehicle that—

''(I) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141)); and

''(II)(aa) is owned or operated by a public entity; or

''(bb) is operated under a contract with a public entity.

''(ii) USE OF HIGH OCCUPANCY VEHICLE LANES.—A responsible agency may permit designated public transportation vehicles that do not satisfy established occupancy requirements to use high occupancy vehicle lanes if the responsible agency—

''(I) requires the clear and identifiable labeling of each designated public transportation vehicle operating under a contract with a public entity with the name of the public entity on all sides of the vehicle;

''(II) continuously monitors, evaluates, and reports on performance of those designated public transportation vehicles; and

''(III) imposes such restrictions on the use of high occupancy vehicle lanes by designated public transportation vehicles as are necessary to ensure that the performance of individual high occupancy vehicle lanes, and the entire high occupancy vehicle lane system, will not become seriously degraded.

''(E) HOV LANE MANAGEMENT, OPERATION, AND MONITORING.—

''(i) IN GENERAL.—A responsible agency that permits any of the exceptions specified in this paragraph shall comply with clauses (ii) and (iii).

''(ii) PERFORMANCE MONITORING, EVALUATION, AND REPORTING.—A responsible agency described in clause (i) shall establish, manage, and

support a performance monitoring, evaluation, and reporting program under which the responsible agency continuously monitors, assesses, and reports on the effects that any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph may have on the operation of—

''(I) individual high occupancy vehicle lanes; and

''(II) the entire high occupancy vehicle lane system.

''(iii) OPERATION OF HOV LANE OR SYSTEM.—A responsible agency described in clause (i) shall limit use of, or cease to use, any of the exceptions specified in this paragraph if the presence of any vehicle permitted to use a high occupancy vehicle lane under an exception under this paragraph seriously degrades the operation of—

''(I) individual high occupancy vehicle lanes; and

''(II) the entire high occupancy vehicle lane system.''.

SEC. 1607. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

(a) IN GENERAL.—Section 217 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting ''pedestrian and'' after ''safe'';

(2) in subsection (e), by striking ''bicycles'' each place it appears and inserting ''pedestrians or bicyclists'';

(3) by striking subsection (f) and inserting the following:

''(f) FEDERAL SHARE.—The Federal share of the construction of bicycle transportation facilities and pedestrian walkways, and for carrying out nonconstruction projects relating to safe pedestrian and bicycle use, shall be determined in accordance with section 120(b).'';

(4) by redesignating subsection (j) as subsection (l);

(5) by inserting after subsection (i) the following:

''(j) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—

''(1) IN GENERAL.—The Secretary shall select and make grants to a national, nonprofit organization engaged in promoting bicycle and pedestrian safety—

''(A) to operate a national bicycle and pedestrian clearinghouse;

''(B) to develop information and educational programs regarding walking and bicycling; and

''(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.

''(2) FUNDING.—The Secretary may use funds apportioned under section 104(n) to carry out this subsection.

''(3) APPLICABILITY OF TITLE 23.—Funds authorized to be appropriated to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under section 104, except that the funds shall remain available until expended.

''(k) 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.''; and

(6) in subsection (l) (as redesignated by paragraph (4))—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following:

''(4) SHARED USE PATH.—The term 'shared use path' means a multiuse trail or other path that is—

''(A) physically separated from motorized vehicular traffic by an open space or barrier, either within a highway right-of-way or within an independent right-of-way; and

''(B) usable for transportation purposes (including by pedestrians, bicyclists, skaters, equestrians, and other nonmotorized users).''.

(b) RESERVATION OF FUNDS.—Section 104 of title 23, United States Code (as amended by section 1601(b)), is amended by adding at the end the following:

''(n) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—On October 1 of each of fiscal years 2004 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $500,000 of the remaining funds apportioned under subsection (b)(3) for use in carrying out the bicycle and pedestrian safety grant program under section 217.''.

SEC. 1608. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.

Section 111 of title 23, United States Code, is amended by adding at the end the following:

''(d) IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.—

''(1) IN GENERAL.—Notwithstanding subsection (a), a State may—

''(A) permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in the State; and

''(B) may charge, or permit charges, for the use of those facilities.

''(2) PURPOSE.—The exclusive purpose of the facilities described in paragraph (1) (or similar technologies) shall be to enable operators of motor vehicles used for commercial purposes—

''(A) to turn off their engines while parked; and

''(B) to have heating, air conditioning, electricity, and communication services in the vehicle without use of the engine.''.

SEC. 1609. TOLL PROGRAMS.

(a) INTERSTATE SYSTEM RECONSTRUCTION AND REHABILITATION PILOT PROGRAM.—Section 1216(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 212)—

(1) is amended—

(A) in paragraph (1)—

(i) by striking ''The Secretary'' and inserting ''Notwithstanding section 301, the Secretary''; and

(ii) by striking ''that could not otherwise be adequately maintained or functionally improved without the collection of tolls'';

(B) in paragraph (3), by striking subparagraph (C) and inserting the following:

''(C) An analysis demonstrating that financing the reconstruction or rehabilitation of the facility with the collection of tolls under this pilot program is the most efficient, economical, or expeditious way to advance the project.'';

(C) in paragraph (4)—

(i) by striking subparagraph (A) and inserting the following:

''(A) the State's analysis showing that financing the reconstruction or rehabilitation of a facility with the collection of tolls under the pilot program is the most efficient, economical, or expeditious way to advance the project;'';

(ii) by striking subparagraph (B) and inserting the following:

''(B) the facility needs reconstruction or rehabilitation, including major work that may require replacing sections of the existing facility on new alignment;'';

(iii) by striking subparagraph (C); and

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

(2) is redesignated as subsection (d) of section 129 of title 23, United States Code, and moved to appear at the end of that section; and

(3) by striking ''of title 23, United States Code'' each place it appears.

(b) VARIABLE TOLL PRICING PROGRAM.—Section 129 of title 23, United States Code (as amended by subsection (a)(2)), is amended by adding at the end the following:

''(e) VARIABLE TOLL PRICING PROGRAM.—

''(1) DEFINITIONS.—In this subsection:

''(A) ELIGIBLE TOLL FACILITY.—The term 'eligible toll facility' includes—

''(i) a facility in existence on the date of enactment of this subsection that collects tolls;

''(ii) a facility in existence on the date of enactment of this subsection that serves high occupancy vehicle lanes; and

''(iii) a facility modified or constructed after the date of enactment of this subsection to create additional tolled capacity (including a facility constructed by a private entity or using private funds).

''(B) NONATTAINMENT AREA.—The term 'nonattainment area' has the meaning given the term in section 171 of the Clean Air Act (42 U.S.C. 7501).

''(2) ESTABLISHMENT.—Notwithstanding sections 129 and 301, the Secretary may permit a State, public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—

''(A) to manage high levels of congestion; or

''(B) to reduce emissions in a nonattainment area or maintenance area.

''(3) LIMITATION ON USE OF REVENUES.—

''(A) IN GENERAL.—All toll revenues received under paragraph (2) shall be used by a State or public authority for—

''(i) debt service;

''(ii) a reasonable return on investment of any private financing; and

''(iii) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); and

''(iv) projects eligible for Federal assistance under this title.

''(B) REQUIREMENTS.—

''(i) VARIABLE PRICE REQUIREMENT.—The Secretary shall require, for each facility that charges tolls under this subsection, that the tolls vary in price according to time of day, as appropriate to manage congestion or improve air quality.

''(ii) HOV PASSENGER REQUIREMENTS.—In addition to the exceptions to the high occupancy vehicle passenger requirements established under section 102(a)(2), a State may permit motor vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.

''(C) AGREEMENT.—

''(i) IN GENERAL.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State or public authority shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).

''(ii) TERMINATION.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State or public authority to discontinue the variable tolling program under this subsection for the facility.

''(iii) DEBT.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.

''(D) LIMITATION ON FEDERAL SHARE.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.

''(4) ELIGIBILITY.—To be eligible to participate in the program under this subsection, a State or public authority shall provide to the Secretary—

''(A) a description of the congestion or air quality problems sought to be addressed under the program;

''(B) a description of—

''(i) the goals sought to be achieved under the program; and

''(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and

''(C) such other information as the Secretary may require.

''(f) AUTOMATION.—A facility created or modified under this section shall use an electronic toll collection system that uses a transponder or other means to specify an account for the purposes of collecting a toll as a vehicle passes through the collection facility.

''(g) INTEROPERABILITY.—

''(1) RULE.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.

''(B) DEVELOPMENT.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the Secretary shall, to the maximum extent practicable—

''(i) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;

''(ii) take into account the use of transponders currently deployed within an appropriate geographical area of travel and the transponders likely to be in use within the next 5 years; and

''(iii) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.

''(2) FUTURE MODIFICATIONS.—As the state of technology progresses, the Secretary shall modify the rule promulgated under paragraph (1)(A), as appropriate.''.

(c) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1012 of the Intermodal Surface Transportation Efficiency Act (23 U.S.C. 149 note; 105 Stat. 1938; 112 Stat. 211) is amended by striking subsection (b).

(2) CONTINUATION OF PROGRAM.—Notwithstanding the amendment made by paragraph (1), the Secretary shall monitor and allow any value pricing program established under a cooperative agreement in effect on the day before the date of enactment of this Act to continue.

SEC. 1610. FEDERAL REFERENCE METHOD.

(a) IN GENERAL.—Section 6102 of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 464) is amended by striking subsection (e) and inserting the following:

''(e) FIELD STUDY.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Administrator shall—

''(1) conduct a field study of the ability of the $PM_{2.5}$ Federal Reference Method to differentiate those particles that are larger than 2.5 micrometers in diameter;

''(2) develop a Federal reference method to measure directly particles that are larger than 2.5 micrometers in diameter without reliance on subtracting from coarse particle measurements those particles that are equal to or smaller than 2.5 micrometers in diameter;

''(3) develop a method of measuring the composition of coarse particles; and

''(4) submit a report on the study and responsibilities of the Administrator under paragraphs (1) through (3) to—

''(A) the Committee on Commerce of the House of Representatives; and

''(B) the Committee on Environment and Public Works of the Senate.''.

SEC. 1611. ADDITION OF PARTICULATE MATTER AREAS TO CMAQ.

Section 104(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph B—

(A) in the matter preceding clause (i), by striking ''ozone or carbon monoxide'' and inserting ''ozone, carbon monoxide, or fine particulate matter ($PM_{2.5}$)'';

(B) by striking clause (i) and inserting the following:

''(i) 1.0, if at the time of apportionment, the area is a maintenance area;'';

(C) in clause (vi), by striking ''or'' after the semicolon; and

(D) in clause (vii), by striking ''area as described in section 149(b) for ozone,'' and inserting ''area for ozone (as described in section 149(b)) or for PM–2.5'';

(2) by adding at the end the following:

''(viii) 1.0 if, at the time of apportionment, any county that is not designated as a nonattainment or maintenance area under the 1-hour ozone standard is designated as nonattainment under the 8-hour ozone standard;

''(ix) 1.2 if, at the time of apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone or carbon monoxide, but is an area designated nonattainment under the PM–2.5 standard.'';

(3) by striking subparagraph (C) and inserting the following:

''(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.'';

(4) by redesignating subparagraph (D) and (E) as subparagraphs (E) and (F) respectively; and

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

''(D) ADDITIONAL ADJUSTMENT FOR PM 2.5 AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone or carbon monoxide, or both as described in section 149(b), any county within the area was also designated under the PM–2.5 standard as a nonattainment or maintenance area, the weighted nonattainment or maintenance area population of those counties shall be further multiplied by a factor of 1.2.''.

SEC. 1612. ADDITION TO CMAQ-ELIGIBLE PROJECTS.

(a) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (4), by striking ''or'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel.''.

(b) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of title 23, United States Code, is amended—

(1) in paragraph (1), by striking ''for any project eligible under the surface transportation program under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''; and

(2) in paragraph (2), by striking ''for any project in the State eligible under section 133.'' and inserting the following: ''for any project in the State that—

''(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or

''(B) is eligible under the surface transportation program under section 133.''.

SEC. 1613. IMPROVED INTERAGENCY CONSULTATION.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

''(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.''.

SEC. 1614. EVALUATION AND ASSESSMENT OF CMAQ PROJECTS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

''(h) EVALUATION AND ASSESSMENT OF PROJECTS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the congestion mitigation and air quality program to—

''(A) determine the direct and indirect impact of the projects on air quality and congestion levels; and

''(B) ensure the effective implementation of the program.

''(2) DATABASE.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects.

''(3) CONSIDERATION.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall consider the recommendations and findings of the report submitted to Congress under section 1110(e) of the Transportation Equity Act for the 21st Century (112 Stat. 144), including recommendations and findings that would improve the operation and evaluation of the congestion mitigation and air quality improvement program under section 149.''.

SEC. 1615. SYNCHRONIZED PLANNING AND CONFORMITY TIMELINES, REQUIREMENTS, AND HORIZON.

(a) METROPOLITAN PLANNING.—

(1) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—Section 134(g)(1) of title 23, United States Code, is amended by striking ''periodically, according to a schedule that the Secretary determines to be appropriate,'' and inserting ''every 4 years in areas designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)), and in areas that were nonattainment that have been redesignated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)), with a maintenance plan under section 175A of that Act (42 U.S.C. 7505a), or every 5 years in areas designated as attainment (as defined in section 107(d) of that Act (42 U.S.C. 7407(d))),''.

(2) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 134(h) of title 23, United States Code, is amended—

(A) in paragraph (1)(D), by striking ''2 years'' and inserting ''4 years''; and

(B) in paragraph (2)(A), by striking ''3-year'' and inserting ''4-year''.

(3) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—Section 135(f)(1)(A) of title 23, United States Code, is amended by inserting after ''program'' the following: ''(which program shall cover a period of 4 years and be updated every 4 years)''.

(4) FINAL REGULATIONS.—Not later than 18 months after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall promulgate regulations that are consistent with the amendments made by this subsection.

(b) SYNCHRONIZED CONFORMITY DETERMINATION.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended—

(1) in paragraph (2)—

(A) by striking ''(2) Any transportation plan'' and inserting the following:

''(2) TRANSPORTATION PLANS AND PROGRAMS.—Any transportation plan'';

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

(C) in subparagraph (D)—

(i) by striking ''Any project'' and inserting ''any transportation project''; and

(ii) by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(E) the appropriate metropolitan planning organization shall redetermine conformity of existing transportation plans and programs not later than 2 years after the date on which the Administrator—

''(i) finds a motor vehicle emissions budget to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003);

''(ii) approves an implementation plan that establishes a motor vehicle emissions budget, if that budget has not yet been used in a conformity determination prior to approval; or

''(iii) promulgates an implementation plan that establishes or revises a motor vehicle emissions budget.'';

(2) in paragraph (4)(B)(ii), by striking ''but in no case shall such determinations for transportation plans and programs be less frequent than every 3 years; and'' and inserting ''but the frequency for making conformity determinations on updated transportation plans and programs shall be every 4 years, except in a case in which—

''(I) the metropolitan planning organization elects to update a transportation plan or program more frequently; or

''(II) the metropolitan planning organization is required to determine conformity in accordance with paragraph (2)(E); and'';

(3) in paragraph (4)(B)—

(A) in clause (ii), by striking ''and'' at the end;

(B) in clause (iii), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(iv) address the effects of the most recent population, economic, employment, travel, transit ridership, congestion, and induced travel demand information in the development and application of the latest travel and emissions models.'';

(4) by adding at the end the following:

''(7) CONFORMITY HORIZON FOR TRANSPORTATION PLANS.—

''(A) IN GENERAL.—For the purposes of this section, a transportation plan in a nonattainment or maintenance area shall be considered to be a transportation plan or a portion of a transportation plan that extends for the longest of the following periods:

''(i) The first 10-year period of any such transportation plan.

''(ii) The latest year in the implementation plan applicable to the area that contains a motor vehicle emission budget.

''(iii) The year after the completion date of a regionally significant project, if the project requires approval before the subsequent conformity determination.

''(B) EXCEPTION.—In a case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicle emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or has approved the revision, the transportation plan shall be considered to be a transportation plan or portion of a transportation plan that extends through the last year of the implementation plan required under section 175A(b).

''(8) DEFINITIONS.—In this subsection:

''(A) REGIONALLY SIGNIFICANT PROJECT.—

''(i) IN GENERAL.—The term 'regionally significant project' means a transportation project that is on a facility that serves a regional transportation need, including—

''(I) access to and from the area outside of the region;

''(II) access to and from major planned developments, including new retail malls, sports complexes, or transportation terminals; and

''(III) most transportation terminals.

''(ii) PRINCIPAL ARTERIALS AND FIXED GUIDEWAYS.—The term 'regionally significant project' includes, at a minimum—

''(I) all principal arterial highways; and

''(II) all fixed guideway transit facilities that offer an alternative to regional highway travel.

''(iii) ADDITIONAL PROJECTS.—The interagency consultation process and procedures described in section 93.105(c) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), shall be used to make determinations as to whether minor arterial highways and other transportation projects should be considered 'regionally significant projects'.

''(iv) EXCLUSIONS.—The term 'regionally significant project' does not include any project of a type listed in sections 93.126 or 127 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).

''(B) SIGNIFICANT REVISION.—The term 'significant revision' means—

''(i) with respect to a regionally significant project, a significant change in design concept or scope to the project; and

''(ii) with respect to any other kind of project, a change that converts a project that is not a regionally significant project into a regionally significant project.

''(C) TRANSPORTATION PROJECT.—The term 'transportation project' includes only a project that is—

''(i) a regionally significant project; or

''(ii) a project that makes a significant revision to an existing project.''; and

(5) in the matter following paragraph (3)(B), by inserting ''transportation'' before ''project'' each place it appears.

SEC. 1616. TRANSITION TO NEW AIR QUALITY STANDARDS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by striking paragraph (3) and inserting the following:

''(3) METHODS OF CONFORMITY DETERMINATION BEFORE BUDGET IS AVAILABLE.—

''(A) IN GENERAL.—Until such time as a motor vehicle emission budget from an implementation plan submitted for a national ambient air quality standard is determined to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or the submitted implementation plan is approved, conformity of such a plan, program, or project shall be demonstrated, as selected through the consultation process required under paragraph (4)(D)(i), with—

''(i) a motor vehicle emission budget that has been found adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2003), or that has been approved, from an implementation plan for the most recent prior applicable national ambient air quality standard addressing the same pollutant; or

''(ii) other such tests as the Administrator shall determine to ensure that—

''(I) the transportation plan or program—

''(aa) is consistent with the most recent estimates of mobile source emissions;

''(bb) provides for the expeditious implementation of transportation control measures in the applicable implementation plan; and

''(cc) with respect to an ozone or carbon monoxide nonattainment area, contributes to annual emissions reductions consistent with sections 182(b)(1) and 187(a)(7); and

''(II) the transportation project—

''(aa) comes from a conforming transportation plan and program described in this subparagraph; and

''(bb) in a carbon monoxide nonattainment area, eliminates or reduces the severity and number of violations of the carbon monoxide standards in the area substantially affected by the project.

''(B) DETERMINATION FOR A TRANSPORTATION PROJECT IN A CARBON MONOXIDE NONATTAINMENT AREA.—A determination under subparagraph (A)(ii)(II)(bb) may be made as part of either the conformity determination for the transportation program or for the individual project taken as a whole during the environmental review phase of project development.''.

SEC. 1617. REDUCED BARRIERS TO AIR QUALITY IMPROVEMENTS.

Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by section 1615(b)(4)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) by inserting after paragraph (7) the following:

''(8) SUBSTITUTION FOR TRANSPORTATION CONTROL MEASURES.—

''(A) IN GENERAL.—Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures if—

''(i) the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced, as demonstrated with an analysis that is consistent with the current methodology used for evaluating the replaced control measure in the implementation plan;

''(ii) the substitute control measures are implemented—

''(I) in accordance with a schedule that is consistent with the schedule provided for control measures in the implementation plan; or

''(II) if the implementation plan date for implementation of the control measure to be replaced has passed, as soon as practicable after the implementation plan date but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan;

''(iii) the substitute and additional control measures are accompanied with evidence of adequate personnel, funding, and authority under State or local law to implement, monitor, and enforce the control measures;

''(iv) the substitute and additional control measures were developed through a collaborative process that included—

''(I) participation by representatives of all affected jurisdictions (including local air pollution control agencies, the State air pollution control agency, and State and local transportation agencies);

''(II) consultation with the Administrator; and

''(III) reasonable public notice and opportunity for comment; and

''(v) the metropolitan planning organization, State air pollution control agency, and the Administrator concur with the equivalency of the substitute or additional control measures.

''(B) ADOPTION.—After carrying out subparagraph (A), a State shall adopt the substitute or additional transportation control measure in the applicable implementation plan.

''(C) NO REQUIREMENT FOR EXPRESS PERMISSION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not be contingent on there being any provision in the implementation plan that expressly permits such a substitution or addition.

''(D) NO REQUIREMENT FOR NEW CONFORMITY DETERMINATION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not require—

''(i) a new conformity determination for the transportation plan; or

''(ii) a revision of the implementation plan.

''(E) CONTINUATION OF CONTROL MEASURE BEING REPLACED.—A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is approved.

''(F) EFFECT OF ADOPTION.—Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.''.

SEC. 1618. AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.

(a) IN GENERAL.—Section 319 of the Clean Air Act (42 U.S.C. 7619) is amended—

(1) by striking the section heading and all that follows through ''after notice and opportunity for public hearing'' and inserting the following:

''SEC. 319. AIR QUALITY MONITORING.

''(a) IN GENERAL.—After notice and opportunity for public hearing''; and

(2) by adding at the end the following:

''(b) AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.—

''(1) DEFINITION OF EXCEPTIONAL EVENT.—In this section:

''(A) IN GENERAL.—The term 'exceptional event' means an event that—

''(i) affects air quality;

''(ii) is not reasonably controllable or preventable;

''(iii) is—

''(I) a natural event; or

''(II) an event caused by human activity that is unlikely to recur at a particular location; and

''(iv) is determined by the Administrator through the process established in the regulations promulgated under paragraph (2) to be an exceptional event.

''(B) EXCLUSIONS.—The term 'exceptional event' does not include—

''(i) stagnation of air masses or meteorological inversions;

''(ii) a meteorological event involving high temperatures or lack of precipitation; or

''(iii) air pollution relating to source noncompliance.

''(2) REGULATIONS.—

''(A) PROPOSED REGULATIONS.—Not later than March 1, 2005, after consultation with Federal land managers and State air pollution control agencies, the Administrator shall publish in the Federal Register proposed regulations governing the review and handling of air quality monitoring data influenced by exceptional events.

''(B) FINAL REGULATIONS.—Not later than 1 year after the date on which the Administrator publishes proposed regulations under subparagraph (A), and after providing an opportunity for interested persons to make oral presentations of views, data, and arguments regarding the proposed regulations, the Administrator shall promulgate final regulations governing the review and handling or air quality monitoring data influenced by an exceptional event that are consistent with paragraph (3).

''(3) PRINCIPLES AND REQUIREMENTS.—

''(A) PRINCIPLES.—In promulgating regulations under this section, the Administrator shall follow—

''(i) the principle that protection of public health is the highest priority;

''(ii) the principle that timely information should be provided to the public in any case in which the air quality is unhealthy;

''(iii) the principle that all ambient air quality data should be included in a timely manner, an appropriate Federal air quality database that is accessible to the public;

''(iv) the principle that each State must take necessary measures to safeguard public health regardless of the source of the air pollution; and

''(v) the principle that air quality data should be carefully screened to ensure that events not likely to recur are represented accurately in all monitoring data and analyses.

''(B) REQUIREMENTS.—Regulations promulgated under this section shall, at a minimum, provide that—

''(i) the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies;

''(ii) a clear causal relationship must exist between the measured exceedances of a national ambient air quality standard and the exceptional event to demonstrate that the exceptional event caused a specific air pollution concentration at a particular air quality monitoring location;

''(iii) there is a public process for determining whether an event is exceptional; and

''(iv) there are criteria and procedures for the Governor of a State to petition the Administrator to exclude air quality monitoring data that is directly due to exceptional events from use in determinations by the Environmental Protection Agency with respect to exceedances or violations of the national ambient air quality standards.

''(4) INTERIM PROVISION.—Until the effective date of a regulation promulgated under paragraph (2), the following guidance issued by the Administrator shall continue to apply:

''(A) Guidance on the identification and use of air quality data affected by exceptional events (July 1986).

''(B) Areas affected by PM–10 natural events, May 30, 1996.

''(C) Appendices I, K, and N to part 50 of title 40, Code of Federal Regulations.''.

SEC. 1619. CONFORMING AMENDMENTS.

Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4) is amended—

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (D) through (F), respectively;

(2) by striking ''(4)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate'' and inserting the following:

''(4) CRITERIA AND PROCEDURES FOR DETERMINING CONFORMITY.—

''(A) IN GENERAL.—The Administrator shall promulgate, and periodically update,'';

(3) in subparagraph (A)—

(A) in the second sentence, by striking ''No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate'' and inserting the following:

''(B) TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS.—The Administrator, with the concurrence of the Secretary of Transportation, shall promulgate, and periodically update,''; and

(B) in the third sentence, by striking ''A suit'' and inserting the following:

''(C) CIVIL ACTION TO COMPEL PROMULGATION.—A civil action''; and

(4) by striking subparagraph (E) (as redesignated by paragraph (1)) and inserting the following:

''(E) INCLUSION OF CRITERIA AND PROCEDURES IN SIP.—Not later than 2 years after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the procedures under subparagraph (A) shall include a requirement that each State include in the State implementation plan criteria and procedures for consultation in accordance with the Administrator's criteria and procedures for consultation required by subparagraph (D)(i).''.

SEC. 1620. HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.

(a) HIGHWAY STORMWATER MITIGATION PROJECTS.—Section 133(d) of title 23, United States Code (as amended by section 1401(a)(2)(B)), is amended by adding at the end the following:

''(5) HIGHWAY STORMWATER DISCHARGE MITIGATION PROJECTS.—Of the amount apportioned to a State under section 104(b)(3) for a fiscal year, 2 percent shall be available only for projects and activities carried out under section 167.''.

(b) HIGHWAY STORMWATER DISCHARGE MITIGATION PROGRAM.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(a)), is amended by adding at the end the following:

''§ 167. Highway stormwater discharge mitigation program

''(a) DEFINITIONS.—In this section:

''(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(2) ELIGIBLE MITIGATION PROJECT.—The term 'eligible mitigation project' means a practice or technique that—

''(A) improves stormwater discharge water quality;

''(B) attains preconstruction hydrology;

''(C) promotes infiltration of stormwater into groundwater;

''(D) recharges groundwater;

''(E) minimizes stream bank erosion;

''(F) promotes natural filters;

''(G) otherwise mitigates water quality impacts of highway stormwater discharges, improves surface water quality, or enhances groundwater recharge; or

''(H) reduces flooding caused by highway stormwater discharge.

''(3) FEDERAL-AID HIGHWAY AND ASSOCIATED FACILITY.—The term 'Federal-aid highway and associated facility' means—

''(A) a Federal-aid highway; or

''(B) a facility or land owned by a State (or political subdivision of a State) that is directly associated with the Federal-aid highway.

''(4) HIGHWAY STORMWATER DISCHARGE.—The term 'highway stormwater discharge' means stormwater discharge from a Federal-aid highway, or a Federal-aid highway and associated facility, that was constructed before the date of enactment of this section.

''(5) HIGHWAY STORMWATER DISCHARGE MITIGATION.—The term 'highway stormwater discharge mitigation' means—

''(A) the reduction of water quality impacts of stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities; or

''(B) the enhancement of groundwater recharge from stormwater discharges from Federal-aid highways or Federal-aid highways and associated facilities.

''(6) PROGRAM.—The term 'program' means the highway stormwater discharge mitigation program established under subsection (b).

''(b) ESTABLISHMENT.—The Secretary shall establish a highway stormwater discharge mitigation program—

''(1) to improve the quality of stormwater discharge from Federal-aid highways or Federal-aid highways and associated facilities; and

''(2) to enhance groundwater recharge.

''(c) PRIORITY OF PROJECTS.—For projects funded from the allocation under section 133(d)(6), a State shall give priority to projects sponsored by a State or local government that assist the State or local government in complying with the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

''(d) GUIDANCE.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Administrator, shall issue guidance to assist States in carrying out this section.

''(2) REQUIREMENTS FOR GUIDANCE.—The guidance issued under paragraph (1) shall include information concerning innovative technologies and nonstructural best management practices to mitigate highway stormwater discharges.''.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1601(b), is amended by inserting after the item relating to section 166 the following:

''167. Highway stormwater discharge mitigation program.''.

Subtitle G—Operations

SEC. 1701. TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.

(a) SURFACE TRANSPORTATION PROGRAM ELIGIBILITY.—Section 133(b) of title 23, United

States Code (as amended by section 1601(a)(2)), is amended by adding at the end the following:

''(16) Regional transportation operations collaboration and coordination activities that are associated with regional improvements, such as traffic incident management, technology deployment, emergency management and response, traveler information, and regional congestion relief.

''(17) RUSH HOUR CONGESTION RELIEF.—

''(A) IN GENERAL.—Subject to subparagraph (B), a State may spend not more than 2 percent of the funds apportioned under this section to reduce traffic delays caused by motor vehicle accidents and breakdowns on highways during peak driving times.

''(B) USE OF FUNDS.—A State, metropolitan planning organization, or local government may use the funds under subparagraph (A)—

''(i) to develop a region-wide coordinated plan to mitigate traffic delays caused by motor vehicle accidents and breakdowns;

''(ii) to purchase or lease telecommunications equipment for first responders;

''(iii) to purchase or lease towing and recovery services;

''(iv) to pay contractors for towing and recovery;

''(v) to rent vehicle storage areas adjacent to roadways;

''(vi) to fund service patrols, equipment, and operations;

''(vii) to purchase incident detection equipment;

''(viii) to carry out training.''.

(b) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM ELIGIBILITY.—Section 149(b)(5) of title 23, United States Code, is amended by inserting ''improve transportation systems management and operations,'' after ''intersections,''.

(c) TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

(1) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(b)), is amended by adding at the end the following:

''§ 168. Transportation systems management and operations

''(a) IN GENERAL.—The Secretary shall carry out a transportation systems management and operations program to—

''(1) ensure efficient and effective transportation systems management and operations on Federal-aid highways through collaboration, coordination, and real-time information sharing at a regional and Statewide level among—

''(A) managers and operators of major modes of transportation;

''(B) public safety officials; and

''(C) the general public; and

''(2) manage and operate Federal-aid highways in a coordinated manner to preserve the capacity and maximize the performance of highway and transit facilities for travelers and carriers.

''(b) AUTHORIZED ACTIVITIES.—

''(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may carry out activities to—

''(A) encourage managers and operators of major modes of transportation, public safety officials, and transportation planners in urbanized areas that are responsible for conducting the day-to-day management, operations, public safety, and planning of transportation facilities and services to collaborate on and coordinate, on a regional level and in a continuous and sustained manner, improved transportation systems management and operations; and

''(B) encourage States to—

''(i) establish a system of basic real-time monitoring for the surface transportation system; and

''(ii) provide the means to share the data gathered under clause (i) among—

''(I) highway, transit, and public safety agencies;

''(II) jurisdictions (including States, cities, counties, and metropolitan planning organizations);

''(III) private-sector entities; and

''(IV) the general public.

''(2) ACTIVITIES.—Activities to be carried out under paragraph (1) include—

''(A) developing a regional concept of operations that defines a regional strategy shared by all transportation and public safety participants with respect to the manner in which the transportation systems of the region should be managed, operated, and measured;

''(B) the sharing of information among operators, service providers, public safety officials, and the general public; and

''(C) guiding, in a regionally-coordinated manner and in a manner consistent with and integrated into the metropolitan and statewide transportation planning processes and regional intelligent transportation system architecture, the implementation of regional transportation system management and operations initiatives, including—

''(i) emergency evacuation and response;

''(ii) traffic incident management;

''(iii) technology deployment; and

''(iv) traveler information systems delivery.

''(c) COOPERATION.—In carrying out the program under subsection (a), the Secretary may assist and cooperate with other Federal agencies, State and local governments, metropolitan planning organizations, private industry, and other interested parties to improve regional collaboration and real-time information sharing between managers and operators of major modes of transportation, public safety officials, emergency managers, and the general public to increase the security, safety, and reliability of Federal-aid highways.

''(d) GUIDANCE; REGULATIONS.—

''(1) IN GENERAL.—In carrying out the program under subsection (a), the Secretary may issue guidance or promulgate regulations for the procurement of transportation system management and operations facilities, equipment, and services, including—

''(A) equipment procured in preparation for natural disasters, disasters caused by human activity, and emergencies;

''(B) system hardware;

''(C) software; and

''(D) software integration services.

''(2) CONSIDERATIONS.—In developing the guidance or regulations under paragraph (1), the Secretary may consider innovative procurement methods that support the timely and streamlined execution of transportation system management and operations programs and projects.

''(3) FINANCIAL ASSISTANCE.—The Secretary may authorize the use of funds made available under section 104(b)(3) to provide assistance for regional operations collaboration and coordination activities that are associated with regional improvements, such as—

''(A) traffic incident management;

''(B) technology deployment;

''(C) emergency management and response;

''(D) traveler information; and

''(E) congestion relief.''.

(2) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1620(c)), is amended by adding at the end:

''168. Transportation systems management and operations.''.

SEC. 1702. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(1)), is amended by adding at the end the following:

''§ 169. Real-time system management information program

''(a) IN GENERAL.—The Secretary shall carry out a real-time system management information program to—

''(1) provide a nationwide system of basic real-time information for managing and operating the surface transportation system;

''(2)(A) identify long-range real-time highway and transit monitoring needs; and

''(B) develop plans and strategies for meeting those needs;

''(3) provide the capability and means to share the basic real-time information with State and local governments and the traveling public; and

''(4) provide the nationwide capability to monitor, in real-time, the traffic and travel conditions of major highways in the United States, and to share that information with State and local governments and the traveling public, to—

''(A) improve the security of the surface transportation system;

''(B) address congestion problems;

''(C) support improved response to weather events; and

''(D) facilitate the distribution of national and regional traveler information.

''(b) DATA EXCHANGE FORMATS.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems (including statewide incident reporting systems) can readily be exchanged between jurisdictions to facilitate the nationwide availability of information on traffic and travel conditions.

''(c) STATEWIDE INCIDENT REPORTING SYSTEM.—Not later than 2 years after the date of enactment of this section, or not later than 5 years after the date of enactment of this section if the Secretary determines that adequate real-time communications capability will not be available within 2 years after the date of enactment of this section, each State shall establish a statewide incident reporting system to facilitate the real-time electronic reporting of highway and transit incidents to a central location for use in—

''(1) monitoring an incident;

''(2) providing accurate traveler information on the incident; and

''(3) responding to the incident as appropriate.

''(d) REGIONAL ITS ARCHITECTURE.—

''(1) IN GENERAL.—In developing or updating regional intelligent transportation system architectures under section 940.9 of title 23, Code of Federal Regulations (or any successor regulation), States and local governments shall address—

''(A) the real-time highway and transit information needs of the State or local government, including coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing information; and

''(B) the systems needed to meet those needs.

''(2) DATA EXCHANGE FORMATS.—In developing or updating regional intelligent transportation system architectures, States and local governments are encouraged to incorporate the data exchange formats developed by the Secretary under subsection (b) to ensure that the data provided by highway and transit monitoring systems can readily be—

''(A) exchanged between jurisdictions; and

''(B) shared with the traveling public.

''(e) ELIGIBLE FUNDING.—Subject to project approval by the Secretary, a State may—

''(1) use funds apportioned to the State under section 505(a) to carry out activities relating to the planning of real-time monitoring elements; and

''(2) use funds apportioned to the State under paragraphs (1) and (3) of section 104(b) to carry out activities relating to the planning and deployment of real-time monitoring elements.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1701(c)(2)), is amended adding at the end the following:

''169. Real-time system management information program.''.

Subtitle H—Federal-Aid Stewardship

SEC. 1801. FUTURE INTERSTATE SYSTEM ROUTES.

Section 103(c)(4)(B) of title 23, United States Code, is amended—

(1) in clause (ii), by striking ''12'' and inserting ''25''; and

(2) in clause (iii)—

(A) in subclause (I), by striking ''in the agreement between the Secretary and the State or States''; and

(B) by adding at the end the following:

''(III) EXISTING AGREEMENTS.—An agreement described in clause (ii) that is entered into before the date of enactment of this subparagraph shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.''.

SEC. 1802. STEWARDSHIP AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

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

''(e) VALUE ENGINEERING ANALYSIS.—

''(1) DEFINITION OF VALUE ENGINEERING ANALYSIS.—

''(A) IN GENERAL.—In this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project, during the design phase, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as recommendations described in subparagraph (B) for—

''(i) reducing the total cost of the project; and

''(ii) improving the quality of the project.

''(B) INCLUSIONS.—The recommendations referred to in subparagraph (A) include, with respect to a project—

''(i) combining or eliminating otherwise inefficient use of expensive parts of the original proposal design for the project; and

''(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.

''(2) ANALYSIS.—The State shall provide a value engineering analysis or other cost-reduction analysis for—

''(A) each project on the Federal-Aid System with an estimated total cost of $25,000,000 or more;

''(B) a bridge project with an estimated total cost of $20,000,000 or more; and

''(C) any other project the Secretary determines to be appropriate.

''(3) MAJOR PROJECTS.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).

''(4) REQUIREMENTS.—Analyses described in paragraph (1) for a bridge project shall—

''(A) include bridge substructure requirements based on construction material; and

''(B) be evaluated—

''(i) on engineering and economic bases, taking into consideration acceptable designs for bridges; and

''(ii) using an analysis of life-cycle costs and duration of project construction.''; and

(2) by striking subsections (g) and (h) and inserting the following:

''(g) OVERSIGHT PROGRAM.—

''(1) PROGRAM.—

''(A) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds made available under this title.

''(B) MINIMUM REQUIREMENTS.—At a minimum, the program shall monitor and respond to all areas relating to financial integrity and project delivery.

''(2) FINANCIAL INTEGRITY.—

''(A) FINANCIAL MANAGEMENT SYSTEMS.—

''(i) IN GENERAL.—The Secretary shall perform annual reviews of the financial management systems of State transportation departments that affect projects approved under subsection (a).

''(ii) REVIEW AREAS.—In carrying out clause (i), the Secretary shall use risk assessment procedures to identify areas to be reviewed.

''(B) PROJECT COSTS.—The Secretary shall—

''(i) develop minimum standards for estimating project costs; and

''(ii) periodically evaluate practices of the States for—

''(I) estimating project costs;

''(II) awarding contracts; and

''(III) reducing project costs.

''(C) RESPONSIBILITY OF THE STATES.—

''(i) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under this section have—

''(I) sufficient accounting controls to properly manage the Federal funds; and

''(II) adequate project delivery systems for projects approved under this section.

''(ii) REVIEW BY SECRETARY.—The Secretary shall periodically review monitoring by the States of those subrecipients.

''(3) PROJECT DELIVERY.—The Secretary shall—

''(A) perform annual reviews of the project delivery system of each State, including analysis of 1 or more activities that are involved in the life cycle of a project; and

''(B) employ risk assessment procedures to identify areas to be reviewed.

''(4) SPECIFIC OVERSIGHT RESPONSIBILITIES.—Nothing in this section discharges or otherwise affects any oversight responsibility of the Secretary—

''(A) specifically provided for under this title or other Federal law; or

''(B) for the design and construction of all Appalachian development highways under section 14501 of title 40 or section 170 of this title.

''(h) MAJOR PROJECTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $1,000,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—

''(A) a project management plan; and

''(B) an annual financial plan.

''(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—

''(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and

''(B) the role of the agency leadership and management team in the delivery of the project.

''(3) FINANCIAL PLAN.—A financial plan shall—

''(A) be based on detailed estimates of the cost to complete the project; and

''(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.

''(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title that receives $100,000,000 or more in Federal assistance for the project, and that is not covered by subsection (h), shall prepare, and make available to the Secretary at the request of the Secretary, an annual financial plan for the project.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 114(a) of title 23, United States Code, is amended—

(A) in the first sentence by striking ''highways or portions of highways located on a Federal-aid system'' and inserting ''Federal-aid highway or a portion of a Federal-aid highway''; and

(B) by striking the second sentence and inserting ''The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.''.

(2) Section 117 of title 23, United States Code, is amended—

(A) by striking subsection (d); and

(B) by redesignating subsections (e) through (h) as subsections (d) through (g), respectively.

(c) CONTRACTOR SUSPENSION AND DEBARMENT POLICY; SHARING FRAUD MONETARY RECOVERIES.—

(1) IN GENERAL.—Section 307 of title 49, United States Code, is amended to read as follows:

''§ 307. Contractor suspension and debarment policy; sharing fraud monetary recoveries

''(a) MANDATORY ENFORCEMENT POLICY.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary—

''(A) shall debar any contractor or subcontractor convicted of a criminal or civil offense involving fraud relating to a project receiving Federal highway or transit funds for such period as the Secretary determines to be appropriate; and

''(B) subject to approval by the Attorney General—

''(i) except as provided in paragraph (2), shall suspend any contractor or subcontractor upon indictment for criminal or civil offenses involving fraud; and

''(ii) may exclude nonaffiliated subsidiaries of a debarred business entity.

''(2) NATIONAL SECURITY EXCEPTION.—If the Secretary finds that mandatory debarment or suspension of a contractor or subcontractor under paragraph (1) would be contrary to the national security of the United States, the Secretary—

''(A) may waive the debarment or suspension; and

''(B) in the instance of each waiver, shall provide notification to Congress of the waiver with appropriate details.

''(b) SHARING OF MONETARY RECOVERIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of law—

''(A) monetary judgments accruing to the Federal Government from judgments in Federal criminal prosecutions and civil judgments pertaining to fraud in highway and transit programs shall be shared with the State or local transit agency involved; and

''(B) the State or local transit agency shall use the funds for transportation infrastructure and oversight activities relating to programs authorized under title 23 and this title.

''(2) AMOUNT.—The amount of recovered funds to be shared with an affected State or local transit agency shall be—

''(A) determined by the Attorney General, in consultation with the Secretary; and

''(B) considered to be Federal funds to be used in compliance with other relevant Federal transportation laws (including regulations).

''(3) FRAUDULENT ACTIVITY.—Paragraph (1) shall not apply in any case in which a State or local transit agency is found by the Attorney General, in consultation with the Secretary, to have been involved or negligent with respect to the fraudulent activities.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 49, United States Code, is amended by striking the item relating to section 307 and inserting the following:

''307. Contractor suspension and debarment policy; sharing fraud monetary recoveries.''.

SEC. 1803. DESIGN-BUILD CONTRACTING.

Section 112(b)(3) of title 23, United States Code, is amended by striking subparagraph (C) and inserting the following:

''(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations promulgated by the Secretary.''.

SEC. 1804. PROGRAM EFFICIENCIES—FINANCE.

(a) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by redesignating subsections (a)(2), (a)(2)(A), and (a)(2)(B) as subsections (c), (c)(1), and (c)(2), respectively, and indenting appropriately;

(3) by striking ''(a) CONGESTION.—'' and all that follows through subsection (a)(1)(B);

(4) by striking subsection (b); and

(5) by inserting after the section heading the following:

''(a) IN GENERAL.—The Secretary may authorize a State to proceed with a project authorized under this title—

''(1) without the use of Federal funds; and

''(2) in accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

''(A) with the aid of Federal funds previously apportioned or allocated to the State; or

''(B) with obligation authority previously allocated to the State.

''(b) OBLIGATION OF FEDERAL SHARE.—The Secretary, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of the project authorized under this section from any category of funds for which the project is eligible.''.

(b) OBLIGATION AND RELEASE OF FUNDS.—Section 118 of title 23, United States Code, is amended by striking subsection (d) and inserting the following:

''(d) OBLIGATION AND RELEASE OF FUNDS.—

''(1) IN GENERAL.—Funds apportioned or allocated to a State for a particular purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.

''(2) RELEASED FUNDS.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—

''(A) credited to the same class of funds previously apportioned or allocated to the State; and

''(B) immediately available for obligation.

''(3) NET OBLIGATIONS.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this section shall be recorded and reported as net obligations.''.

SEC. 1805. SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.

Section 118(c)(1) of title 23, United States Code, is amended—

(1) by striking ''$50,000,000'' and all that follows through ''2003'' and inserting ''$100,000,000 for each of fiscal years 2004 through 2009''; and

(2) by striking ''Transportation Equity Act for the 21st Century'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003''.

SEC. 1806. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—

(1) IN GENERAL.—Section 120(k) of title 23, United States Code, is amended—

(A) by striking ''Federal-aid highway''; and

(B) by striking ''section 104'' and inserting ''this title or chapter 53 of title 49''.

(2) TECHNICAL REFERENCES.—Section 120(l) of title 23, United States Code, is amended by striking ''section 104'' and inserting ''this title or chapter 53 of title 49''.

(b) PAYMENTS TO FEDERAL AGENCIES FOR FEDERAL-AID PROJECTS.—Section 132 of title 23, United States Code, is amended—

(1) by striking the first 2 sentences and inserting the following:

''(a) IN GENERAL.—In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may—

''(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or

''(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.

''(b) REIMBURSEMENT.—On execution of a project agreement with a State described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2).''; and

(2) in the last sentence, by striking ''Any sums'' and inserting the following:

''(c) RECOVERY AND CREDITING OF FUNDS.—Any sums''.

(c) ALLOCATIONS.—Section 202 of title 23, United States Code, is amended—

(1) in subsection (a), by striking ''(a) On October 1'' and all that follows through ''Such allocation'' and inserting the following:

''(a) ALLOCATION BASED ON NEED.—

''(1) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grassland.

''(2) PLANNING.—The allocation under paragraph (1)'';

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

''(b) ALLOCATION FOR PUBLIC LANDS HIGHWAYS.—

''(1) PUBLIC LANDS HIGHWAYS.—

''(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 33⅓ percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, or nontaxable Indian lands or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.

''(B) PREFERENCE.—In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are proposed by a State that contains at least 3 percent of the total public land in the United States.

''(2) NATIONAL FOREST SYSTEM.—

''(A) IN GENERAL.—On October 1 of each fiscal year, the Secretary shall allocate 66⅔ percent of the funds authorized to be appropriated for public lands highways for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).

''(B) PUBLIC ACCESS TO AND WITHIN NATIONAL FOREST SYSTEM.—In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—

''(i) renewable resource and land use planning; and

''(ii) assessments of the impact of that planning on transportation facilities.'';

(3) in subsection (c)—

(A) by striking ''(c) On'' and inserting the following:

''(c) PARK ROADS AND PARKWAYS.—

''(1) IN GENERAL.—On''; and

(B) by adding at the end the following:

''(2) PRIORITY.—

''(A) DEFINITION OF QUALIFYING NATIONAL PARK.—In this paragraph, the term ''qualifying national park'' means a National Park that is used more than 1,000,000 recreational visitor days per year, based on an average of the 3 most recent years of available data from the National Park Service.

''(B) PRIORITY.—Notwithstanding any other provision of law, with respect to funds authorized for park roads and parkways, the Secretary shall give priority in the allocation of funds to projects for highways that—

''(i) are located in, or provide access to, a qualifying National Park; and

''(ii) were initially constructed before 1940.

''(C) PRIORITY CONFLICTS.—If there is a conflict between projects described in subparagraph (B), the Secretary shall give highest priority to projects that—

''(i) are in, or that provide access to, parks that are adjacent to a National Park of a foreign country; or

''(ii) are located in more than 1 State;'';

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the paragraph heading, by striking ''1999'' and inserting ''2005''; and

(ii) by striking ''1999'' and inserting ''2005'';

(B) in paragraph (2)—

(i) in the paragraph heading, by striking ''2000'' and inserting ''2005'';

(ii) in subparagraphs (A), (B), and (D), by striking ''2000'' each place it appears and inserting ''2005'';

(iii) in subparagraph (B), by striking ''1999'' each place it appears and inserting ''2004''; and

(iv) by adding at the end the following:

''(E) TRANSFERRED FUNDS.—

''(i) IN GENERAL.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and available for immediate use by, the eligible Indian tribes, in accordance with the formula applicable for each fiscal year.

''(ii) FORMULA.—If the Secretary of the Interior has not promulgated final regulations for the distribution of funds under clause (i) for a fiscal year by the date on which the funds for the fiscal year are required to be distributed under that clause, the Secretary of the Interior shall distribute the funds under clause (i) in accordance with the applicable funding formula for the preceding year.'';

(C) in paragraph (3)(A)—

(i) by striking ''under this title'' and inserting ''under this chapter and section 125(e)''; and

(ii) by inserting ''and the approved Indian reservation road transportation improvement program'' before the period at the end; 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.—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).''.

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting ''refuge 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. 460l–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

''(ii) the Department of Defense; or

''(iii) 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. 460l–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. 1807. EMERGENCY RELIEF.

Section 125(c)(1) of title 23, United States Code, is amended by striking ''$100,000,000'' and inserting ''$300,000,000''.

SEC. 1808. HIGHWAY BRIDGE PROGRAM.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(1) by striking the section heading and all that follows through subsection (a) and inserting the following:

''§ 144. Highway bridge program

''(a) CONGRESSIONAL STATEMENT.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be established to enable States to improve the condition of their bridges through replacement, rehabilitation, and systematic preventative maintenance on highway bridges over waterways, other topographical barriers, other highways, or railroads at any time at which the States and the Secretary determine that a bridge is unsafe because of structural deficiencies, physical deterioration, or functional obsolescence.'';

(2) by striking subsection (d) and inserting the following:

''(d) PARTICIPATION IN PROGRAM.—

''(1) IN GENERAL.—On application by a State to the Secretary for assistance in replacing or rehabilitating a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—

''(A) replacing the bridge with a comparable bridge; or

''(B) rehabilitating the bridge.

''(2) SPECIFIC KINDS OF REHABILITATION.—On application by a State to the Secretary for assistance in painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or applying calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, the structure of a highway bridge, the Secretary may approve Federal participation in the painting, seismic retrofit, or preventative maintenance of, or installation of scour countermeasures or application of acetate or sodium acetate/formate or such anti-icing or de-icing composition to, the structure.

''(3) ELIGIBILITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on the number of unsafe highway bridges in the State.

''(B) PREVENTATIVE MAINTENANCE.—A State may carry out a project for preventative maintenance on a bridge, seismic retrofit of a bridge, or installation of scour countermeasures to a bridge under this section without regard to whether the bridge is eligible for replacement or rehabilitation under this section.'';

(3) in subsection (e)—

(A) in the third sentence, by striking ''square footage'' and inserting ''area'';

(B) in the fourth sentence—

(i) by striking ''by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and,''; and

(ii) by striking ''1997'' and inserting ''2003''; and

(C) in the seventh sentence, by striking ''the Federal-aid primary system'' and inserting ''Federal-aid highways'';

(4) by striking subsections (f) and (g) and inserting the following:

''(f) SET ASIDES.—

''(1) DISCRETIONARY BRIDGE PROGRAM.—

''(A) IN GENERAL.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of fiscal years 2004 through 2009, all but $150,000,000 shall be apportioned as provided in subsection (e).

''(B) AVAILABILITY.—The $150,000,000 referred to in subparagraph (A) shall be available at the discretion of the Secretary, except that not to exceed $25,000,000 of that amount shall be available only for projects for the seismic retrofit of bridges.

''(C) SET ASIDES.—For fiscal year 2004, the Secretary shall provide—

''(i) $50,000,000 to the State of Nevada for construction of a replacement of the federally-owned bridge over the Hoover Dam in the Lake Mead National Recreation Area; and

''(ii) $50,000,000 to the State of Missouri for construction of a structure over the Mississippi River to connect the city of St. Louis, Missouri, to the State of Illinois.

''(2) OFF-SYSTEM BRIDGES.—

''(A) IN GENERAL.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2004 through 2009 shall be expended for projects to replace, rehabilitate, perform systematic preventative maintenance or seismic retrofit, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions or install scour countermeasures to highway bridges located on public roads, other than those on a Federal-aid highway.

''(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may, with respect to the State, reduce the requirement for expenditure for bridges not on a Federal-aid highway if the Secretary determines that the State has inadequate needs to justify the expenditure.'';

(5) in subsection (i)—

(A) in paragraph (3), by striking ''and'';

(B) in paragraph (4), by striking the period at the end and inserting ''; and'';

(C) by striking ''Such reports'' and all that follows through ''to Congress.''; and

(D) by adding at the end the following:

''(5) biennially submit such reports as are required under this subsection to the appropriate committees of Congress simultaneously with the report required by section 502(g).'';

(6) in the first sentence of subsection (n), by striking ''all standards'' and inserting ''all general engineering standards'';

(7) in subsection (o)—

(A) in paragraph (3)—

(i) by striking ''title (including this section)'' and inserting ''section''; and

(ii) by inserting ''200 percent of'' after ''shall not exceed''; and

(B) in paragraph (4)(B)—

(i) in the second sentence, by inserting ''200 percent of'' after ''not to exceed''; and

(ii) in the last sentence, by striking ''title'' and inserting ''section'';

(8) by redesignating subsections (h) through (q) as subsections (g) through (p), respectively; and

(9) by adding at the end the following:

''(q) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

''144. Highway bridge program.''.

SEC. 1809. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1702(a)), is amended by adding at the end the following:

''§ 170. Appalachian development highway system

''(a) APPORTIONMENT.—

''(1) IN GENERAL.—The Secretary shall apportion funds made available under section 1101(a)(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for fiscal years 2004 through 2009 among States based on the latest available estimate of the cost to construct highways and access roads for the Appalachian development highway system program prepared by the Appalachian Regional Commission under section 14501 of title 40.

''(2) AVAILABILITY.—Funds described in paragraph (1) shall be available to construct highways and access roads under chapter 145 of title 40.

''(b) APPLICABILITY OF TITLE.—Funds made available under section 1101(a)(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the Appalachian development highway system shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that—

''(1) the Federal share of the cost of any project under this section shall be determined in accordance with subtitle IV of title 40; and

''(2) the funds shall remain available until expended.''.

(b) CONFORMING AMENDMENTS.—

(1) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code is amended by inserting ''and the Appalachian development highway system program under subtitle IV of title 40'' after ''(other than the emergency relief program authorized by section 125''.

(2) ANALYSIS.—The analysis of chapter 1 of title 23, United States Code (as amended by section 1702(b)), is amended by adding at the end the following:

''170. Appalachian development highway system.''.

SEC. 1810. MULTISTATE CORRIDOR PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by 1809(a)), is amended by adding at the end the following:

''§ 171. Multistate corridor program

''(a) ESTABLISHMENT AND PURPOSE.—The Secretary shall carry out a program to—

''(1) support and encourage multistate transportation planning and development; and

''(2) facilitate transportation decisionmaking and coordinate project delivery involving multistate corridors.

''(b) ELIGIBLE RECIPIENTS.—A State transportation department and a metropolitan planning organization may receive and administer funds provided under this section.

''(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for multistate highway and multimodal planning studies and construction.

''(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—

''(1) STUDIES.—All studies funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

''(2) CONSTRUCTION.—All construction funded under this program shall be consistent with section 133(b)(1).

''(e) SELECTION CRITERIA.—The Secretary shall select studies and projects to be carried out under the program based on—

''(1) the existence and significance of signed and binding multijurisdictional agreements;

''(2) endorsement of the study or project by applicable elected State and local representatives;

''(3) prospects for early completion of the study or project; or

''(4) whether the projects to be studied or constructed are located on corridors identified by section 1105(c) of the Intermodal Surface 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 or projects that emphasize multimodal planning, including planning for operational improvements that—

''(A) increase—

''(i) mobility;

''(ii) freight productivity;

''(iii) access to marine or inland ports;

''(iv) safety and security; and

''(v) reliability; and

''(B) enhance the environment.

''(g) FEDERAL SHARE.—The Federal share of the cost of a study or project carried out under the program, using funds from all Federal sources, shall be 80 percent.

''(h) APPLICABILITY.—Funds authorized to be appropriated under section 1101(10) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under this chapter.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(b)) is amended by adding at the end the following:

''171. Multistate corridor program.''.

SEC. 1811. BORDER PLANNING, OPERATIONS, TECHNOLOGY, AND CAPACITY PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(a)), is amended by adding at the end the following:

''§ 172. Border planning, operations, technology, and capacity program

''(a) DEFINITIONS.—In this section:

''(1) BORDER STATE.—The term 'border State' means any of the States of Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Texas, Vermont, and Washington.

''(2) PROGRAM.—The term 'program' means the border planning, operations, technology, and capacity program established under subsection (b).

''(b) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish and carry out a border planning, operations, technology, and capacity improvement program to support coordination and improvement in bi-national transportation planning, operations, efficiency, information exchange, safety, and security at the international borders of the United States with Canada and Mexico.

''(c) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations at or near an international land border in a border State may receive and administer funds allocated under the program.

''(d) ELIGIBLE ACTIVITIES.—

''(1) IN GENERAL.—The Secretary shall make allocations under the program for projects to carry out eligible activities described in paragraph (2) at or near international land borders in border States.

''(2) ELIGIBLE ACTIVITIES.—The eligible activities referred to in paragraph (1) are—

''(A) highway and multimodal planning or environmental studies;

''(B) cross-border port of entry and safety inspection improvements, including operational enhancements and technology applications;

''(C) technology and information exchange activities; and

''(D) right-of-way acquisition, design, and construction, as needed—

''(i) to implement the enhancements or applications described in subparagraphs (B) and (C);

''(ii) to decrease air pollution emissions from vehicles or inspection facilities at border crossings; or

''(iii) to increase highway capacity at or near international borders.

''(e) OTHER PROVISIONS REGARDING ELIGIBILITY.—

''(1) IN GENERAL.—Each project funded under the program shall be carried out in accordance with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135.

''(2) REGIONALLY SIGNIFICANT PROJECTS.—To be funded under the program, a regionally significant project shall be included on the applicable transportation plan and program required by sections 134 and 135.

''(f) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

''(1) expected benefits, including air quality benefits, of the project in relation to the cost of the project;

''(2) prospects for early completion of the project;

''(3) endorsement of the project by formally constituted bi-national organizations with Federal and State or provincial representation;

''(4) the existence and significance of signed and binding multijurisdictional agreements;

''(5) contributions, in amounts at least equal to required minimums, of—

''(A) Federal funds made available for other programs under this title; and

''(B) Federal funds made available under a provision of law other than this title; and

''(6) the extent to which the benefits of the project are multimodal.

''(g) PROGRAM PRIORITIES.—In administering the program, the Secretary shall give priority to projects that emphasize—

''(1) multimodal planning;

''(2) improvements in infrastructure; and

''(3) operational improvements that—

''(A) increase safety, security, freight capacity, or highway access to rail, marine, and air services; and

''(B) enhance the environment.

''(h) FEDERAL SHARE.—The Federal share of the cost of a project carried out under the program shall be 80 percent.

''(i) OBLIGATION.—Funds made available under section 1101(11) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 to carry out the program shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

''(j) INFORMATION EXCHANGE.—No individual project the scope of work of which is limited to information exchange shall receive an allocation under the program in an amount that exceeds $500,000 for any fiscal year.

''(k) PROJECTS IN CANADA OR MEXICO.—A project in Canada or Mexico, proposed by a border State to directly and predominantly facilitate cross-border vehicle and commercial cargo movements at an international gateway or port of entry into the border region of the State, may be constructed using funds made available under the program if, before obligation of those funds, Canada or Mexico, or the political subdivision of Canada or Mexico that is responsible for the operation of the facility to be constructed, provides assurances satisfactory to the Secretary that any facility constructed under this subsection will be—

''(1) constructed in accordance with standards equivalent to applicable standards in the United States; and

''(2) properly maintained and used over the useful life of the facility for the purpose for which the Secretary allocated funds to the project.

''(l) TRANSFER OF FUNDS TO THE GENERAL SERVICES ADMINISTRATION.—

''(1) STATE FUNDS.—At the request of a border State, funds made available under the program may be transferred to the General Services Administration for the purpose of funding 1 or more specific projects if—

''(A) the Secretary determines, after consultation with the State transportation department of the border State, that the General Services Administration should carry out the project; and

''(B) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

''(2) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration, for each project covered by the request, the non-Federal share of the cost of each project described in subsection (h).

''(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds provided by a border State under subparagraph (A)—

''(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

''(ii) shall be—

''(I) administered in accordance with the procedures of the General Services Administration; but

''(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

''(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds provided for projects under subparagraph (A).

''(3) DIRECT TRANSFER OF AUTHORIZED FUNDS.—

''(A) IN GENERAL.—In addition to allocations to States and metropolitan planning organizations under subsection (c), the Secretary may transfer funds made available to carry out this section to the General Services Administration for construction of transportation infrastructure projects at or near the border in border States, if—

''(i) the Secretary determines that the transfer is necessary to effectively carry out the purposes of this program; and

''(ii) the General Services Administration agrees to accept the transfer of, and to administer, those funds.

''(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds transferred by the Secretary under subparagraph (A)—

''(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and

''(ii) shall be—

''(I) administered in accordance with the procedures of the General Services Administration; but

''(II) available for obligation in the same manner as if the funds were apportioned under this chapter.

''(C) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration in the same manner and amount as the funds transferred under subparagraph (A).

''(D) NONAPPLICABILITY OF CERTAIN PROVISION.—Section 120 shall not apply to the transfer of funds under this paragraph.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1810(b)), is amended by adding at the end the following:

''172. Border planning, operations, and technology program.''.

SEC. 1812. PUERTO RICO HIGHWAY 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:

''§ 173. Puerto Rico highway program

''(a) IN GENERAL.—The Secretary shall allocate funds authorized by section 1101(a)(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for each of fiscal years 2004 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.

''(b) APPLICABILITY OF TITLE.—

''(1) IN GENERAL.—Amounts made available by section 1101(a)(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 shall be available for obligation in the same manner as if such funds were apportioned under this chapter.

''(2) LIMITATION ON OBLIGATIONS.—The amounts shall be subject to any limitation on obligations for Federal-aid highway and highway safety construction programs.

''(c) TREATMENT OF FUNDS.—Amounts made available to carry out this section for a fiscal year shall be administered as follows:

''(1) APPORTIONMENT.—For purposes of this section, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b), 144, and 206, for each program funded under those sections in an amount determined by multiplying—

''(A) the aggregate of the amounts for the fiscal year; by

''(B) the ratio that—

''(i) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 2003; bears to

''(ii) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 2003.

''(2) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in paragraph (1) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title and title 49.

''(3) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to paragraph (2), nothing in this section affects any allocation under section 105 and any apportionment under sections 104 and 144.''.

(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:

''173. Puerto Rico highway program.''.

SEC. 1813. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1812(a)), is amended by adding at the end the following:

''§ 174. National historic covered bridge preservation

''(a) DEFINITION OF HISTORIC COVERED BRIDGE.—In this section, the term 'historic covered bridge' means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

''(b) HISTORIC COVERED BRIDGE PRESERVATION.—Subject to the availability of appropriations, the Secretary shall—

''(1) collect and disseminate information on historic covered bridges;

''(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

''(3) conduct research on the history of historic covered bridges; and

''(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

''(c) GRANTS.—

''(1) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

''(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

''(A) to rehabilitate or repair a historic covered bridge; or

''(B) to preserve a historic covered bridge, including through—

''(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

''(ii) installation of a system to prevent vandalism and arson; or

''(iii) relocation of a bridge to a preservation site.

''(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

''(A) to the maximum extent practicable, the project—

''(i) is carried out in the most historically appropriate manner; and

''(ii) preserves the existing structure of the historic covered bridge; and

''(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

''(4) FEDERAL SHARE.—The Federal share of the cost of a project carried out with a grant under this subsection shall be 80 percent.

''(d) FUNDING.—There is authorized to be appropriated to carry out this section $14,000,000 for each of fiscal years 2004 through 2009, to 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 1812(b)), is amended by adding at the end the following:

''174. National historic covered bridge preservation.''.

SEC. 1814. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1813(a)), is amended by adding at the end the following:

''§ 175. Transportation and community and system preservation pilot program

''(a) ESTABLISHMENT.—The Secretary shall establish a comprehensive program to facilitate the planning, development, and implementation of strategies by States, metropolitan planning organizations, federally-recognized Indian tribes, and local governments to integrate transportation, community, and system preservation plans and practices that address the goals described in subsection (b).

''(b) GOALS.—The goals of the program are—

''(1) to improve the efficiency of the transportation system in the United States;

''(2) to reduce the impacts of transportation on the environment;

''(3) reduce the need for costly future investments in public infrastructure;

''(4) to provide efficient access to jobs, services, and centers of trade; and

''(5) to examine development patterns, and to identify strategies, to encourage private sector development patterns that achieve the goals identified in paragraphs (1) through (4).

''(c) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

''(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

''(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

''(A) have instituted preservation or development plans and programs that—

''(i) meet the requirements of this title and chapter 53 of title 49, United States Code; and

''(ii)(I) are coordinated with State and local adopted preservation or development plans;

''(II) are intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or

''(III) are intended to promote innovative private sector strategies.

''(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

''(i) spending policies that direct funds to high-growth areas;

''(ii) urban growth boundaries to guide metropolitan expansion;

''(iii) 'green corridors' programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

''(iv) other similar programs or policies as determined by the Secretary;

''(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;

''(D) examine ways to encourage private sector investments that address the purposes of this section; and

''(E) propose projects for funding that address the purposes described in subsection (b)(2).

''(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

''(4) USE OF ALLOCATED FUNDS.—

''(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

''(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

''(i) any project eligible for funding under this title or chapter 53 of title 49, United States Code; or

''(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

''(I) transit-oriented development plans;

''(II) traffic calming measures; or

''(III) other coordinated transportation and community and system preservation practices.

''(d) FUNDING.—

''(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $50,000,000 for each of fiscal years 2004 through 2009.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under this chapter.''.

(b) ELIGIBLE PROJECTS.—Section 133(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

''(18) Transportation and community system preservation to facilitate the planning, development, and implementation of strategies of metropolitan planning organizations and local governments to integrate transportation, community, and system preservation plans and practices that address the following:

''(A) Improvement of the efficiency of the transportation system in the United States.

''(B) Reduction of the impacts of transportation on the environment.

''(C) Reduction of the need for costly future investments in public infrastructure.

''(D) Provision of efficient access to jobs, services, and centers of trade.

''(E) Examination of development patterns, and identification of strategies to encourage private sector development patterns, that achieve the goals identified in subparagraphs (A) through (D).

''(19) Projects relating to intersections, including intersections—

''(A) that—

''(i) have disproportionately high accident rates;

''(ii) have high levels of congestion, as evidenced by—

''(I) interrupted traffic flow at the intersection; and

''(II) a level of service rating, issued by the Transportation Research Board of the National Academy of Sciences in accordance with the Highway Capacity Manual, that is not better than 'F' during peak travel hours; and

''(iii) are directly connected to or located on a Federal-aid highway; and

''(B) improvements that are approved in the regional plan of the appropriate local metropolitan planning organization.''.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1813(b)), is amended by adding at the end the following:

''175. Transportation and community and system preservation pilot program.''.

SEC. 1815. TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.

Section 204 of title 23, United States Code (as amended by section 1806(f)(4)), is amended by adding at the end the following:

''(n) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, regulation, policy, or guideline, an Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—

''(A) Indian reservation roads; and

''(B) roads providing access to Indian reservation roads.

''(2) TRIBAL-STATE AGREEMENTS.—Agreements entered into under paragraph (1)—

''(A) shall be negotiated between the State and the Indian tribe; and

''(B) shall not require the approval of the Secretary.

''(3) ANNUAL REPORT.—Effective beginning with fiscal year 2004, the Secretary shall prepare and submit to Congress an annual report that identifies—

''(A) the Indian tribes and States that have entered into agreements under paragraph (1);

''(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and

''(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).''.

SEC. 1816. FOREST HIGHWAYS.

Section 204 of title 23, United States Code (as amended by section 1815), is amended by adding at the end the following:

''(o) FOREST HIGHWAYS.—Of the amounts made available for forest highways, $15,000,000 for each fiscal year shall be used to repair culverts and bridges on forest highways to—

''(1) facilitate appropriate fish passage and ensure reasonable flows; and

''(2) maintain and remove such culverts and bridges as appropriate.''.

SEC. 1817. TERRITORIAL HIGHWAY PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:

''§ 215. Territorial highway program

''(a) DEFINITIONS.—In this section:

''(1) PROGRAM.—The term 'program' means the territorial highway program established under subsection (b).

''(2) TERRITORY.—The term 'territory' means the any of the following territories of the United States:

''(A) American Samoa.

''(B) The Commonwealth of the Northern Mariana Islands.

''(C) Guam.

''(D) The United States Virgin Islands.

''(b) PROGRAM.—

''(1) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each territorial government in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—

''(A) designated by the Governor or chief executive officer of each territory; and

''(B) approved by the Secretary.

''(2) FEDERAL ASSISTANCE.—The Secretary shall provide Federal financial assistance to territories under this section in accordance with section 120(h).

''(c) TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories to, on a continuing basis—

''(A) engage in highway planning;

''(B) conduct environmental evaluations;

''(C) administer right-of-way acquisition and relocation assistance programs; and

''(D) design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.

''(2) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under paragraph (1), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by subsection (e).

''(d) NONAPPLICABILITY OF CERTAIN PROVISIONS.—

''(1) IN GENERAL.—Except to the extent that provisions of chapter 1 are determined by the Secretary to be inconsistent with the needs of the territories and the intent of the program, chapter 1 (other than provisions of chapter 1 relating to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the program.

''(2) APPLICABLE PROVISIONS.—The specific sections of chapter 1 that are applicable to each territory, and the extent of the applicability of those section, shall be identified in the agreement required by subsection (e).

''(e) AGREEMENT.—

''(1) IN GENERAL.—Except as provided in paragraph (3), none of the funds made available for the program shall be available for obligation or expenditure with respect to any territory until the Governor or chief executive officer of the territory enters into a new agreement with the Secretary (which new agreement shall be entered into not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003), providing that the government of the territory shall—

''(A) implement the program in accordance with applicable provisions of chapter 1 and subsection (d);

''(B) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—

''(i) appropriate for each territory; and

''(ii) approved by the Secretary;

''(C) provide for the maintenance of facilities constructed or operated under this section in a condition to adequately serve the needs of present and future traffic; and

''(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.

''(2) TECHNICAL ASSISTANCE.—The new agreement required by paragraph (1) shall—

''(A) specify the kind of technical assistance to be provided under the program;

''(B) include appropriate provisions regarding information sharing among the territories; and

''(C) delineate the oversight role and responsibilities of the territories and the Secretary.

''(3) REVIEW AND REVISION OF AGREEMENT.—The new agreement entered into under paragraph (1) shall be reevaluated and, as necessary, revised, at least every 2 years.

''(4) EXISTING AGREEMENTS.—With respect to an agreement between the Secretary and the Governor or chief executive officer of a territory that is in effect as of the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003—

''(A) the agreement shall continue in force until replaced by a new agreement in accordance with paragraph (1); and

''(B) amounts made available for the program under the agreement shall be available for obligation or expenditure so long as the agreement, or a new agreement under paragraph (1), is in effect.

''(f) PERMISSIBLE USES OF FUNDS.—

''(1) IN GENERAL.—Funds made available for the program may be used only for the following projects and activities carried out in a territory:

''(A) Eligible surface transportation program projects described in section 133(b).

''(B) Cost-effective, preventive maintenance consistent with section 116.

''(C) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.

''(D) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.

''(E) Studies of the economy, safety, and convenience of highway use.

''(F) The regulation and equitable taxation of highway use.

''(G) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.

''(2) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available for the program shall be obligated or expended for routine maintenance.

''(g) LOCATION OF PROJECTS.—Territorial highway projects (other than those described in paragraphs (1), (3), and (4) of section 133(b)) may not be undertaken on roads functionally classified as local.''.

(b) CONFORMING AMENDMENTS.—

(1) ELIGIBLE PROJECTS.—Section 103(b)(6) of title 23, United States Code, is amended by striking subparagraph (P) and inserting the following:

''(P) Projects eligible for assistance under the territorial highway program under section 215.''.

(2) FUNDING.—Section 104(b)(1)(A) of title 23, United States Code, is amended by striking ''to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands'' and inserting ''for the territorial highway program authorized under section 215''.

(3) ANALYSIS.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 215 and inserting the following:

''215. Territorial highway program.''.

SEC. 1818. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

Section 322 of title 23, United States Code, is amended—

(1) in subsection (c)—

(A) by striking ''Not later than'' and inserting the following:

''(1) INITIAL SOLICITATION.—Not later than''; and

(B) by adding at the end the following:

''(2) ADDITIONAL SOLICITATION.—Not later than 1 year after the date of enactment of this

paragraph, the Secretary may solicit additional applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.'';

(2) in subsection (e), by striking ''Prior to soliciting applications, the Secretary'' and inserting ''The Secretary'';

(3) in subsection (h)—

(A) in subparagraph (A), by striking clause (i) and inserting the following:

''(i) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 2004 through 2009.''; and

(B) in subparagraph (B), by striking clause (i) and inserting the following:

''(i) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—

''(I) $375,000,000 for fiscal year 2004;

''(II) $400,000,000 for fiscal year 2005;

''(III) $415,000,000 for fiscal year 2006;

''(IV) $425,000,000 for fiscal year 2007;

''(V) $435,000,000 for fiscal year 2008; and

''(VI) $450,000,000 for fiscal year 2009.''; and

(4) by striking subsection (i).

SEC. 1819. DONATIONS AND CREDITS.

Section 323 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (c), by inserting '', or a local government from offering to donate funds, materials, or services performed by local government employees,'' after ''services''; and

(2) striking subsection (e).

SEC. 1820. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—In this section:

(1) SMALL BUSINESS CONCERN.—

(A) IN GENERAL.—The term ''small business concern'' has the meaning given the term under section 3 of the Small Business Act (15 U.S.C. 632).

(B) EXCLUSION.—The term ''small business concern'' does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that has average annual gross receipts over the preceding 3 fiscal years in excess of $17,420,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term ''socially and economically disadvantaged individuals'' has the meaning given the term under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated under that section, except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

(e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act, if the entity or person is prevented, in whole or in part, from complying with subsection (a) because a Federal court issues a final order in which the court finds that the requirement of subsection (a), or the program established under subsection (a), is unconstitutional.

Subtitle I—Technical Corrections

SEC. 1901. REPEAL OR UPDATE OF OBSOLETE TEXT.

(a) LETTING OF CONTRACTS.—Section 112 of title 23, United States Code, is amended—

(1) by striking subsection (f); and

(2) by redesignating subsection (g) as subsection (f).

(b) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking ''on the Federal-aid urban system'' and inserting ''on a Federal-aid highway''.

SEC. 1902. CLARIFICATION OF DATE.

Section 109(g) of title 23, United States Code, is amended in the first sentence by striking ''The Secretary'' and all that follows through ''of 1970'' and inserting ''Not later than January 30, 1971, the Secretary shall issue''.

SEC. 1903. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.

(a) IN GENERAL.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 321;

(3) moved to appear after section 320 of that title; and

(4) amended by striking the section heading and inserting the following:

''§ 321. Signs identifying funding sources''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 320 the following:

''321. Signs identifying funding sources.''.

SEC. 1904. INCLUSION OF BUY AMERICA REQUIREMENTS IN TITLE 23.

(a) IN GENERAL.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is—

(1) transferred to title 23, United States Code;

(2) redesignated as section 313;

(3) moved to appear after section 312 of that title; and

(4) amended by striking the section heading and inserting the following:

''§ 313. Buy America''.

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 312 the following:

''313. Buy America.''.

(2) Section 313 of title 23, United States Code (as added by subsection (a)), is amended—

(A) in subsection (a), by striking ''by this Act'' the first place it appears and all that follows through ''of 1978'' and inserting ''to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title'';

(B) in subsection (b), by redesignating paragraph (4) as paragraph (3);

(C) in subsection (d), by striking ''this Act,'' and all that follows through ''Code, which'' and inserting ''the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that'';

(D) by striking subsection (e); and

(E) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

SEC. 1905. TECHNICAL AMENDMENTS TO NONDISCRIMINATION SECTION.

Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking ''subsection (a) of section 105 of this title'' and inserting ''section 135'';

(B) in the second sentence, by striking ''He'' and inserting ''The Secretary'';

(C) in the third sentence, by striking ''where he considers it necessary to assure'' and inserting ''if necessary to ensure''; and

(D) in the last sentence—

(i) by striking ''him'' and inserting ''the Secretary'' and

(ii) by striking ''he'' and inserting ''the Secretary'';

(2) in subsection (b)—

(A) in the first sentence, by striking ''highway construction'' and inserting ''surface transportation''; and

(B) in the second sentence—

(i) by striking ''as he may deem necessary'' and inserting ''as necessary''; and

(ii) by striking ''not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and'';

(3) in the second sentence of subsection (c)—

(A) by striking ''subsection 104(b)(3) of this title'' and inserting ''section 104(b)(3)''; and

(B) by striking ''he may deem''; and

(4) in the heading of subsection (d), by striking ''AND CONTRACTING''.

TITLE II—TRANSPORTATION RESEARCH

Subtitle A—Funding

SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH.—

(A) IN GENERAL.—For carrying out sections 502, 503, 506, 507, 508, and 511 of title 23, United States Code—

(i) $211,000,000 for each of fiscal years 2004 and 2005;

(ii) $215,000,000 for fiscal year 2006;

(iii) $218,000,000 for fiscal year 2007;

(iv) $220,000,000 for fiscal year 2008; and

(v) $223,000,000 for fiscal year 2009.

(B) SURFACE TRANSPORTATION-ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.—For each of fiscal years 2004 through 2009, the Secretary shall set aside $20,000,000 of the funds apportioned under subparagraph (A) to carry out the surface transportation-environmental cooperative research program.

(2) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code—

(A) $27,000,000 for fiscal year 2004;

(B) $28,000,000 for fiscal year 2005;

(C) $29,000,000 for fiscal year 2006;

(D) $30,000,000 for fiscal year 2007;

(E) $31,000,000 for fiscal year 2008; and

(F) $32,000,000 for fiscal year 2009.

(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, $28,000,000 for each of fiscal years 2004 through 2009.

(4) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—For carrying out sections 524, 525, 526, 527, 528, and 529 of title 23, United States Code—

(A) $120,000,000 for fiscal year 2004;

(B) $123,000,000 for fiscal year 2005;

(C) $126,000,000 for fiscal year 2006;

(D) $129,000,000 for fiscal year 2007;

(E) $132,000,000 for fiscal year 2008; and

(F) $135,000,000 for fiscal year 2009.

(5) UNIVERSITY TRANSPORTATION CENTERS.—For carrying out section 510 of title 23, United States Code—

(A) $40,000,000 for fiscal year 2004; and

(B) $45,000,000 for each of fiscal years 2005 through 2009.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a)—

(1) shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project or activity carried out using the funds shall be the share applicable under section 120(b) of title 23, United States Code, as adjusted under subsection (d) of that section (unless otherwise specified or otherwise determined by the Secretary); and

(2) shall remain available until expended.

(c) ALLOCATIONS.—

(1) SURFACE TRANSPORTATION RESEARCH.—Of the amounts made available under subsection (a)(1)—

(A) $27,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out advanced, high-risk, long-term research under section 502(d) of title 23, United States Code; and

(B) $18,000,000 for fiscal years 2004 and 2005, $17,000,000 for fiscal year 2006, $15,000,000 for fiscal year 2007, $12,000,000 for fiscal year 2008, and $10,00,000 for fiscal year 2009 shall be available to carry out the long-term pavement performance program under section 502(e) of that title.

(2) TECHNOLOGY APPLICATION PROGRAM.—Of the amounts made available under subsection (a)(1), $60,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 503 of title 23, United States Code.

(3) TRAINING AND EDUCATION.—Of the amounts made available under subsection (a)(2)—

(A) $12,000,000 for fiscal year 2004, $12,500,000 for fiscal year 2005, $13,000,000 for fiscal year 2006, $13,500,000 for fiscal year 2007, $14,000,000 for fiscal year 2008, and $14,500,000 for fiscal year 2009 shall be available to carry out section 504(a) of title 23, United States Code (relating to the National Highway Institute);

(B) $12,000,000 for fiscal year 2004, $12,500,000 for fiscal year 2005, $13,000,000 for fiscal year 2006, $13,500,000 for fiscal year 2007, $14,000,000 for fiscal year 2008, and $14,500,000 for fiscal year 2009 shall be available to carry out section 504(b) of that title (relating to local technical assistance); and

(C) $3,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 504(c)(2) of that title (relating to the Eisenhower Transportation Fellowship Program).

(4) INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.—Of the amounts made available under subsection (a)(1), $500,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 506 of title 23, United States Code.

(5) NEW STRATEGIC HIGHWAY RESEARCH PROGRAM.—For each of fiscal years 2004 through 2009, to carry out section 509 of title 23, United States Code, the Secretary shall set aside—

(A) $15,000,000 of the amounts made available to carry out the interstate maintenance program under section 119 of title 23, United States Code, for the fiscal year;

(B) $19,000,000 of the amounts made available for the National Highway System under section 101 of title 23, United States Code, for the fiscal year;

(C) $13,000,000 of the amounts made available to carry out the bridge program under section 144 of title 23, United States Code, for the fiscal year;

(D) $20,000,000 of the amounts made available to carry out the surface transportation program under section 133 of title 23, United States Code, for the fiscal year;

(E) $5,000,000 of the amounts made available to carry out the congestion mitigation and air quality improvement program under section 149 of title 23, United States Code, for the fiscal year; and

(F) $3,000,000 of the amounts made available to carry out the highway safety improvement program under section 148 of title 23, United States Code, for the fiscal year.

(6) COMMERCIAL VEHICLE INTELLIGENT TRANSPORTATION SYSTEM INFRASTRUCTURE PROGRAM.—Of the amounts made available under subsection (a)(4), not less than $30,000,000 for each of fiscal years 2004 through 2009 shall be available to carry out section 527 of title 23, United States Code.

(d) TRANSFERS OF FUNDS.—The Secretary may transfer—

(1) to an amount made available under paragraphs (1), (2), or (4) of subsection (c), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those paragraphs; and

(2) to an amount made available under subparagraphs (A), (B), or (C) of subsection (c)(3), not to exceed 10 percent of the amount allocated for a fiscal year under any other of those subparagraphs.

SEC. 2002. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 2001(a) shall not exceed—

(1) $496,000,000 for fiscal year 2004;

(2) $510,000,000 for fiscal year 2005;

(3) $518,000,000 for fiscal year 2006;

(4) $525,000,000 for fiscal year 2007;

(5) $531,000,000 for fiscal year 2008; and

(6) $538,000,000 for fiscal year 2009.

SEC. 2003. NOTICE.

(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, notice of that action shall be concurrently provided to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department of Transportation for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of the reorganization to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.

Subtitle B—Research and Technology

SEC. 2101. RESEARCH AND TECHNOLOGY PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended to read as follows:

"CHAPTER 5—RESEARCH AND TECHNOLOGY

"Subchapter I—Surface Transportation

"Sec.
"501. Definitions.
"502. Surface transportation research.
"503. Technology application program.
"504. Training and education.
"505. State planning and research.
"506. International highway transportation outreach program.
"507. Surface transportation-environment cooperative research program.
"508. Surface transportation research technology deployment and strategic planning.
"509. New strategic highway research program.
"510. University transportation centers.
"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM
"521. Finding.
"522. Goals and purposes.
"523. Definitions.
"524. General authorities and requirements.
"525. National ITS Program Plan.
"526. National ITS architecture and standards.
"527. Commercial vehicle intelligent transportation system infrastructure program.
"528. Research and development.
"529. Use of funds.

"SUBCHAPTER I—SURFACE TRANSPORTATION

"§ 501. Definitions

"In this subchapter:

"(1) FEDERAL LABORATORY.—The term 'Federal laboratory' includes—

"(A) a Government-owned, Government-operated laboratory; and

"(B) a Government-owned, contractor-operated laboratory.

"(2) SAFETY.—The term 'safety' includes highway and traffic safety systems, research, and development relating to—

"(A) vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics;

"(B) accident investigations;

"(C) communications;

"(D) emergency medical care; and

"(E) transportation of the injured.

"§ 502. Surface transportation research

"(a) IN GENERAL.—

"(1) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out research, development, and technology transfer activities with respect to—

"(A) all phases of transportation planning and development (including new technologies, construction, transportation systems management and operations development, design, maintenance, safety, security, financing, data collection and analysis, demand forecasting, multimodal assessment, and traffic conditions); and

"(B) the effect of State laws on the activities described in subparagraph (A).

"(2) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing, any material, invention, patented article, or process.

"(3) COOPERATION, GRANTS, AND CONTRACTS.—

"(A) IN GENERAL.—The Secretary may carry out this section—

"(i) independently;

"(ii) in cooperation with—

"(I) any other Federal agency or instrumentality; and

"(II) any Federal laboratory; or

"(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

"(I) the National Academy of Sciences;

"(II) the American Association of State Highway and Transportation Officials;

"(III) planning organizations;

"(IV) a Federal laboratory;

"(V) a State agency;

"(VI) an authority, association, institution, or organization;

"(VII) a for-profit or nonprofit corporation;

"(VIII) a foreign country; or

"(IX) any other person.

"(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable—

"(i) on a competitive basis; and

"(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

"(4) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508(c).

"(5) FUNDS.—

''(A) SPECIAL ACCOUNT.—In addition to other funds made available to carry out this section, the Secretary shall use such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose.

''(B) USE OF FUNDS.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

''(b) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

''(1) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—

''(A) non-Federal entities (including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State); and

''(B) Federal laboratories.

''(2) AGREEMENTS.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

''(3) FEDERAL SHARE.—

''(A) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

''(B) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).

''(4) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

''(5) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

''(c) CONTENTS OF RESEARCH PROGRAM.—The Secretary shall include as priority areas of effort within the surface transportation research program—

''(1) the development of new technologies and methods in materials, pavements, structures, design, and construction, with the objectives of—

''(A)(i) increasing to 50 years the expected life of pavements;

''(ii) increasing to 100 years the expected life of bridges; and

''(iii) significantly increasing the durability of other infrastructure;

''(B) lowering the life-cycle costs, including—

''(i) construction costs;

''(ii) maintenance costs;

''(iii) operations costs; and

''(vi) user costs.

''(2) the development, and testing for effectiveness, of nondestructive evaluation technologies for civil infrastructure using existing and new technologies;

''(3) the investigation of—

''(A) the application of current natural hazard mitigation techniques to manmade hazards; and

''(B) the continuation of hazard mitigation research combining manmade and natural hazards;

''(4) the improvement of safety—

''(A) at intersections;

''(B) with respect to accidents involving vehicles run off the road; and

''(C) on rural roads;

''(5) the reduction of work zone incursions and improvement of work zone safety;

''(6) the improvement of geometric design of roads for the purpose of safety;

''(7) the examination of data collected through the national bridge inventory conducted under section 144 using the national bridge inspection standards established under section 151, with the objectives of determining whether—

''(A) the most useful types of data are being collected; and

''(B) any improvement could be made in the types of data collected and the manner in which the data is collected, with respect to bridges in the United States;

''(8) the improvement of the infrastructure investment needs report described in subsection (g) through—

''(A) the study and implementation of new methods of collecting better quality data, particularly with respect to performance, congestion, and infrastructure conditions;

''(B) monitoring of the surface transportation system in a system-wide manner, through the use of—

''(i) intelligent transportation system technologies of traffic operations centers; and

''(ii) other new data collection technologies as sources of better quality performance data;

''(C) the determination of the critical metrics that should be used to determine the condition and performance of the surface transportation system; and

''(D) the study and implementation of new methods of statistical analysis and computer models to improve the prediction of future infrastructure investment requirements;

''(9) the development of methods to improve the determination of benefits from infrastructure improvements, including—

''(A) more accurate calculations of benefit-to-cost ratios, considering benefits and impacts throughout local and regional transportation systems;

''(B) improvements in calculating life-cycle costs; and

''(C) valuation of assets;

''(10) the improvement of planning processes to better predict outcomes of transportation projects, including the application of computer simulations in the planning process to predict outcomes of planning decisions;

''(11) the multimodal applications of Geographic Information Systems and remote sensing, including such areas of application as—

''(A) planning;

''(B) environmental decisionmaking and project delivery; and

''(C) freight movement;

''(12) the development and application of methods of providing revenues to the Highway Trust Fund with the objective of offsetting potential reductions in fuel tax receipts;

''(13) the development of tests and methods to determine the benefits and costs to communities of major transportation investments and projects;

''(14) the conduct of extreme weather research, including research to—

''(A) reduce contraction and expansion damage;

''(B) reduce or repair road damage caused by freezing and thawing;

''(C) improve deicing or snow removal techniques;

''(D) develop better methods to reduce the risk of thermal collapse, including collapse from changes in underlying permafrost;

''(E) improve concrete and asphalt installation in extreme weather conditions; and

''(F) make other improvements to protect highway infrastructure or enhance highway safety or performance;

''(15) the improvement of planning processes and project development through the development and application of collaboration tools and strategies for finding transportation solutions; and

''(16) any other surface transportation research topics that the Secretary determines, in accordance with the strategic planning process under section 508, to be critical.

''(d) ADVANCED, HIGH-RISK RESEARCH.—

''(1) IN GENERAL.—The Secretary shall establish and carry out, in accordance with the surface transportation research and technology development strategic plan developed under section 508(c) and research priority areas described in subsection (c), an advanced research program that addresses longer-term, higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) aspects of highway and intermodal transportation systems.

''(2) PARTNERSHIPS.—In carrying out the program, the Secretary shall seek to develop partnerships with the public and private sectors.

''(3) REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a description of each of the projects, and the amount of funds expended for each project, carried out under this subsection during the fiscal year.

''(e) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—

''(1) AUTHORITY.—The Secretary shall continue, through September 30, 2009, the long-term pavement performance program tests, monitoring, and data analysis.

''(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

''(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

''(B) analyze the data obtained in carrying out subparagraph (A); and

''(C) prepare products to fulfill program objectives and meet future pavement technology needs.

''(3) CONCLUSION OF PROGRAM.—

''(A) SUMMARY REPORT.—The Secretary shall include in the strategic plan required under section 508(c) a report on the initial conclusions of the long-term pavement performance program that includes—

''(i) an analysis of any research objectives that remain to be achieved under the program;

''(ii) an analysis of other associated longer-term expenditures under the program that are in the public interest;

''(iii) a detailed plan regarding the storage, maintenance, and user support of the database, information management system, and materials reference library of the program;

''(iv) a schedule for continued implementation of the necessary data collection and analysis and project plan under the program; and

''(v) an estimate of the costs of carrying out each of the activities described in clauses (i) through (iv) for each fiscal year during which the program is carried out.

''(B) DEADLINE; USEFULNESS OF ADVANCES.—The Secretary shall, to the maximum extent practicable—

''(i) ensure that the long-term pavement performance program is concluded not later than September 30, 2009; and

''(ii) make such allowances as are necessary to ensure the usefulness of the technological advances resulting from the program.

''(f) SEISMIC RESEARCH.—The Secretary shall—

''(1) in consultation and cooperation with Federal agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704), coordinate the conduct of seismic research; and

''(2) take such actions as are necessary to ensure that the coordination of the research is consistent with—

''(A) planning and coordination activities of the Director of the Federal Emergency Management Agency under section 5(b)(1) of that Act (42 U.S.C. 7704(b)(1)); and

''(B) the plan developed by the Director of the Federal Emergency Management Agency under section 8(b) of that Act (42 U.S.C. 7705b(b)).

''(g) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

''(1) IN GENERAL.—Not later than July 31, 2004, and July 31 of every second year thereafter, the Secretary shall 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 describes—

''(A) estimates of the future highway and bridge needs of the United States; and

''(B) the backlog of current highway and bridge needs.

''(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.

''(h) SECURITY RELATED RESEARCH AND TECHNOLOGY TRANSFER ACTIVITIES.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary, in consultation with the Secretary of Homeland Security, with key stakeholder input (including State transportation departments) shall develop a 5-year strategic plan for research and technology transfer and deployment activities pertaining to the security aspects of highway infrastructure and operations.

''(2) COMPONENTS OF PLAN.—The plan shall include—

''(A) an identification of which agencies are responsible for the conduct of various research and technology transfer activities;

''(B) a description of the manner in which those activities will be coordinated; and

''(C) a description of the process to be used to ensure that the advances derived from relevant activities supported by the Federal Highway Administration are consistent with the operational guidelines, policies, recommendations, and regulations of the Department of Homeland Security; and

''(D) a systematic evaluation of the research that should be conducted to address, at a minimum—

''(i) vulnerabilities of, and measures that may be taken to improve, emergency response capabilities and evacuations;

''(ii) recommended upgrades of traffic management during crises;

''(iii) enhanced communications among the public, the military, law enforcement, fire and emergency medical services, and transportation agencies;

''(iv) protection of critical, security-related infrastructure; and

''(v) structural reinforcement of key facilities.

''(3) SUBMISSION.—On completion of the plan under this subsection, the Secretary shall 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) a copy of the plan developed under paragraph (1); and

''(B) a copy of a memorandum of understanding specifying coordination strategies and assignment of responsibilities covered by the plan that is signed by the Secretary and the Secretary of Homeland Security.

''§ 503. Technology application program

''(a) TECHNOLOGY APPLICATION INITIATIVES AND PARTNERSHIPS PROGRAM.—

''(1) ESTABLISHMENT.—The Secretary, in consultation with interested stakeholders, shall develop and administer a national technology application initiatives and partnerships program.

''(2) PURPOSE.—The purpose of the program shall be to significantly accelerate the adoption of innovative technologies by the surface transportation community.

''(3) APPLICATION GOALS.—

''(A) ESTABLISHMENT.—Not later than 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary, in consultation with the Surface Transportation Research Technology Advisory Committee, State transportation departments, and other interested stakeholders, shall establish, as part of the surface transportation research and technology development strategic plan under section 508(c), goals to carry out paragraph (1).

''(B) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, and sustainability.

''(C) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community, such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

''(4) INTEGRATION WITH OTHER PROGRAMS.—The Secretary shall integrate activities carried out under this subsection with the efforts of the Secretary to—

''(A) disseminate the results of research sponsored by the Secretary; and

''(B) facilitate technology transfer.

''(5) LEVERAGING OF FEDERAL RESOURCES.—In selecting projects to be carried out under this subsection, the Secretary shall give preference to projects that leverage Federal funds with other significant public or private resources.

''(6) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology.

''(7) REPORTS.—The results and progress of activities carried out under this section shall be published as part of the annual transportation research report prepared by the Secretary under section 508(c)(5).

''(8) ALLOCATION.—To the extent appropriate to achieve the goals established under paragraph (3), the Secretary may further allocate funds made available to carry out this section to States for use by those States.

''(b) INNOVATIVE SURFACE TRANSPORTATION INFRASTRUCTURE RESEARCH AND CONSTRUCTION PROGRAM.—

''(1) IN GENERAL.—The Secretary shall establish and carry out a program for the application of innovative material, design, and construction technologies in the construction, preservation, and rehabilitation of elements of surface transportation infrastructure.

''(2) GOALS.—The goals of the program shall include—

''(A) the development of new, cost-effective, and innovative materials;

''(B) the reduction of maintenance costs and life-cycle costs of elements of infrastructure, including the costs of new construction, replacement, and rehabilitation;

''(C) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

''(D) the development of engineering design criteria for innovative products and materials for use in surface transportation infrastructure;

''(E) the development of highway bridges and structures that will withstand natural disasters and disasters caused by human activity; and

''(F) the development of new, nondestructive technologies and techniques for the evaluation of elements of transportation infrastructure.

''(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

''(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

''(i) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations, to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials and methods; and

''(ii) States, to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of elements of surface transportation infrastructure that demonstrate the application of innovative materials and methods.

''(B) APPLICATIONS.—

''(i) IN GENERAL.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

''(ii) APPROVAL.—The Secretary shall select and approve an application based on whether the proposed project that is the subject of the application would meet the goals described in paragraph (2).

''(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to—

''(A) ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties, as specified by the Secretary; and

''(B) encourage the use of the information and technology.

''(5) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

''§ 504. Training and education

''(a) NATIONAL HIGHWAY INSTITUTE.—

''(1) IN GENERAL.—The Secretary shall—

''(A) operate, in the Federal Highway Administration, a National Highway Institute (referred to in this subsection as the 'Institute'); and

''(B) administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

''(2) DUTIES OF THE INSTITUTE.—In cooperation with State transportation departments, industries in the United States, and national or international entities, the Institute shall develop and administer education and training programs of instruction for—

''(A) Federal Highway Administration, State, and local transportation agency employees;

''(B) regional, State, and metropolitan planning organizations;

''(C) State and local police, public safety, and motor vehicle employees; and

''(D) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

''(3) COURSES.—

''(A) IN GENERAL.—The Institute shall—

''(i) develop or update existing courses in asset management, including courses that include such components as—

''(I) the determination of life-cycle costs;

''(II) the valuation of assets;

''(III) benefit-to-cost ratio calculations; and

''(IV) objective decisionmaking processes for project selection; and

''(ii) continually develop courses relating to the application of emerging technologies for—

''(I) transportation infrastructure applications and asset management;

''(II) intelligent transportation systems;

''(III) operations (including security operations);

''(IV) the collection and archiving of data;

''(V) expediting the planning and development of transportation projects; and

''(VI) the intermodal movement of individuals and freight.

''(B) ADDITIONAL COURSES.—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.

''(C) REVISION OF COURSES OFFERED.—The Institute shall periodically—

''(i) review the course inventory of the Institute; and

''(ii) revise or cease to offer courses based on course content, applicability, and need.

''(4) ELIGIBILITY; FEDERAL SHARE.—The funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be expended by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

''(5) FEDERAL RESPONSIBILITY.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

''(i) by the Secretary, at no cost to the States and local governments, if the Secretary determines that provision at no cost is in the public interest; or

''(ii) by the State, through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

''(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training (including the cost of course development) received by the agencies, entities, and individuals, unless the Secretary determines that payment of a lesser amount of the cost is of critical importance to the public interest.

''(6) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

''(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

''(B) exercise the authority of the Institute independently or in cooperation with any—

''(i) other Federal or State agency;

''(ii) association, authority, institution, or organization;

''(iii) for-profit or nonprofit corporation;

''(iv) national or international entity;

''(v) foreign country; or

''(vi) person.

''(7) COLLECTION OF FEES.—

''(A) IN GENERAL.—In accordance with this subsection, the Institute may assess and collect fees to defray the costs of the Institute in developing or administering education and training programs under this subsection.

''(B) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

''(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

''(ii) persons and entities to whom education or training is provided under this subsection.

''(C) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

''(D) USE.—All fees collected under this subsection shall be used, without further appropriation, to defray costs associated with the development or administration of education and training programs authorized under this subsection.

''(8) RELATION TO FEES.—The funds made available to carry out this subsection may be combined with or held separate from the fees collected under—

''(A) paragraph (7);

''(B) memoranda of understanding;

''(C) regional compacts; and

''(D) other similar agreements.

''(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

''(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—

''(A) highway and transportation agencies in urbanized areas;

''(B) highway and transportation agencies in rural areas;

''(C) contractors that perform work for the agencies; and

''(D) infrastructure security.

''(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—

''(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

''(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);

''(ii) improve roads and bridges;

''(iii) enhance—

''(I) programs for the movement of passengers and freight; and

''(II) intergovernmental transportation planning and project selection; and

''(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

''(B) develop technical assistance for tourism and recreational travel;

''(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);

''(D) operate, in cooperation with State transportation departments and universities—

''(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and

''(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and

''(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

''(c) RESEARCH FELLOWSHIPS.—

''(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal agencies and instrumentalities, may make grants for research fellowships for any purpose for which research is authorized by this chapter.

''(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The Secretary shall establish and implement a transportation research fellowship program, to be known as the 'Dwight David Eisenhower Transportation Fellowship Program', for the purpose of attracting qualified students to the field of transportation.

''§ 505. State planning and research

''(a) IN GENERAL.—Two percent of the sums apportioned to a State for fiscal year 2004 and each fiscal year thereafter under sections 104 (other than subsections (f) and (h)) and 144 shall be available for expenditure by the State, in consultation with the Secretary, only for—

''(1) the conduct of engineering and economic surveys and investigations;

''(2) the planning of—

''(A) future highway programs and local public transportation systems; and

''(B) the financing of those programs and systems, including metropolitan and statewide planning under sections 134 and 135;

''(3) the development and implementation of management systems under section 303;

''(4) the conduct of studies on—

''(A) the economy, safety, and convenience of surface transportation systems; and

''(B) the desirable regulation and equitable taxation of those systems;

''(5) research, development, and technology transfer activities necessary in connection with the planning, design, construction, management, and maintenance of highway, public transportation, and intermodal transportation systems;

''(6) the conduct of studies, research, and training relating to the engineering standards and construction materials for surface transportation systems described in paragraph (5) (including the evaluation and accreditation of inspection and testing and the regulation of and charging for the use of the standards and materials); and

''(7) the conduct of activities relating to the planning of real-time monitoring elements.

''(b) MINIMUM EXPENDITURES ON RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

''(1) IN GENERAL.—Subject to paragraph (2), not less than 25 percent of the funds subject to subsection (a) that are apportioned to a State for a fiscal year shall be expended by the State for research, development, and technology transfer activities that—

''(A) are described in subsection (a); and

''(B) relate to highway, public transportation, and intermodal transportation systems.

''(2) WAIVERS.—The Secretary may waive the application of paragraph (1) with respect to a State for a fiscal year if—

''(A) the State certifies to the Secretary for the fiscal year that total expenditures by the State for transportation planning under sections 134 and 135 will exceed 75 percent of the funds described in paragraph (1); and

''(B) the Secretary accepts the certification of the State.

''(3) NONAPPLICABILITY OF ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

''(c) FEDERAL SHARE.—The Federal share of the cost of a project carried out using funds subject to subsection (a) shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

''(d) ADMINISTRATION OF SUMS.—Funds subject to subsection (a) shall be—

''(1) combined and administered by the Secretary as a single fund; and

''(2) available for obligation for the period described in section 118(b)(2).

''(e) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out this section for any purpose authorized under section 506(a).

"§ 506. International highway transportation outreach program

''(a) ESTABLISHMENT.—The Secretary may establish an international highway transportation outreach program—

''(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;

''(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and

''(3) to increase transfers of United States highway transportation technology to foreign countries.

''(b) ACTIVITIES.—Activities carried out under the program may include—

''(1) the development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;

''(2) research, development, demonstration, training, and other forms of technology transfer and exchange;

''(3) the provision to foreign countries, through participation in trade shows, seminars, expositions, and other similar activities, of information relating to the technical quality of United States highway transportation goods and services;

''(4) the offering of technical services of the Federal Highway Administration that cannot be readily obtained from private sector firms in the United States for incorporation into the proposals of those firms undertaking highway transportation projects outside the United States, if the costs of the technical services will be recovered under the terms of the project;

''(5) the conduct of studies to assess the need for, or feasibility of, highway transportation improvements in foreign countries; and

''(6) the gathering and dissemination of information on foreign transportation markets and industries.

''(c) COOPERATION.—The Secretary may carry out this section in cooperation with any appropriate—

''(1) Federal, State, or local agency;

''(2) authority, association, institution, or organization;

''(3) for-profit or nonprofit corporation;

''(4) national or international entity;

''(5) foreign country; or

''(6) person.

''(d) FUNDS.—

''(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.

''(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account, and other funds available to carry out this section, shall be available to cover the cost of any activity eligible under this section, including the cost of—

''(A) promotional materials;

''(B) travel;

''(C) reception and representation expenses; and

''(D) salaries and benefits.

''(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department of Transportation employees providing services under this section shall be credited to the account.

''(e) REPORT—For each fiscal year, the Secretary shall 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 describes the destinations and individual trip costs of international travel conducted in carrying out activities described in this section.

"§ 507. Surface transportation-environment cooperative research program

''(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environment cooperative research program.

''(b) CONTENTS.—The program carried out under this section may include research—

''(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in designing implementation plans to meet Federal, State, and local environmental requirements;

''(2) to improve understanding of the factors that contribute to the demand for transportation;

''(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;

''(4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and

''(5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.

''(c) PROGRAM ADMINISTRATION.—The Secretary shall—

''(1) administer the program established under this section; and

''(2) ensure, to the maximum extent practicable, that—

''(A) the best projects and researchers are selected to conduct research in the priority areas described in subsection (b)—

''(i) on the basis of merit of each submitted proposal; and

''(ii) through the use of open solicitations and selection by a panel of appropriate experts;

''(B) a qualified, permanent core staff with the ability and expertise to manage a large multiyear budget is used;

''(C) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

''(D) there is no duplication of research effort between the program established under this section and the new strategic highway research program established under section 509.

''(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 subsections (b) and (c) as the Secretary determines to be appropriate.

"§ 508. Surface transportation research technology deployment and strategic planning

''(a) PLANNING.—

''(1) ESTABLISHMENT.—The Secretary shall—

''(A) establish, in accordance with section 306 of title 5, a strategic planning process that—

''(i) enhances effective implementation of this section through the establishment in accordance with paragraph (2) of the Surface Transportation Research Technology Advisory Committee; and

''(ii) focuses on surface transportation research funded through paragraphs (1), (2), (4), and (5) of section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, taking into consideration national surface transportation system needs and intermodality requirements;

''(B) coordinate Federal surface transportation research, technology development, and deployment activities;

''(C) at such intervals as are appropriate and practicable, measure the results of those activities and the ways in which the activities affect the performance of the surface transportation systems of the United States; and

''(D) ensure, to the maximum extent practicable, that planning and reporting activities carried out under this section are coordinated with all other surface transportation planning and reporting requirements.

''(2) SURFACE TRANSPORTATION RESEARCH TECHNOLOGY ADVISORY COMMITTEE.—

''(A) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall establish a committee to be known as the 'Surface Transportation Research Technology Advisory Committee' (referred to in this section as the 'Committee').

''(B) MEMBERSHIP.—The Committee shall be composed of 12 members appointed by the Secretary—

''(i) each of which shall have expertise in a particular area relating to Federal surface transportation programs, including—

''(I) safety;

''(II) operations;

''(III) infrastructure (including pavements and structures);

''(IV) planning and environment;

''(V) policy; and

''(VI) asset management; and

''(ii) of which—

''(I) 3 members shall be individuals representing the Federal Government;

''(II) 3 members—

''(aa) shall be exceptionally qualified to serve on the Committee, as determined by the Secretary, based on education, training, and experience; and

''(bb) shall not be officers or employees of the United States;

''(III) 3 members—

''(aa) shall represent the transportation industry (including the pavement industry); and

''(bb) shall not be officers or employees of the United States; and

''(IV) 3 members shall represent State transportation departments from 3 different geographical regions of the United States.

''(C) MEETINGS.—The advisory subcommittees shall meet on a regular basis, but not less than twice each year.

''(D) DUTIES.—The Committee shall provide to the Secretary, on a continuous basis, advice and guidance relating to—

''(i) the determination of surface transportation research priorities;

''(ii) the improvement of the research planning and implementation process;

''(iii) the design and selection of research projects;

''(iv) the review of research results;

''(v) the planning and implementation of technology transfer activities and

''(vi) the formulation of the surface transportation research and technology deployment and deployment strategic plan required under subsection (c).

''(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph $200,000 for each fiscal year.

''(b) IMPLEMENTATION.—The Secretary shall—

''(1) provide for the integrated planning, coordination, and consultation among the operating administrations of the Department of Transportation, all other Federal agencies with responsibility for surface transportation research and technology development, State and local governments, institutions of higher education, industry, and other private and public sector organizations engaged in surface transportation-related research and development activities; and

''(2) ensure that the surface transportation research and technology development programs of the Department do not duplicate other Federal,

State, or private sector research and development programs.

''(c) SURFACE TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT STRATEGIC PLAN.—

''(1) IN GENERAL.—After receiving, and based on, extensive consultation and input from stakeholders representing the transportation community and the Surface Transportation Research Advisory Committee, the Secretary shall, not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, complete, and shall periodically update thereafter, a strategic plan for each of the core surface transportation research areas, including—

''(A) safety;

''(B) operations;

''(C) infrastructure (including pavements and structures);

''(D) planning and environment; and

''(E) policy.

''(2) COMPONENTS.—The strategic plan shall specify—

''(A) surface transportation research objectives and priorities;

''(B) specific highway research projects to be conducted;

''(C) recommended technology transfer activities to promote the deployment of advances resulting from the highway research conducted; and

''(D) short- and long-term technology development and deployment activities.

''(3) REVIEW AND SUBMISSION OF FINDINGS.—The Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences, on behalf of the Research and Technology Coordinating Committee of the National Research Council, under which—

''(A) the Transportation Research Board shall—

''(i) review the research and technology planning and implementation process used by Federal Highway Administration; and

''(ii) evaluate each of the strategic plans prepared under this subsection—

''(I) to ensure that sufficient stakeholder input is being solicited and considered throughout the preparation process; and

''(II) to offer recommendations relevant to research priorities, project selection, and deployment strategies; and

''(B) the Secretary shall ensure that the Research and Technology Coordinating Committee, in a timely manner, informs the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the findings of the review and evaluation under subparagraph (A).

''(4) RESPONSES OF SECRETARY.—Not later than 60 days after the date of completion of the strategic plan under this subsection, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives written responses to each of the recommendations of the Research and Technology Coordinating Committee under paragraph (3)(A)(ii)(II).

''(d) CONSISTENCY WITH GOVERNMENT PERFORMANCE AND RESULTS ACT OF 1993.—The plans and reports developed under this section shall be consistent with and incorporated as part of the plans developed under section 306 of title 5 and sections 1115 and 1116 of title 31.

''§ 509. New strategic highway research program

''(a) IN GENERAL.—The National Research Council shall establish and carry out, through fiscal year 2009, a new strategic highway research program.

''(b) BASIS; PRIORITIES.—With respect to the program established under subsection (a)—

''(1) the program shall be based on—

''(A) National Research Council Special Report No. 260, entitled 'Strategic Highway Research'; and

''(B) the results of the detailed planning work subsequently carried out to scope the research areas through National Cooperative Research Program Project 20–58.

''(2) the scope and research priorities of the program shall—

''(A) be refined through stakeholder input in the form of workshops, symposia, and panels; and

''(B) include an examination of—

''(i) the roles of highway infrastructure, drivers, and vehicles in fatalities on public roads;

''(ii) high-risk areas and activities associated with the greatest numbers of highway fatalities;

''(iii) the roles of various levels of government agencies and non-governmental organizations in reducing highway fatalities (including recommendations for methods of strengthening highway safety partnerships);

''(iv) measures that may save the greatest number of lives in the short- and long-term;

''(v) renewal of aging infrastructure with minimum impact on users of facilities;

''(vi) driving behavior and likely crash causal factors to support improved countermeasures;

''(vii) reduction in congestion due to nonrecurring congestion;

''(viii) planning and designing of new road capacity to meet mobility, economic, environmental, and community needs;

''(3) the program shall consider, at a minimum, the results of studies relating to the implementation of the Strategic Highway Safety Plan prepared by the American Association of State Highway and Transportation Officials; and

''(4) the research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers as soon as practicable for their use.

''(c) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—

''(1) the best projects and researchers are selected to conduct research for the program and priorities described in subsection (b)—

''(A) on the basis of the merit of each submitted proposal; and

''(B) through the use of open solicitations and selection by a panel of appropriate experts;

''(2) the National Research Council acquires a qualified, permanent core staff with the ability and expertise to manage a large research program and multiyear budget;

''(3) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and

''(4) there is no duplication of research effort between the program established under this section and the surface transportation-environment cooperative research program established under section 507 or any other research effort of the Department.

''(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 research, technology, and technology transfer described in subsections (b) and (c) as the Secretary determines to be appropriate.

''(e) REPORT ON IMPLEMENTATION OF RESULTS.—

''(1) IN GENERAL.—Not later than October 1, 2007, the Secretary shall enter into a contract with the Transportation Research Board of the National Academy of Sciences under which the Transportation Research Board shall complete a report on the strategies and administrative structure to be used for implementation of the results of new strategic highway research program.

''(2) COMPONENTS.—The report under paragraph (1) shall include, with respect to the new strategic highway research program—

''(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);

''(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;

''(C) an estimate of costs that would be incurred in expediting implementation of those results; and

''(D) recommendations for the way in which implementation of the results of the program under this section should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those responsibilities.

''(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—

''(A) the American Association of State highway Officials;

''(B) the Federal Highway Administration; and

''(C) the Surface Transportation Research Technology Advisory Committee.

''(4) SUBMISSION.—Not later than February 1, 2009, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives the report under this subsection.

''§ 510. University transportation centers

''(a) CENTERS.—

''(1) IN GENERAL.—During fiscal year 2004, the Secretary shall provide grants to 40 nonprofit institutions of higher learning (or consortia of institutions of higher learning) to establish centers to address transportation design, management, research, development, and technology matters, especially the education and training of greater numbers of individuals to enter into the professional field of transportation.

''(2) DISTRIBUTION OF CENTERS.—Not more than 1 university transportation center (or lead university in a consortia of institutions of higher learning), other than a center or university selected through a competitive process, may be located in any State.

''(3) 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 (4).

''(4) 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) [_____].

''(b) REGIONAL CENTERS.—

''(1) IN GENERAL.—Not later than September 30, 2004, the Secretary shall provide to nonprofit institutions of higher learning (or consortia of institutions of higher learning) grants to be used during the period of fiscal years 2005 through 2009 to establish and operate 1 university transportation center in each of the 10 Federal regions that comprise the Standard Federal Regional Boundary System.

''(2) SELECTION OF REGIONAL CENTERS.—

''(A) PROPOSALS.—In order to be eligible to receive a grant under this subsection, an institution described in paragraph (1) shall submit to the Secretary a proposal, in response to any request for proposals that shall be made by the Secretary, that is in such form and contains such information as the Secretary shall prescribe.

''(B) REQUEST SCHEDULE.—The Secretary shall request proposals once for the period of fiscal years 2004 through 2006 and once for the period of fiscal years 2007 through 2009.

''(C) ELIGIBILITY.—Any institution of higher learning (or consortium of institutions of higher learning) that meets the criteria described in subsection (c) (including any institution identified in subsection (a)(4)) may apply for a grant under this subsection.

''(D) SELECTION CRITERIA.—The Secretary shall select each recipient of a grant under this subsection through a competitive process on the basis of—

''(i) the location of the center within the Federal region to be served;

''(ii) the demonstrated research capabilities and extension resources available to the recipient to carry out this section;

''(iii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems;

''(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program; and

''(v) the strategic plan that the recipient proposes to carry out using funds from the grant.

''(E) SELECTION PROCESS.—In selecting the recipients of grants under this subsection, the Secretary shall consult with, and consider the advice of—

''(i) the Research and Special Programs Administration;

''(ii) the Federal Highway Administration; and

''(iii) the Federal Transit Administration.

''(c) CENTER REQUIREMENTS.—

''(1) IN GENERAL.—With respect to a university transportation center established under subsection (a) or (b), the institution or consortium that receives a grant to establish the center—

''(A) shall annually contribute at least $250,000 to the operation and maintenance of the center, except that payment by the institution or consortium of the salary required for transportation-related faculty and staff for a period greater than 90 days may not be counted against that contribution;

''(B) shall have established, as of the date of receipt of the grant, undergraduate or graduate programs in—

''(i) civil engineering;

''(ii) transportation engineering;

''(iii) transportation systems management and operations; or

''(iv) any other field significantly related to surface transportation systems, as determined by the Secretary; and

''(C) not later than 120 days after the date on which the institution or consortium receives notice of selection as a site for the establishment of a university transportation center under this section, shall submit to the Secretary a 6-year program plan for the university transportation center that includes, with respect to the center—

''(i) a description of the purposes of programs to be conducted by the center;

''(ii) a description of the undergraduate and graduate transportation education efforts to be carried out by the center;

''(iii) a description of the nature and scope of research to be conducted by the center;

''(iv) a list of personnel, including the roles and responsibilities of those personnel within the center; and

''(v) a detailed budget, including the amount of contributions by the institution or consortium to the center; and

''(D) shall establish an advisory committee that—

''(i) is composed of a representative from each of the State transportation department of the State in which the institution or consortium is located, the Department of Transportation, and the institution or consortia, as appointed by those respective entities;

''(ii) in accordance with paragraph (2), shall review and approve or disapprove the plan of the institution or consortium under subparagraph (C); and

''(iii) shall, to the maximum extent practicable, ensure that the proposed research to be carried out by the university transportation center will contribute to the national highway research and technology agenda, as periodically updated by the Secretary, in consultation with stakeholders representing the highway community.

''(2) PEER REVIEW.—

''(A) IN GENERAL.—The Secretary shall require peer review for each report on research carried out using funds made available for this section.

''(B) PURPOSES OF PEER REVIEW.—Peer review of a report under this section shall be carried out to evaluate—

''(i) the relevance of the research described in the report with respect to the strategic plan under, and the goals of, this section;

''(ii) the research covered by the report, and to recommend modifications to individual project plans;

''(iii) the results of the research before publication of those results; and

''(iv) the overall outcomes of the research.

''(C) INTERNET AVAILABILITY.—Each report under this section that is received by the Secretary shall be published—

''(i) by the Secretary, on the Internet website of the Department of Transportation; and

''(ii) by the University Transportation Center.

''(3) APPROVAL OF PLANS.—A plan of an institution or consortium described in paragraph (1)(C) shall not be submitted to the Secretary until such time as the advisory committee established under paragraph (1)(D) reviews and approves the plan.

''(4) FAILURE TO COMPLY.—If a recipient of a grant under this subsection fails to submit a program plan acceptable to the Secretary and in accordance with paragraph (1)(C)—

''(A) the recipient shall forfeit the grant and the selection of the recipient as a site for the establishment of a university transportation center; and

''(B) the Secretary shall select a replacement recipient for the forfeited grant.

''(5) APPLICABILITY.—This subsection does not apply to any research funds received in accordance with a competitive contract offered and entered into by the Federal Highway Administration.

''(d) OBJECTIVES.—Each university transportation center established under subsection (a) or (b) shall carry out—

''(1) undergraduate or graduate education programs that include—

''(A) multidisciplinary coursework; and

''(B) opportunities for students to participate in research;

''(2) basic and applied research, the results and products of which shall be judged by peers or other experts in the field so as to advance the body of knowledge in transportation; and

''(3) an ongoing program of technology transfer that makes research results available to potential users in such form as will enable the results to be implemented, used, or otherwise applied.

''(e) MAINTENANCE OF EFFORT.—To be eligible to receive a grant under this section, an applicant shall—

''(1) enter into an agreement with the Secretary to ensure that the applicant will maintain total expenditures from all other sources to establish and operate a university transportation center and related educational and research activities at a level that is at least equal to the average level of those expenditures during the 2 fiscal years before the date on which the grant is provided;

''(2) provide the annual institutional contribution required under subsection (c)(1); and

''(3) submit to the Secretary, in a timely manner, for use by the Secretary in the preparation of the annual research report under section 508(c)(5) of title 23, an annual report on the projects and activities of the university transportation center for which funds are made available under section 2001 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 that contains, at a minimum, for the fiscal year covered by the report, a description of—

''(A) the goals of the center;

''(B) the educational activities carried out by the center (including a detailed summary of the budget for those educational activities);

''(C) teaching activities of faculty at the center;

''(D) each research project carried out by the center, including—

''(i) the identity and location of each investigator working on a research project;

''(ii) the overall funding amount for each research project (including the amounts expended for the project as of the date of the report);

''(iii) the current schedule for each research project; and

''(iv) the results of each research project through the date of submission of the report, with particular emphasis on results for the fiscal year covered by the report; and

''(E) overall technology transfer and implementation efforts of the center.

''(f) PROGRAM COORDINATION.—The Secretary shall—

''(1) coordinate the research, education, training, and technology transfer activities carried out by recipients of grants under this section; and

''(2) establish and operate a clearinghouse for, and disseminate, the results of those activities.

''(g) FUNDING.—

''(1) NUMBER AND AMOUNT OF GRANTS.—The Secretary shall make the following grants under this subsection:

''(A) GROUP A.—For each of fiscal years 2004 through 2009, the Secretary shall make a grant in the amount of $20,000,000 to each of the institutions in group A (as described in subsection (a)(4)(A)).

''(B) GROUP B.—The Secretary shall make a grant to each of the institutions in group B (as described in subsection (a)(4)(B)) in the amount of—

''(i) $4,000,000 for each of fiscal years 2004 and 2005; and

''(ii) $6,000,000 for each of fiscal years 2006 and 2007.

''(C) GROUP C.—For each of fiscal years 2004 through 2007, the Secretary shall make a grant in the amount of $10,000,000 to each of the institutions in group C (as described in subsection (a)(4)(C)).

''(D) GROUP D.—For each of fiscal years 2004 through 2009, the Secretary shall make a grant in the amount of $25,000,000 to each of the institutions in group D (as described in subsection (a)(4)(D)).

''(E) LIMITED GRANTS FOR GROUPS B AND C.—For each of fiscal years 2008 and 2009, of the institutions classified in groups B and C (as described in subsection (a)(4)(B)), the Secretary shall select and make a grant in the amount of $10,000,000 to each of not more than 15 institutions.

''(2) USE OF FUNDS—

''(A) IN GENERAL.—Of the funds made available for a fiscal year to a university transportation center established under subsection (a) or (b)—

''(i) not less than $250,000 shall be used to establish and maintain new faculty positions for the teaching of undergraduate, transportation-related courses;

''(ii) not more than $500,000 for the fiscal year, or $1,000,000 in the aggregate, may be used to construct or improve transportation-related laboratory facilities; and

''(iii) not more than $300,000 for the fiscal year may be used for student internships of not more than 180 days in duration to enable students to gain experience by working on transportation projects as interns with design or construction firms.

''(B) FACILITIES AND ADMINISTRATION FEE.—Not more than 10 percent of any grant made available to a university transportation center (or any institution or consortium that establishes such a center) for a fiscal year may be used to pay to the appropriate nonprofit institution of higher learning any administration and facilities fee (or any similar overhead fee) for the fiscal year.

''(3) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available under this subsection shall remain available for obligation for a period of 2 years after September 30 of the fiscal year for which the funds are authorized.

''§ 511. Multistate corridor operations and management

''(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations.

''(b) INTERSTATE ROUTE I–95 CORRIDOR COALITION TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—

''(1) IN GENERAL.—The Secretary shall make grants under this subsection to States to continue intelligent transportation system management and operations in the Interstate Route I–95 corridor coalition region initiated under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

''(2) FUNDING.—Of the amounts made available under section 2001(a)(4) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary shall use to carry out this subsection—

''(A) $8,000,000 for fiscal year 2004;

''(B) $10,000,000 for fiscal year 2005;

''(C) $12,000,000 for fiscal year 2006;

''(D) $12,000,000 for fiscal year 2007;

''(E) $12,000,000 for fiscal year 2008; and

''(F) $12,000,000 for fiscal year 2009.''.

(b) OTHER UNIVERSITY FUNDING.—No university (other than university transportation centers specified in section 510 of title 23, United States Code (as added by subsection (a)) shall receive funds made available under section 2001 to carry out research unless the university is selected to receive the funds—

(1) through a competitive process that incorporates merit-based peer review; and

(2) based on a proposal submitted to the Secretary by the university in response to a request for proposals issued by the Secretary.

(c) CONFORMING AMENDMENT.—Section 5505 of title 49, United States Code, is repealed.

SEC. 2102. STUDY OF DATA COLLECTION AND STATISTICAL ANALYSIS EFFORTS.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATION.—The term ''Administration'' means the Federal Highway Administration.

(2) BOARD.—The term ''Board'' means the Transportation Research Board of the National Academy of Sciences.

(3) BUREAU.—The term ''Bureau'' means the Bureau of Transportation Statistics.

(4) DEPARTMENT.—The term ''Department'' means the Department of Transportation.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) PRIORITY AREAS OF EFFORT.—

(1) STATISTICAL STANDARDS.—The Secretary shall direct the Bureau to assume the role of the lead agency in working with other agencies of the Department to establish, by not later the date that is 1 year after the date of enactment of this Act, statistical standards for the Department.

(2) STATISTICAL ANALYSIS EFFORT.—

(A) IN GENERAL.—The Bureau shall provide to the Secretary, on an annual basis, an overview of the level of effort expended on statistical analyses by each agency within the Department.

(B) DUTY OF AGENCIES.—Each agency of the Department shall provide to the Bureau such information as the Bureau may require in carrying out subparagraph (A).

(3) NATIONAL SECURITY.—The Bureau shall—

(A) conduct a study of the ways in which transportation statistics are and may be used for the purpose of national security; and

(B) submit to the Transportation Security Administration recommendations for means by which the use of transportation statistics for the purpose of national security may be improved.

(4) MODERNIZATION.—The Bureau shall develop new protocols for adapting data collection and delivery efforts in existence as of the date of enactment of this Act to deliver information in a more timely and frequent fashion.

(c) STUDY.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall provide a grant to, or enter into a cooperative agreement or contract with, the Board for the conduct of a study of the data collection and statistical analysis efforts of the Department with respect to the modes of surface transportation for which funds are made available under this Act.

(2) PURPOSE.—The purpose of the study shall be to provide to the Department information for use by agencies of the Department in providing to surface transportation agencies and individuals engaged in the surface transportation field higher quality, and more relevant and timely, data, statistical analyses, and products.

(3) CONTENT.—The study shall include—

(A) an examination and analysis of the efforts, analyses, and products (with respect to usefulness and policy relevance) of the Bureau as of the date of the study, as compared with the duties of the Bureau specified in subsections (c) through (f) of section 111 of title 49, United States Code;

(B) an examination and analysis of data collected by, methods of data collection of, and analyses performed by, agencies within the Department; and

(C) recommendations relating to—

(i) the future efforts of the Department in the area of surface transportation with respect to—

(I) types of data collected;

(II) methods of data collection;

(III) types of analyses performed; and

(IV) products made available by the Secretary to the transportation community and Congress;

(ii) the means by which the Department may cooperate with State transportation departments to provide technical assistance in the use of data collected by traffic operations centers; and

(iii) duplication of efforts within the Department, including ways in which—

(I) the duplication may be reduced or eliminated; and

(II) each agency of the Department may cooperate with, and complement the efforts of, the others.

(4) CONSULTATION.—In conducting the study, the Board shall consult with such stakeholders, agencies, and other entities as the Board considers to be appropriate.

(5) REPORT.—Not later than 1 year after the date on which a grant is provided, or a cooperative agreement or contract is entered into, for a study under paragraph (1)—

(A) the Board shall submit to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a final report on the results of the study; and

(B) the results of the study shall be published—

(i) by the Secretary, on the Internet website of the Department; and

(ii) by the Board, on the Internet website of the Board.

(6) IMPLEMENTATION OF RESULTS.—The Bureau shall, to the maximum extent practicable, implement any recommendations made with respect to the results of the study under this subsection.

(7) COMPLIANCE.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the study under this subsection.

(B) NONCOMPLIANCE.—If the Comptroller General of the United States determines that the Bureau failed to conduct the study under this subsection, the Bureau shall be ineligible to receive funds from the Highway Trust Fund until such time as the Bureau conducts the study under this subsection.

(d) CONFORMING AMENDMENTS.—

(1) Section 111 of title 49, United States Code, is amended—

(A) by redesignating subsection (k) as subsection (m);

(B) by inserting after subsection (j) the following:

''(k) ANNUAL REPORT.—

''(1) IN GENERAL.—For fiscal year 2004 and each fiscal year thereafter, the Bureau shall prepare and submit to the Secretary an annual report that—

''(A) describes progress made in responding to study recommendations for the fiscal year; and

''(B) summarizes the activities and expenditure of funds by the Bureau for the fiscal year.

''(2) AVAILABILITY.—The Bureau shall—

''(A) make the report described in paragraph (1) available to the public; and

''(B) publish the report on the Internet website of the Bureau.

''(3) COMBINATION OF REPORTS.—The report required under paragraph (1) may be included in or combined with the Transportation Statistics Annual Report required by subsection (j).

''(l) EXPENDITURE OF FUNDS.—Funds from the Highway Trust Fund (other than the Mass Transit Account) that are authorized to be appropriated, and made available, in accordance with section 2001(a)(3) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 shall be used only for the collection and statistical analysis of information relating to surface transportation systems.''; and

(C) in subsection (m) (as redesignated by subparagraph (A)), by inserting ''surface transportation'' after ''sale of''.

(2) The analysis for chapter 55 of title 49, United States Code, is amended by striking the item relating to section 5505 and inserting the following:

''5505. University transportation centers.''.

SEC. 2103. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.

(a) ESTABLISHMENT.—The Secretary shall establish the centers for surface transportation excellence described in subsection (b) to promote

high-quality outcomes in support of strategic national programs and activities, including—

(1) the environment;

(2) operations;

(3) surface transportation safety;

(4) project finance; and

(5) asset management.

(b) CENTERS.—The centers for surface transportation excellence referred to in subsection (a) are—

(1) a Center for Environmental Excellence to provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes to assist States in planning and delivering environmentally-sound surface transportation projects;

(2) a Center for Operations Excellence to provide support for an integrated and coordinated national program for implementing operations in planning and management (including standards development) for the transportation system in the United States;

(3) a Center for Excellence in Surface Transportation Safety to implement a program of support for State transportation departments, including—

(A) the maintenance of an Internet site to provide critical information on safety programs;

(B) the provision of technical assistance to support a lead State transportation department for each of the 22 safety emphasis areas (as identified by the Secretary); and

(C) the provision of training and education to enhance knowledge of personnel of State transportation departments in support of safety highway goals;

(4) a Center for Excellence in Project Finance—

(A) to provide support to State transportation departments in the development of finance plans and project oversight tools; and

(B) to develop and offer training in state-of-the-art financing methods to advance projects and leverage funds; and

(5) a Center for Excellence in Asset Management to develop and conduct research, provide training and education, and disseminate information on the benefits and tools for asset management.

(c) PROGRAM ADMINISTRATION.—

(1) IN GENERAL.—Before funds authorized under this section for fiscal years 2005 through 2009 are obligated, the Secretary shall review and approve a multiyear strategic plan to be submitted by each of the centers.

(2) TIMING.—The plan shall be submitted before the beginning of fiscal year 2005 and, subsequently, shall be annually updated.

(3) CONTENT.—The plan shall include—

(A) a list of research and technical assistance projects and objectives; and

(B) a description of any other technology transfer activities, including a summary of training efforts.

(4) COOPERATION AND COMPETITION.—

(A) IN GENERAL.—The Secretary shall carry out this section by making grants to, or entering into contracts, cooperative agreements, and other transactions with—

(i) the National Academy of Sciences;

(ii) the American Association of State Highway and Transportation Officials;

(iii) planning organizations;

(iv) a Federal laboratory;

(v) a State agency;

(vi) an authority, association, institution, or organization; or

(vii) a for-profit or nonprofit corporation.

(B) COMPETITION; REVIEW.—All parties entering into contracts, cooperative agreements, or other transactions with the Secretary, or receiving grants, to perform research or provide technical assistance under this section shall be selected, to the maximum extent practicable—

(i) on a competitive basis; and

(ii) on the basis of the results of peer review of proposals submitted to the Secretary.

(5) NONDUPLICATION.—The Secretary shall ensure that activities conducted by each of the centers do not duplicate, and to the maximum extent practicable, are integrated and coordinated with similar activities conducted by the Federal Highway Administration, the local technical assistance program, university transportation centers, and other research efforts supported with funds authorized by this title.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—For each of fiscal years 2004 through 2009, of the funds made available under section 2001(a)(1)(A), the Secretary shall set aside $10,000,000 to carry out this section.

(2) ALLOCATION OF FUNDS.—Of the funds made available under paragraph (1)—

(A) 20 percent shall be allocated to the Center for Environmental Excellence established under subsection (b)(1);

(B) 30 percent shall be allocated to the Center for Operations Excellence established under subsection (b)(2);

(C) 20 percent shall be allocated to the Center for Excellence in Surface Transportation Safety established under subsection (b)(3);

(D) 10 percent shall be allocated to the Center for Excellence in Project Finance established under subsection (b)(4); and

(E) 20 percent shall be allocated to the Center for Excellence in Asset Management established under subsection (b)(5).

(3) APPLICABILITY OF TITLE 23.—Funds made available under 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, except that the Federal share shall be 100 percent.

Subtitle C—Intelligent Transportation System Research

SEC. 2201. INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code (as amended by section 2101), is amended by adding at the end the following:

''SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEM RESEARCH AND TECHNICAL ASSISTANCE PROGRAM

''§ 521. Finding

''Congress finds that continued investment in architecture and standards development, research, technical assistance for State and local governments, and systems integration is needed to accelerate the rate at which intelligent transportation systems—

''(1) are incorporated into the national surface transportation network; and

''(2) as a result of that incorporation, improve transportation safety and efficiency and reduce costs and negative impacts on communities and the environment.

''§ 522. Goals and purposes

''(a) GOALS.—The goals of the intelligent transportation system research and technical assistance program include—

''(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade—

''(A) to meet a significant portion of future transportation needs, including public access to employment, goods, and services; and

''(B) to reduce regulatory, financial, and other transaction costs to public agencies and system users;

''(2) the acceleration of the use of intelligent transportation systems to assist in the achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles, with particular emphasis on decreasing the number and severity of collisions;

''(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments in achieving national environmental goals;

''(4) accommodation of the needs of all users of surface transportation systems, including—

''(A) operators of commercial vehicles, passenger vehicles, and motorcycles;

''(B) users of public transportation users (with respect to intelligent transportation system user services); and

''(C) individuals with disabilities; and

''(5)(A) improvement of the ability of the United States to respond to emergencies and natural disasters; and

''(B) enhancement of national security and defense mobility.

''(b) PURPOSES.—The Secretary shall carry out activities under the intelligent transportation system research and technical assistance program to, at a minimum—

''(1) assist in the development of intelligent transportation system technologies;

''(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for full consideration in the transportation planning process;

''(3) improve regional cooperation, interoperability, and operations for effective intelligent transportation system performance;

''(4) promote the innovative use of private resources;

''(5) assist State transportation departments in developing a workforce capable of developing, operating, and maintaining intelligent transportation systems;

''(6) maintain an updated national ITS architecture and consensus-based standards while ensuring an effective Federal presence in the formulation of domestic and international ITS standards;

''(7) advance commercial vehicle operations components of intelligent transportation systems—

''(A) to improve the safety and productivity of commercial vehicles and drivers; and

''(B) to reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements;

''(8) evaluate costs and benefits of intelligent transportation systems projects;

''(9) improve, as part of the Archived Data User Service and in cooperation with the Bureau of Transportation Statistics, the collection of surface transportation system condition and performance data through the use of intelligent transportation system technologies; and

''(10) ensure access to transportation information and services by travelers of all ages.

''§ 523. Definitions

''In this subchapter:

''(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that support commercial vehicle operations.

''(2) COMMERCIAL VEHICLE OPERATIONS.—

''(A) IN GENERAL.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

''(B) INCLUSIONS.—The term 'commercial vehicle operations', with respect to the public sector, includes—

''(i) the issuance of operating credentials;

''(ii) the administration of motor vehicle and fuel taxes; and

''(iii) roadside safety and border crossing inspection and regulatory compliance operations.

''(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—The term 'intelligent transportation infrastructure' means fully integrated public sector intelligent transportation system components, as defined by the Secretary.

''(4) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

''(5) NATIONAL ITS ARCHITECTURE.—The term 'national ITS architecture' means the common framework for interoperability adopted by the Secretary that defines—

''(A) the functions associated with intelligent transportation system user services;

''(B) the physical entities or subsystems within which the functions reside;

''(C) the data interfaces and information flows between physical subsystems; and

''(D) the communications requirements associated with the information flows.

''(6) STANDARD.—The term 'standard' means a document that—

''(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

''(B) may—

''(i) support the national ITS architecture; and

''(ii) promote—

''(I) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

''(II) interoperability among intelligent transportation system technologies implemented throughout the States.

''§ 524. General authorities and requirements

''(a) SCOPE.—Subject to this subchapter, the Secretary shall carry out an ongoing intelligent transportation system research program—

''(1) to research, develop, and operationally test intelligent transportation systems; and

''(2) to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

''(b) POLICY.—Intelligent transportation system operational tests and projects funded under this subchapter shall encourage, but not displace, public-private partnerships or private sector investment in those tests and projects.

''(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system research and technical assistance program in cooperation with—

''(1) State and local governments and other public entities;

''(2) the private sector;

''(3) Federal laboratories (as defined in section 501); and

''(4) colleges and universities, including historically black colleges and universities and other minority institutions of higher education.

''(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system research program, the Secretary, as appropriate, shall consult with—

''(1) the Secretary of Commerce;

''(2) the Secretary of the Treasury;

''(3) the Administrator of the Environmental Protection Agency;

''(4) the Director of the National Science Foundation; and

''(5) the Secretary of Homeland Security.

''(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.

''(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation system management and operations (including intelligent transportation systems) within metropolitan and statewide transportation planning processes.

''(g) INFORMATION CLEARINGHOUSE.—The Secretary shall—

''(1) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

''(2) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

''(h) ADVISORY COMMITTEES.—

''(1) IN GENERAL.—In carrying out this subchapter, the Secretary—

''(A) may use 1 or more advisory committees; and

''(B) shall designate a public-private organization, the members of which participate in ongoing research, planning, standards development, deployment, and marketing of ITS programs, products, and services, and coordinate the development and deployment of intelligent transportation systems in the United States, as the Federal advisory committee authorized by section 5204(h) of the Transportation Equity Act for the 21st Century (112 Stat. 454).

''(2) FUNDING.—Of the amount made available to carry out this subchapter, the Secretary may use $1,500,000 for each fiscal year for advisory committees described in paragraph (1).

''(3) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee described in paragraph (1) shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

''(i) PROCUREMENT METHODS.—The Secretary shall develop and provide appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of deployment and procurement for intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including innovative and nontraditional methods such as Information Technology Omnibus Procurement (as developed by the Secretary).

''(j) EVALUATIONS.—

''(1) GUIDELINES AND REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall issue revised guidelines and requirements for the evaluation of operational tests and other intelligent transportation system projects carried out under this subchapter.

''(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by—

''(i) parties to any such test; or

''(ii) any other formal evaluation carried out under this subchapter.

''(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish evaluation funding levels based on the size and scope of each test that ensure adequate evaluation of the results of the test or project.

''(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

''§ 525. National ITS Program Plan

''(a) IN GENERAL.—

''(1) UPDATES.—Not later than 1 year after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National ITS Program Plan.

''(2) SCOPE.—The National ITS Program Plan shall—

''(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the contexts of—

''(i) major metropolitan areas;

''(ii) smaller metropolitan and rural areas; and

''(iii) commercial vehicle operations;

''(B) specify the manner in which specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of a 5-year timeframe for the goals and objectives;

''(C) identify activities that provide for the dynamic development, testing, and necessary revision of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish standards; and

''(D) establish a cooperative process with State and local governments for—

''(i) determining desired surface transportation system performance levels; and

''(ii) developing plans for accelerating the incorporation of specific intelligent transportation system capabilities into surface transportation systems.

''(b) REPORTING.—The National ITS Program Plan shall be transmitted and biennially updated as part of the surface transportation research and technology development strategic plan developed under section 508(c).

''§ 526. National ITS architecture and standards

''(a) IN GENERAL.—

''(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—In accordance with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national ITS architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

''(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national ITS architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.

''(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.

''(b) PROVISIONAL STANDARDS.—

''(1) IN GENERAL.—If the Secretary finds that the development or selection of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard—

''(A) after consultation with affected parties; and

''(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

''(2) CRITICAL STANDARDS.—If a standard identified by the Secretary as critical has not been adopted and published by the appropriate standards development organization by the date of enactment of this subchapter, the Secretary shall establish a provisional standard—

''(A) after consultation with affected parties; and

''(B) by using, to the maximum extent practicable, the work product of appropriate standards development organizations.

''(3) PERIOD OF EFFECTIVENESS.—A provisional standard established under paragraph (1) or (2) shall—

''(A) be published in the Federal Register; and

''(B) remain in effect until such time as the appropriate standards development organization adopts and publishes a standard.

''(c) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL CRITICAL STANDARD.—

''(1) IN GENERAL.—The Secretary may waive the requirement under subsection (b)(2) to establish a provisional standard if the Secretary determines that additional time would be productive in, or that establishment of a provisional standard would be counterproductive to, the timely achievement of the objectives identified in subsection (a).

''(2) NOTICE.—The Secretary shall publish in the Federal Register a notice that describes—

''(A) each standard for which a waiver of the provisional standard requirement is granted under paragraph (1);

''(B) the reasons for and effects of granting the waiver; and

''(C) an estimate as to the date on which the standard is expected to be adopted through a process consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783).

''(3) WITHDRAWAL OF WAIVER.—

''(A) IN GENERAL.—The Secretary may withdraw a waiver granted under paragraph (1) at any time.

''(B) NOTICE.—On withdrawal of a waiver, the Secretary shall publish in the Federal Register a notice that describes—

''(i) each standard for which the waiver has been withdrawn; and

''(ii) the reasons for withdrawing the waiver.

''(d) CONFORMITY WITH NATIONAL ITS ARCHITECTURE.—

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund conform to the national ITS architecture, applicable standards or provisional standards, and protocols developed under subsection (a).

''(2) DISCRETION OF SECRETARY.—The Secretary may authorize exceptions to paragraph (1) for projects designed to achieve specific research objectives outlined in—

''(A) the National ITS Program Plan under section 525; or

''(B) the surface transportation research and technology development strategic plan developed under section 508(c).

''(3) EXCEPTIONS.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter.

''§ 527. Commercial vehicle information systems and networks deployment

''(a) DEFINITIONS.—In this section:

''(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'commercial vehicle information systems and networks' means the information systems and communications networks that provide the capability to—

''(A) improve the safety of commercial vehicle operations;

''(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;

''(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;

''(D) enhance the safe passage of commercial vehicles across the United States and across international borders; and

''(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.

''(2) COMMERCIAL VEHICLE OPERATIONS.—

''(A) IN GENERAL.—The term 'commercial vehicle operations' means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods (including hazardous materials) and passengers.

''(B) INCLUSIONS.—The term 'commercial vehicle operations', with respect to the public sector, includes—

''(i) the issuance of operating credentials;

''(ii) the administration of motor vehicle and fuel taxes; and

''(iii) the administration of roadside safety and border crossing inspection and regulatory compliance operations.

''(3) CORE DEPLOYMENT.—The term 'core deployment' means the deployment of systems in a State necessary to provide the State with—

''(A) safety information exchange to—

''(i) electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites;

''(ii) connect to the Safety and Fitness Electronic Records system for access to—

''(I) interstate carrier and commercial vehicle data;

''(II) summaries of past safety performance; and

''(III) commercial vehicle credentials information; and

''(iii) exchange carrier data and commercial vehicle safety and credentials information within the State and connect to Safety and Fitness Electronic Records system for access to interstate carrier and commercial vehicle data;

''(B) interstate credentials administration to—

''(i)(I) perform end-to-end (including carrier application) jurisdiction application processing, and credential issuance, of at least the International Registration Plan and International Fuel Tax Agreement credentials; and

''(II) extend the processing to other credentials, including intrastate, titling, oversize or overweight requirements, carrier registration, and hazardous materials;

''(ii) connect to the International Registration Plan and International Fuel Tax Agreement clearinghouses; and

''(iii)(I) have at least 10 percent of the transaction volume handled electronically; and

''(II) have the capability to add more carriers and to extend to branch offices where applicable; and

''(C) roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of 1 fixed or mobile inspection site and to replicate the screening at other sites.

''(4) EXPANDED DEPLOYMENT.—The term 'expanded deployment' means the deployment of systems in a State that—

''(A) exceed the requirements of a core deployment of commercial vehicle information systems and networks;

''(B) improve safety and the productivity of commercial vehicle operations; and

''(C) enhance transportation security.

''(b) PROGRAM.—The Secretary shall carry out a commercial vehicle information systems and networks program to—

''(1) improve the safety and productivity of commercial vehicles and drivers; and

''(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.

''(c) PURPOSE.—It is the purpose of the program to advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.

''(d) CORE DEPLOYMENT GRANTS.—

''(1) IN GENERAL.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.

''(2) ELIGIBILITY.—To be eligible for a core deployment grant under this subsection, 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 and commercial vehicle information systems and networks architectures and available standards; and

''(ii) promote interoperability and efficiency, to the maximum extent practicable; and

''(C) agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that the systems of the State conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.

''(3) AMOUNT OF GRANTS.—The maximum aggregate amount a State may receive under this subsection for the core deployment of commercial vehicle information systems and networks may not exceed $2,500,000, including funds received under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the core deployment of commercial vehicle information systems and networks.

''(4) USE OF FUNDS.—

''(A) IN GENERAL.—Subject to subparagraph (B), funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks.

''(B) REMAINING FUNDS.—An eligible State that has completed the core deployment of commercial vehicle information systems and networks, or completed the deployment before core deployment grant funds are expended, may use the remaining core deployment grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.

''(e) EXPANDED DEPLOYMENT GRANTS.—

''(1) IN GENERAL.—For each fiscal year, from the funds remaining after the Secretary has made core deployment grants under subsection (d), the Secretary may make grants to each eligible State, on request, for the expanded deployment of commercial vehicle information systems and networks.

''(2) ELIGIBILITY.—Each State that has completed the core deployment of commercial vehicle information systems and networks shall be eligible for an expanded deployment grant.

''(3) AMOUNT OF GRANTS.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States in an amount that does not exceed $1,000,000 for each State.

''(4) USE OF FUNDS.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.

''(f) FEDERAL SHARE.—The Federal share of the cost of a project payable from funds made available to carry out this section shall be the share applicable under section 120(b), as adjusted under subsection (d) of that section.

''(g) FUNDING.—Funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1, except that the funds shall remain available until expended.

''§ 528. Research and development

''(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems, and other similar activities that are necessary to carry out this subchapter.

''(b) PRIORITY AREAS.—Under the program, the Secretary shall give priority to funding projects that—

''(1) assist in the development of an interconnected national intelligent transportation system network that—

''(A) improves the reliability of the surface transportation system;

''(B) supports national security;

''(C) reduces, by at least 20 percent, the cost of manufacturing, deploying, and operating intelligent transportation systems network components;

''(D) could assist in deployment of the Armed Forces in response to a crisis; and

''(E) improves response to, and evacuation of the public during, an emergency situation;

''(2) address traffic management, incident management, transit management, toll collection

traveler information, or highway operations systems with goals of—

''(A) reducing metropolitan congestion by 5 percent by 2010;

''(B) ensuring that a national, interoperable 511 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and

''(C)(i) improving incident management response, particularly in rural areas, so that rural emergency response times are reduced by an average of 10 minutes; and

''(ii) subject to subsection (d), improving communication between emergency care providers and trauma centers;

''(3) address traffic management, incident management, transit management, toll collection, traveler information, or highway operations systems;

''(4) conduct operational tests of the integration of at least 3 crash-avoidance technologies in passenger vehicles;

''(5) incorporate human factors research, including the science of the driving process;

''(6) facilitate the integration of intelligent infrastructure, vehicle, and control technologies;

''(7) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;

''(8) as determined by the Secretary, will improve the overall safety performance of vehicles and roadways, including the use of real-time setting of speed limits through the use of speed management technology;

''(9) examine—

''(A) the application to intelligent transportation systems of appropriately modified existing technologies from other industries; and

''(B) the development of new, more robust intelligent transportation systems technologies and instrumentation;

''(10) develop and test communication technologies that—

''(A) are based on an assessment of the needs of officers participating in a motor carrier safety program funded under section 31104 of title 49;

''(B) take into account the effectiveness and adequacy of available technology;

''(C) address systems integration, connectivity, and interoperability challenges; and

''(D) provide the means for officers participating in a motor carrier safety program funded under section 31104 of title 49 to directly assess, without an intermediary, current and accurate safety and regulatory information on motor carriers, commercial motor vehicles and drivers at roadside or mobile inspection facilities;

''(11) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;

''(12) improve sensing and wireless communications that provide real-time information regarding congestion and incidents;

''(13) develop and test high-accuracy, lane-level, real-time accessible digital map architectures that can be used by intelligent vehicles and intelligent infrastructure elements to facilitate safety and crash avoidance (including establishment of national standards for an open-architecture digital map of all public roads that is compatible with electronic 9-1-1 services);

''(14) encourage the dual-use of intelligent transportation system technologies (such as wireless communications) for—

''(A) emergency services;

''(B) road pricing; and

''(C) local economic development; and

''(15) advance the use of intelligent transportation systems to facilitate high-performance transportation systems, such as through—

''(A) congestion-pricing;

''(B) real-time facility management;

''(C) rapid-emergency response; and

''(D) just-in-time transit.

''(c) OPERATIONAL TESTS.—Operational tests conducted under this section shall be designed for—

''(1) the collection of data to permit objective evaluation of the results of the tests;

''(2) the derivation of cost-benefit information that is useful to others contemplating deployment of similar systems; and

''(3) the development and implementation of standards.

''(d) FEDERAL SHARE.—The Federal share of the costs of operational tests under subsection (a) shall not exceed 80 percent.

''§ 529. Use of funds

''(a) IN GENERAL.—For each fiscal year, not more than $5,000,000 of the funds made available to carry out this subchapter shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

''(b) APPLICABILITY.—Subsection (a) shall not apply to intelligent transportation system training, scholarships, or the publication or distribution of research findings, technical guidance, or similar documents.''.

(b) CONFORMING AMENDMENT.—Title V of the Transportation Equity Act for the 21st Century is amended by striking subtitle C (23 U.S.C. 502 note; 112 Stat. 452).

TITLE III—INTERMODAL PASSENGER FACILITIES

SEC. 3001. INTERMODAL PASSENGER FACILITIES.

(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding the following at the end:

''SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

§ 5571. Policy and purposes

''(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

''(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America's passenger transportation modes through—

''(1) ensuring intercity public transportation access to intermodal passenger facilities;

''(2) encouraging the development of an integrated system of public transportation information; and

''(3) providing intercity bus intermodal passenger facility grants.

§ 5572. Definitions

''In this subchapter—

''(1) 'capital project' means a project for—

''(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

''(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

''(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

''(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

''(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

''(5) 'local governmental authority' includes—

''(A) a political subdivision of a State;

''(B) an authority of at least one State or political subdivision of a State;

''(C) an Indian tribe; and

''(D) a public corporation, board, or commission established under the laws of the State.

''(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

''(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

''(8) 'Secretary' means the Secretary of Transportation.

''(9) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

''(10) 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

''§ 5573. Assurance of access to intermodal passenger facilities

''Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

''§ 5574. Intercity bus intermodal passenger facility grants

''(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project, as defined in section 5572 of this chapter, only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

''(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

''(c) SHARE OF NET PROJECT COSTS.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

''(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

''§ 5575. Funding

''(a) HIGHWAY ACCOUNT.—

''(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $10,000,000 for each of fiscal years 2005 through 2009.

''(2) The funding made available under paragraph (1) of this subsection shall be available for obligation in the same manner as if such

funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

''(b) PERIOD OF AVAILABILITY.—Amounts made available by subsection (a) of this section shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.
''5571. Policy and Purposes.
''5572. Definitions.
''5573. Assurance of access to intermodal facilities.
''5574. Intercity bus intermodal facility grants.
''5575. Funding.''.

TITLE IV—FEDERAL AID IN SPORT FISH RESTORATION ACT AMENDMENTS

SEC. 4001. AMENDMENT OF FEDERAL AID IN FISH RESTORATION ACT.

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 Act entitled ''An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,'' approved August 9, 1950 (64 Stat. 430; 16 U.S.C. 777 et seq.).

SEC. 4002. AUTHORIZATION OF APPROPRIATIONS.

Section 3 (16 U.S.C. 777b) is amended—

(1) by striking ''the succeeding fiscal year.'' in the third sentence and inserting ''succeeding fiscal years.''; and

(2) by striking ''in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation.'' and inserting ''to supplement the 55.3 percent of each annual appropriation to be apportioned among the States, as provided for in section 4(b) of this Act.''.

SEC. 4003. DIVISION OF ANNUAL APPROPRIATIONS.

Section 4 (16 U.S.C. 777c) is amended—

(1) by striking subsections (a) through (d) and redesignating subsections (e), (f), and (g) as subsections (b), (c), and (d);

(2) by inserting before subsection (b), as redesignated, the following:

''(a) IN GENERAL.—For fiscal years 2004 through 2009, each annual appropriation made in accordance with the provisions of section 3 of this Act shall be distributed as follows:

''(1) COASTAL WETLANDS.—18 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.).

''(2) BOATING SAFETY.—18 percent to the Secretary of Homeland Security for State recreational boating safety programs under section 13106 of title 46, United States Code.

''(3) CLEAN VESSEL ACT.—1.9 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

''(4) BOATING INFRASTRUCTURE.—1.9 percent to the Secretary of the Interior 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)).

''(5) NATIONAL OUTREACH AND COMMUNICATIONS.—1.9 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this Act. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (b) of this section.

''(6) SET-ASIDE FOR EXPENSES FOR ADMINISTRATION OF THIS CHAPTER.—

''(A) In general.—2.1 percent to the Secretary of the Interior for expenses for administration incurred in implementation of this Act, in accordance with this section, section 9, and section 14 of this Act.

''(B) APPORTIONMENT OF UNOBLIGATED FUNDS.—If any portion of the amount made available to the Secretary under subparagraph (A) remains unexpended and unobligated at the end of a fiscal year, that portion shall be apportioned among the States, on the same basis and in the same manner as other amounts made available under this Act are apportioned among the States under subsection (b) of this section, within 60 days after the end of that fiscal year. Any amount apportioned among the States under this subparagraph shall be in addition to any amounts otherwise available for apportionment among the States under subsection (b) for the fiscal year.'';

(3) by striking ''of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), (c), and (d), respectively, and after deducting amounts used for grants under section 14, shall apportion the remainder'' in subsection (b), as redesignated, and inserting ''shall apportion 55.3 percent'';

(4) by striking ''per centum'' each place it appears in subsection (b), as redesignated, and inserting ''percent'';

(5) by striking ''subsections (a), (b)(3)(A), (b)(3)(B), and (c)'' in paragraph (1) of subsection (d), as redesignated, and inserting ''paragraphs (1), (3), (4), and (5) of subsection (a)''; and

(6) by adding at the end the following:

''(e) TRANSFER OF CERTAIN FUNDS.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary after 3 fiscal years shall be transferred to the Secretary of Homeland Security and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.''.

SEC. 4004. MAINTENANCE OF PROJECTS.

Section 8 (16 U.S.C. 777g) is amended—

(1) by striking ''in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.'' in subsection (b)(2) and inserting ''to supplement the 55.3 percent of each annual appropriation to be apportioned among the States under section 4(b) of this Act.''; and

(2) by striking ''subsection (c) or (d) of section 4'' in subsection (d)(3) and inserting ''paragraph (5) or (6) of section 4(a)''.

SEC. 4005. BOATING INFRASTRUCTURE.

Section 7404(d)(1) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)(1)) is amended by striking ''section 4(b)(3)(B)'' and inserting ''section 4(a)(4)''.

SEC. 4006. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.

Section 9 (16 U.S.C. 777h) is amended—

(1) by striking ''section 4(d)(1)'' in subsection (a) and inserting ''section 4(a)(6)''; and

(2) by striking ''section 4(d)(1)'' in subsection (b)(1) and inserting ''section 4(a)(6)''.

SEC. 4007. PAYMENTS OF FUNDS TO AND COOPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SAMOA, COMMONWEALTH OF THE NORTHERN MARINA ISLANDS, AND VIRGIN ISLANDS.

Section 12 (16 U.S.C. 777k) is amended by striking ''in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation.'' and inserting ''to supplement the 55.3 percent of each annual appropriation to be apportioned among the States under section 4(b) of this Act.''.

SEC. 4008. MULTISTATE CONSERVATION GRANT PROGRAM.

Section 14 (16 U.S.C. 777m) is amended—

(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:

''(a) IN GENERAL.—

''(1) AMOUNT FOR GRANTS.—For each of fiscal years 2004 through 2009, 0.9 percent of each annual appropriation made in accordance with the provisions of section 3 of this Act shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.'';

(2) by striking ''section 4(e)'' each place it appears in subsection (a)(2)(B) and inserting ''section 4(b)''; and

(3) by striking ''Of the balance of each annual appropriation made under section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 for each fiscal year and after deducting amounts used for grants under subsection (a)—'' in subsection (e) and inserting ''Of amounts made available under section 4(a)(6) for each fiscal year—''.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. As chairman of the EPW Committee and with the concurrence of the majority of the committee, I ask unanimous consent that the committee amendment be modified with the changes at the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The modification to the reported committee substitute is as follows:

Beginning on page 672, strike line 13 and all that follows through page 678, line 5, and insert the following:

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code—

(A) $5,442,371,792 for fiscal year 2004;
(B) $6,425,168,342 for fiscal year 2005;
(C) $6,683,176,289 for fiscal year 2006;
(D) $6,702,365,186 for fiscal year 2007;
(E) $7,036,621,314 for fiscal year 2008; and
(F) $7,139,130,081 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title—

(A) $6,580,322,257 for fiscal year 2004;
(B) $7,801,990,130 for fiscal year 2005;
(C) $8,111,641,450 for fiscal year 2006;
(D) $8,134,931,791 for fiscal year 2007;
(E) $8,540,631,977 for fiscal year 2008; and
(F) $8,664,991,297 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title—

(A) $4,650,754,076 for fiscal year 2004;
(B) $5,507,287,150 for fiscal year 2005;
(C) $5,713,860,644 for fiscal year 2006;
(D) $5,730,266,418 for fiscal year 2007;
(E) $6,016,042,650 for fiscal year 2008; and
(F) $6,103,714,622 for fiscal year 2009.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title—

(A) $6,877,178,900 for fiscal year 2004;
(B) $8,107,950,527 for fiscal year 2005;
(C) $8,417,741,127 for fiscal year 2006;
(D) $8,441,910,349 for fiscal year 2007;
(E) $8,862,919,976 for fiscal year 2008; and
(F) $8,992,134,975 for fiscal year 2009.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title—

(A) $1,880,092,073 for fiscal year 2004;
(B) $2,192,716,180 for fiscal year 2005;
(C) $2,270,239,273 for fiscal year 2006;
(D) $2,276,757,639 for fiscal year 2007;
(E) $2,390,302,660 for fiscal year 2008; and
(F) $2,425,236,569 for fiscal year 2009.

(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of that title—

(A) $1,187,426,572 for fiscal year 2004;

(B) $1,325,828,388 for fiscal year 2005;

(C) $1,377,448,548 for fiscal year 2006;

(D) $1,381,403,511 for fiscal year 2007;

(E) $1,450,295,996 for fiscal year 2008; and

(F) $1,471,607,029 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 170 of that title, $590,000,000 for each of fiscal years 2004 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of that title, $60,000,000 for each of fiscal years 2004 through 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;

(ii) $325,000,000 for fiscal year 2005;

(iii) $350,000,000 for fiscal year 2006;

(iv) $375,000,000 for fiscal year 2007;

(v) $400,000,000 for fiscal year 2008; and

(vi) $425,000,000 for fiscal year 2009.

(B) RECREATION ROADS.—For recreation roads under section 204 of that title, $50,000,000 for each of fiscal years 2004 through 2009.

(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of that title—

(i) $300,000,000 for fiscal year 2004;

(ii) $310,000,000 for fiscal year 2005; and

(iii) $320,000,000 for each of fiscal years 2006 through 2009.

(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $30,000,000 for each of fiscal years 2004 through 2009.

(E) PUBLIC LANDS HIGHWAYS.—For Federal lands highways under section 204 of that title, $300,000,000 for each of fiscal years 2004 through 2009.

(F) SAFETY.—For safety under section 204 of that title, $40,000,000 for each of fiscal years 2004 through 2009.

(10) MULTISTATE CORRIDOR PROGRAM.—For the multistate corridor program under section 171 of that title—

(A) $112,500,000 for fiscal year 2004;

(B) $135,000,000 for fiscal year 2005;

(C) $157,500,000 for fiscal year 2006;

(D) $180,000,000 for fiscal year 2007;

(E) $202,500,000 for fiscal year 2008; and

(F) $225,000,000 for fiscal year 2009.

(11) BORDER PLANNING, OPERATIONS, AND TECHNOLOGY PROGRAM.—For the border planning, operations, and technology program under section 172 of that title—

(A) $112,500,000 for fiscal year 2004;

(B) $135,000,000 for fiscal year 2005;

(C) $157,500,000 for fiscal year 2006;

(D) $180,000,000 for fiscal year 2007;

(E) $202,500,000 for fiscal year 2008; and

(F) $225,000,000 for fiscal year 2009.

(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of that title—

(A) $34,000,000 for fiscal year 2004;

(B) $35,000,000 for fiscal year 2005;

(C) $36,000,000 for fiscal year 2006;

(D) $37,000,000 for fiscal year 2007; and

(E) $39,000,000 for each of fiscal years 2008 and 2009.

(13) INFRASTRUCTURE PERFORMANCE AND MAINTENANCE PROGRAM.—For carrying out the infrastructure performance and maintenance program under section 139 of that title—

(A) $2,500,000,000 for each of fiscal years 2004 through 2006;

(B) $1,750,000,000,000 for fiscal year 2007.

(14) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $38,000,000 for each of fiscal years 2004 through 2009.

(15) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 173 of that title—

(A) $140,000,000 for fiscal year 2004;

(B) $145,000,000 for fiscal year 2005;

(C) $149,000,000 for fiscal year 2006;

(D) $154,000,000 for fiscal year 2007;

(E) $160,000,000 for fiscal year 2008; and

(F) $163,000,000 for fiscal year 2009.

On page 678, strike lines 6 and 7 and insert the following:

SEC. 1102. OBLIGATION CEILING.

(a) GENERAL LIMITATION.—Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

(1) $33,643,326,300 for fiscal year 2004;

(2) $37,900,000,000 for fiscal year 2005;

(3) $39,100,000,000 for each of fiscal years 2006 and 2007;

(4) $39,400,000,000 for fiscal year 2008; and

(5) $44,400,000,000 for fiscal year 2009.

(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under or for—

(1) section 125 of title 23, United States Code;

(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97–134; 95 Stat. 1701);

(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119);

(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 198);

(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027);

(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);

(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2003, but only in an amount equal to $639,000,000 for each of those fiscal years);

(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used; and

(10) section 105 of title 23, United States Code (but, for each of fiscal years 2004 through 2009, only in an amount equal to $639,000,000 per fiscal year).

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2004 through 2009, the Secretary—

(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—

(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;

(B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code; and

(C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;

(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;

(3) shall determine the ratio that—

(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to

(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2);

(4) shall distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for section 14501 of title 40, United States Code, so that the amount of obligation authority available for that section is equal to the amount determined by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the sums authorized to be appropriated for that section for the fiscal year;

(5) shall distribute among the States the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2004 through 2009—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

(A) chapter 5 of title 23, United States Code; and

(B) title II of this Act.

(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 3 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2004 through 2009, the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

(3) AVAILABILITY.—Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

(g) SPECIAL RULE.—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) ADJUSTMENT IN OBLIGATION LIMIT.—

(1) IN GENERAL.—A limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(A)(B)) for the fiscal year.

(2) DISTRIBUTION.—An adjustment under paragraph (1) shall be distributed in accordance with this section.

(i) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $450,000,000 for fiscal year 2004;

(2) $465,000,000 for fiscal year 2005;

(3) $480,000,000 for fiscal year 2006;

(4) $495,000,000 for fiscal year 2007;

(5) $510,000,000 for fiscal year 2008; and

(6) $525,000,000 for fiscal year 2009.

Beginning on page 681, strike line 7 and all that follows through page 683, line 4, and insert the following:

SEC. 1104. EQUITY BONUS PROGRAM.

(a) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Equity bonus program

''(a) PROGRAM.—

''(1) IN GENERAL.—Subject to subsections (c) and (d), 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 2003)—

''(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 (d), no negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

''(3) 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); 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) fiscal year 2004, 120 percent;

''(B) fiscal year 2005, 130 percent;

''(C) fiscal year 2006, 134 percent;

''(D) fiscal year 2007, 137 percent;

''(E) fiscal year 2008, 145 percent; and

''(F) fiscal year 2009, 250 percent.

''(e) 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.

''(f) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

''(g) 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.''

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

''105. Equity bonus program.''

(2) Section 104(a)(1) of title 23, United States Code, is amended by striking ''minimum guarantee'' and inserting ''equity bonus''.

On page 683, strike lines 8 through 16 and insert the following:

(1) in subsection (a)—

(A) in paragraphs (1) and (2), by striking ''2000'' and inserting ''2006'';

(B) in paragraph (1), by inserting ''(as in effect on September 30, 2002)'' after ''(2 U.S.C. 901(b)(2)(B)(ii)(I)(cc))''; and

(C) in paragraph (2)—

(i) by striking ''If the amount'' and inserting the following:

''(A) IN GENERAL.—Except as provided in subparagraph (B), if the amount'';

(ii) by inserting ''(as in effect on September 30, 2002)'' after ''(2 U.S.C. 901(b)(1)(B)(ii)(I)(cc)'';

(iii) by striking ''the succeeding'' and inserting ''that'';

(iv) by striking ''and the motor carrier safety grant program''; and

(v) by adding at the end the following:

''(B) LIMITATION.—No reduction under subparagraph (A) shall be made for a fiscal year if, as of October 1 of the fiscal year, the cash balance in the Highway Trust Fund (other than the Mass Transit Account) exceeds $6,000,000,000.''.

On page 684, strike lines 19 and 20 and insert the following:

''(b) ELIGIBLE PROJECTS.—A State may obligate funds

On page 685, strike lines 6 and 7 and insert the following:

''(1) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of

On page 685, strike lines 9 and 10 and insert the following:

''(2) provide operational improvements (including traffic management and intelligent

On page 685, strike lines 14 through 19.

Beginning on page 703, strike line 20 and all that follows through page 704, line 15, and insert the following:

section shall be 80 percent.''.

On page 923, strike lines 7 through 10.

On page 923, line 11, strike ''**1808**'' and insert ''**1807**''.

On page 929, line 14, strike ''**1809**'' and insert ''**1808**''.

On page 931, line 5, ''**1810**'' and insert ''**1809**''.

On page 931, line 7, strike ''1809(a)'' and insert ''1808(a)''.

On page 933, line 22, strike ''1810(b)'' and insert ''1809(b)''.

On page 934, line 1, strike ''**1811**'' and insert ''**1810**''.

On page 934, line 4, strike ''1810(a)'' and insert ''1809(a)''.

On page 942, line 3, strike ''1810(b)'' and insert ''1809(b)''.

On page 942, line 5, strike ''**1812**'' and insert ''**1811**''.

On page 942, line 7, strike ''1811(a)'' and insert ''1810(a)''.

On page 944, line 5, strike ''1811(b)'' and insert ''1810(b)''.

On page 944, line 7, strike ''**1813**'' and insert ''**1812**''.

On page 944, line 10, strike ''1812(a)'' and insert ''1811(a)''.

On page 946, line 23, strike ''1812(b)'' and insert ''1811(b)''.

On page 947, line 1, strike ''**1814**'' and insert ''**1813**''.

On page 947, line 4, strike ''1813(a)'' and insert ''1812(a)''.

On page 953, line 10, strike ''1813(b)'' and insert ''1812(b)''.

On page 953, line 12, strike ''**1815**'' and insert ''**1814**''.

On page 954, line 22, strike ''1815'' and insert ''1814''.

On page 955, line 7, strike ''**1817**'' and insert ''**1816**''.

On page 962, line 1, strike ''**1818**'' and insert ''**1817**''.

On page 963, line 23, strike ''**1819**'' and insert ''**1818**''.

On page 964, line 6, strike ''**1820**'' and insert ''**1819**''.

Mr. INHOFE. Mr. President, with the agreement of both sides, we will recognize the Senator from Florida, Mr. NELSON, for 10 minutes on a subject other than the highway bill.

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

The Senator from Florida is recognized.

(The remarks of Mr. NELSON of Florida are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we have been yielding to Members on other subjects. I was glad to do so, but we were supposed to be on the highway bill for discussion about an hour ago. It is my wish not to recognize anyone, so long as we have speakers on the highway bill. I understand I get primary recognition, and I can't do this as managed time, but it is my desire to recognize the ranking member of the Environment and Public Works Committee for whatever time he should take, and immediately following that, the Senator from Ohio, Mr. VOINOVICH.

Before Senator JEFFORDS talks, let me say, again, as I did several times yesterday, how much I appreciate his cooperation in working together on this very difficult bill and coming to the point where we are today.

Mr. JEFFORDS. I thank the Senator. I echo those words with respect to the chairman's cooperation as well. It has been a pleasure to work with him and his staff. I am glad we are where we are now.

I wish to speak briefly on yesterday's incident that apparently involved ricin. First, I thank Majority Leader FRIST for his calm and professional approach to this matter. I also thank the Capitol Police, the Attending Physician, and everyone who assisted in responding to this incident.

As many of my colleagues know, my personal office is adjacent to Senator FRIST's office on the first floor, and my committee staff is located across the hall from Senator FRIST, so we were hit twice as hard on this episode.

Nearly a dozen of my staff members were quarantined last night and later decontaminated. They did not get home until after 2 in the morning. I would like to say a special thank you to them. Thankfully, everyone is feeling fine, and they don't appear to have any ill effects.

We should not have to go through this type of episode as we go about our business every day, but, unfortunately, these are the times we are living in.

I am hopeful we will get to the bottom of who is responsible, close this chapter, and return to our normal routines as soon as possible. Incidentally—and I may be getting a little paranoid—we are the only office to have also been involved in the other episode because we moved from Hart to Dirksen this year. I want to warn everyone, watch where I am. You may save yourself some problems.

Some 2½ years ago when I assumed the leadership of the Committee on Environment and Public Works, I set my sights on reauthorization of the Nation's Surface Transportation Program. I recognized this to be the most challenging task confronting the committee.

I have spent these last 2 years working with my colleagues, meeting with Americans, and studying the Nation's transportation needs. I have traveled the country visiting local communities and seeing firsthand our many national transportation challenges.

My observations on the road were reinforced by our committee's hearing process. The committee and our Transportation Subcommittee held 11 public hearings and sponsored three roundtable discussions to prepare for renewal of the Nation's Surface Transportation Program. We heard from over 100 witnesses from 30 States, representing over 60 organizations. The process generated a hearing record of over 1,500 pages.

What I heard is our current national program is working well; that we should refine it and not replace it. Our national transportation policy must serve the public good. In my view, the outcomes we seek are a strong economy, safe and healthy communities, and a clean environment. A balanced transportation system is necessary for us to attain these goals.

The success of our Surface Transportation Program will rest on four fundamental pillars.

Asset management is the first pillar. We must maintain and preserve our infrastructure investment. We cannot allow highways and bridges to deteriorate.

Access and mobility is the second pillar. Most Americans now live in metro areas, and most metro areas are congested and getting worse. We need to focus on these problems.

The third pillar is freight and trade. The value of trade and tonnage of goods moved in this country is enormous and growing. We need new facilities to accommodate this growth.

The fourth pillar is safety. We must continue the progress we have made over the last 10 years reducing the rate of highway fatalities and work now to reduce the actual number of lives lost on our roadways.

In partnership with our chairman, Senator INHOFE, and with the leaders of our subcommittee, Senators BOND and REID, we have helped construct a bill, SAFETEA, on these pillars. SAFETEA retains the strengths of our current national transportation program while enhancing its effectiveness to deal with the challenges facing our States and communities.

The bill meets highway system needs for strong growth in a manner that increases assistance to every State and every region. It is funded at a level of $255 billion that will enable the States to improve road and bridge conditions.

The bill will generate millions of well-paying jobs since every billion dollars spent on the highway program can generate up to 47,500 jobs. These jobs come at a time of great economic need in our communities.

A well-funded safety title is also included. It features a new program—Safe Routes to Schools—to protect children as they walk or ride their bikes to school.

Significant growth in congestion mitigation and air quality funding will help States improve air quality, reduce pollution, and address congestion. The bill makes it easier for States to mitigate project effects on habitat and wetlands, and retains and expands popular programs such as enhancements, recreational trails, and scenic byways. The increased intermodal flexibility set forth in the bill will allow States, if they wish, to improve freight handling and movement. But fundamentally, this massive transportation bill is about people.

It is about making it easier to commute to work; making roads safer for our families; preserving scenic beauty for future generations; helping our children get to school safely; moving freight efficiently and cheaply; and making America better.

Working with my colleagues, I have done my level best to write a bill that is fair to all States and regions of our country. I am committed to maintaining the legacy I inherited from my dear friends and former colleagues, Pat Moynihan and John Chafee. I look forward to completing this job, working with Chairman INHOFE, with the leaders of the other authorizing committees, and with all my fellow Members to produce legislation that will build a strong America.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I rise to support S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003.

First, I congratulate Senators INHOFE, BOND, JEFFORDS, and REID, and their staffs on the impressive work they have done to put together a bipartisan bill. The fact this is a bipartisan product means we can actually get something done. It is a process of which I am glad to be a part as a member of the Environment and Public Works Committee.

Lately, all I have heard in the media and even from some of my colleagues is this is going to be a very difficult year to get anything done. I hope this bill and bipartisan spirit is an indication of the progress we can make this year for the American people. To borrow from one of my mottos as Governor: Together we can do it. And the other motto is the Ohio motto: With God, all things are possible.

This is one of the most important pieces of legislation Congress will consider this year. Although recent economic reports indicate positive job growth in the Nation as a whole, manufacturing jobs, including in Ohio, continue to experience slow growth and prolonged unemployment.

In recent months, I have met with workers, small business owners and manufacturers throughout Ohio. They all have the same thing to say: Good, high-paying manufacturing jobs are leaving Ohio. Many of these displaced workers would be productively employed on construction projects.

We have an opportunity with the highway bill not only to improve and repair our crumbling highways and bridges but to create and to let folks know that we know they are hurting. I will never forget when I was mayor of the city of Cleveland back in 1983. President Reagan and Congress realized the pain the people in this country were experiencing and Congress passed the emergency jobs bill, including an increase in the gas tax which stimulated tremendous highway construction jobs during 1983 and into 1984.

According to the American Road and Transportation Builders Association, ARTBA, employment in the transportation construction industry was down in July of 2003, during the peak of the construction season, compared to July 2002. Specifically, there were 12,100 fewer workers on project sites over the last year, a decrease of 3.7 percent.

In Ohio, according to the Bureau of Labor Statistics, heavy construction jobs were up slightly from last year. However, there were still on average 3,500 fewer jobs in 2003 than in 2000 when they were at their peak. Investing in our Nation's transportation infrastructure through a 6-year reauthorization bill will create hundreds of thousands of jobs and move our sluggish economy down the road to recovery.

The transportation construction industry generates more than $200 billion in economic activity and helps sustain 2.5 million jobs in the United States each year. According to the U.S. Department of Transportation, every $1 billion invested in highway construction creates 47,500 jobs and generates more than $2 billion in economic activity. It is also estimated that every dollar invested in the Nation's highway system generates $5.70 in economic benefits, including reduced delays, improved safety and reduced vehicle operating costs. This is a 6-to-1 return on investment. This has to be one of the best investments that the Federal Government can make.

We also need to ensure that we are investing adequate resources into our transportation infrastructure. According to the Federal Highway Administration's 2002 Conditions and Performance Report, the average annual investment level needed to make improvements to highways and bridges is projected to be $106.9 billion through 2020. This amount is 65 percent higher than the $64 billion of total capital investments spent by all levels of government in 2000. There is just no question that the need is there.

The average annual investment level necessary to maintain the current condition and performance of highways and bridges is projected to be $75.9 billion to 2020. This amount is 17.5 percent higher than capital spending in 2000. Nationwide, 162,000 bridges are structurally deficient or functionally obsolete, and 160,000 miles of highway pavement are in poor or mediocre condition. Americans pay approximately $49 billion a year in extra vehicle repairs and operating costs due to road conditions. That is $255 a driver in this country. In addition, the average urban rush hour driver spends almost 62 additional hours a year stuck in traffic. Congestion is responsible for 5.7 billion gallons of wasted gasoline each year. Wasted fuel and low productivity due to traffic congestion costs the U.S. economy nearly $70 billion annually. In other words, this legislation will help reduce our reliance on oil, improve our environment, and relieve the stress and road rage that we see so often throughout our country.

Nearly 43,000 people were killed on America's roads in 2002. Poor road conditions were a factor in one-third of those fatalities. The Federal Government predicts highway fatalities will grow to nearly 52,000 by 2009, absent any new Federal investment in highway safety. Studies report that every $1 billion invested in road improvements since 1950 has helped prevent 1,400 premature deaths and nearly 50,000 injuries, as well as help save over $2 billion in health care, insurance, lost wages, and productivity costs.

If we continue to ignore the upkeep and allow the deterioration of our infrastructure, we risk disruptions in commerce and reduced protection for public safety, health, and the environment. In my view, it is the responsibility of Congress to ensure that funding levels are adequate and efficiently allocated to the Nation's priority needs.

In 1998, Congress recognized the importance of the Nation's transportation system through the enactment of TEA–21, a 6-year bill that increased Federal investment in highways and transit by nearly 40 percent to $218 billion. Under TEA–21, my State received a 23 percent increase in transportation funding. Ohio's share of highway funding also increased under TEA–21 to 90.5 percent of its share of contributions to the trust fund. When I took office as Governor in 1991, Ohio's share was less than 80 percent. ISTEA took us to 85 and TEA–21 to 90.5.

As chairman of the National Governors Association, I was involved in negotiating TEA–21 and lobbied Congress and worked with BUD SHUSTER to ensure that all highway trust fund revenues were spent on transportation.

TEA–21 dedicated nearly all highway gas taxes to transportation funding and guarantees that States will receive at least 90.5 percent of their share of contributions to the fund.

I also fought to even out highway funding fluctuations and assure a predictable flow of funding to eliminate the peaks and valleys that we experienced on the State and local level under ISTEA. TEA–21 achieved this role with record guaranteed levels of funding, and I am glad to be in the Senate at this time to work on reauthorizing this important legislation.

The administration's 6-year surface transportation reauthorization proposal, the Safe, Flexible, and Efficient Transportation Equity Act, would provide $247 billion, including $201 billion for highway and safety programs and $46 billion to transit programs. On November 12, 2003, the Senate Environment and Public Works Committee approved $255 billion in contract authority for highways over the next 6 years, or an average of $42.5 billion annually.

Again, one of my top priorities for reauthorization is to increase the minimum rate of return for donor States from 90.5 percent to at least 95 percent. In May 2003, Senator CARL LEVIN and I, along with House Majority Leader TOM DELAY and Congressman BARON HILL, introduced legislation, the Highway Funding Equity Act of 2003, to increase donor States' minimum rate of return to 95 percent.

Currently, there are 144 sponsors of this bill in the House and 22 cosponsors in the Senate. It has been a pleasure to lead this effort on behalf of the SHARE, States' Highway Alliance for Real Equity, coalition in the Senate. SHARE believes all States have highway infrastructure needs that surpass available resources. For this reason, each donor State seeks to get back as much of the taxes paid by its motorists as possible. SHARE's objectives are to increase the size of the guarantee to 95 percent and to apply the scope of the guarantee to all dollars being distributed to the States.

I commend Chairman INHOFE, Senator BOND, Senator JEFFORDS, and others not only for their hard work in writing this bill but also for increasing the guaranteed share of all donor States to 95 percent by 2009, while balancing limited resources and the needs of the States. It is a very difficult job, but if one really looks at what has been done, it was a Solomon-like job and they should be congratulated for it. I hope other Members of the Senate are respectful of the fact that it was an intellectually honest effort on our part to try to remedy a problem that we have had for too long around this country.

Specifically, my State is going to receive $2.2 billion, which is a 38 percent increase over the 6-year period, compared to the last 6 years under TEA–21. We lost billions of dollars compared to other States, because we are a donor State—over the last number of years. The total amount of funding Ohio will receive over the next 6 years is more than $8 billion. Much of this additional funding is due to Ohio's increased share of the highway trust fund dollars.

Another of my priorities for increasing highway funding and improving equity is to no longer penalize States that consume ethanol-blended fuel to help reduce our national dependence on imported oil. Last year, I cosponsored language written by Senator GRASSLEY and reported out of the Finance Committee that would transfer 2.5 cents of the Federal tax on ethanol-blended fuel from the general fund of the Treasury to the highway account of the highway trust fund and replace the 5.2-cents-per-gallon reduced tax rate for ethanol-blended fuel with a tax credit. This was also in the Senate-passed energy bill.

As a result, the same Federal tax will be collected and deposited into the highway trust fund, regardless of whether a gallon of fuel contains ethanol. The Ohio Department of Transportation estimates that enactment of this legislation will restore up to $170 million annually to the State of Ohio.

I congratulate the Finance Committee for coming up with the revenue offsets to reach the outlays of $231 billion to pay for highways over the next 6 years. I urge the Senate to support the committee's recommendations.

This morning I congratulated Senator GRASSLEY, the chairman of the Finance Committee, for getting in there and finding the dollars and the offsets so we can talk to our colleagues about supporting this legislation as something fiscally responsible.

When gasohol contributions are included, Ohio's highway funding over the next 6 years will increase more than $3.1 billion, 54.2 percent over TEA–21 for a total of $8.9 billion. The surface transportation reauthorization bill is extremely important to Ohio, which has one of the largest surface transportation networks in the country. Ohio has the 10th largest highway network, the 5th largest volume of traffic, the 4th largest interstate highway network, and the 2nd largest inventory of bridges in the country.

There are also 62 public transit systems serving 59 of Ohio's 88 counties. In 2002, these systems made approximately 138.6 million trips. Ohio has the Nation's 4th largest rural transportation program, the 5th largest bus fleet, the 9th most transit vehicle miles traveled, and the 10th overall highest ridership in the country.

This bill, if enacted, will meet the essential needs of the entire surface transportation system of my State. It will also create thousands of jobs and provide a significant boost to Ohio's economy. I am very proud that Ohio approved a motor fuel tax increase in 2003 that will ensure an annual $250 million new construction program for the next 10 years, while maintaining bridge and highway conditions. With additional Federal funds, the Ohio Department of Transportation has set a goal of having a $5 billion, 10-year Ohio construction program entitled Jobs and Progress Plan, dedicated to addressing Ohio's most pressing congestion, safety, and rural access needs.

The plan is predicated on Congress enacting legislation to correct the ethanol penalty which reduces Ohio's transportation revenue and increases donor States' minimum rate of return to 95 percent, and provides an increased level of investment in the Nation's highways and bridges. This highway bill achieves all of those goals. It is a bill that is very important to my State and its economy.

As a result, a half billion dollar a year new construction program in our State would employ approximately 4,000 construction workers directly and create another almost 10,000 indirect highway jobs.

Ohio's Jobs and Progress Plan would help finance several major projects throughout the State, including a $350 million project to rebuild I–75 in Dayton, a $400 million project to begin rebuilding the Central Viaduct, or as we call it in Cleveland, the Dead Man's Curve, and a $600 million project to improve I–70 and I–71 in Columbus. The plan also calls for $60 million annual investment to address high-crash locations, as well as funding to address freight corridors such as U.S. 24 and U.S. 30 in northwest Ohio. Too many people have died on these highways.

This is a jobs bill. In addition, the Ohio Department of Transportation has $164.3 million worth of projects that are ready to go. These are projects ready to go if the money were there. The 128 projects on the shelf include major reconstruction, resurfacing, bridge replacement and repair, traffic signals, signs, culvert construction, guardrail rebuilding, pavement marking, and preventive maintenance. If this funding were made available, approximately 1,300 direct and some almost 3,500 indirect jobs would be created in the State.

Finally, I have several comments about the environmental, planning, and project delivery provisions of the bill. As chairman of the Clean Air Subcommittee and the past chairman of the Transportation Subcommittee, I understand full well the importance and significance of the overlap between highway planning and air quality.

When I began my term as Governor, 28 Ohio counties were in nonattainment for ozone. I spent considerable effort to get them into attainment. In addition to working with utilities to reduce their emissions, I implemented an automobile emissions testing program called E-check to help bring Ohio's counties into compliance. At that time, Ohio was one of only a few States to have an enhanced auto emissions test in its urban areas.

That all came about because we were trying to comply with the Clean Air Act. This program was a success. According to the 1997 EPA report, volatile organic compounds and nitrogen oxides, which are a major component in

the formation of ozone and are emitted by cars and trucks, have been dramatically reduced from 1970 to 1996. Emissions of VOCs were reduced by 49 percent, NO_X by 26 percent. Additionally, air toxins in Ohio were reduced from approximately 381 million pounds in 1987 to 144 million pounds in 1996.

Due to these reductions, all 88 counties have met the national air quality standards. But this has not been an easy battle. The E-Check program has been criticized because it required vehicle owners in smoggy areas to pay for annual emissions testing and to make the necessary repairs. Due to its unpopularity, Ohio's General Assembly passed a bill revoking the program. However, I stood up for the program and vetoed the bill because I believed it was an important and necessary step to cleaning up Ohio's air. That veto, by the way, was not overridden.

I believe hard choices such as these are important. The conformity program has helped encourage cleaner air, and transportation planning has benefited from coordination with the air quality planners. As requested by Federal, State, and local officials, this bill makes important improvements in the conformity process by synchronizing planning and conformity timelines and requirements. So I congratulate the chief sponsors again.

I am also pleased that this bill modifies the Congestion Mitigation and Air Quality Improvement Program, called CMAQ, to include the nonattainment areas for the fine particulate matter standard—PM2.5—and the 8-hour ozone standard. EPA will make designations for both these standards this year, and these areas will need all the help they can get to attain the new standards.

While these are two areas in which I believe we have made progress, I am a little disappointed with the metropolitan and statewide planning and transportation project delivery process in this bill. I don't think these provisions will do much to expedite the project delivery process and, quite frankly, actually create a more burdensome process than under current law.

As a former Governor, I was frustrated at how long it took to do a highway project from beginning to end. As Senator, I have wanted to do something meaningful on this issue, since I was chairman of the Subcommittee on Transportation and Infrastructure and, in fact, we held a number of oversight hearings on the implementation of the streamlining provisions included in TEA–21. One of my top priorities for this reauthorization is to enact efficient transportation project delivery that will actually expedite the project delivery process.

Regulations implementing these provisions were disappointing and later scrapped. I regret that we have wasted an opportunity to realize the benefits of the expedited process that was envisioned 6 years ago, the 1309 process. In other words, we talked 6 years ago, in the TEA–21, that we were going to streamline the process and put a provision in the law that said we should do it. After 6 years, fundamentally nothing has happened—after 6 years.

The transportation project delivery process provisions in this bill that we are going to consider, as I say, are disappointing because I think they are going to do little to expedite the project delivery process, given that the bill requires State and local planning agencies to meet process burdens that are even more burdensome than in the current law.

Do you hear me? They are more burdensome than in the current law, which we were trying to change and improve during the last 6 years.

I hope we can fix these provisions on the floor with the support of AASHTO, ARTBA, AGC, and the American Highway Users, and many State and local government organizations.

Furthermore, one more thing I am concerned about is one of the most significant elements of environmental streamlining missing from this bill, and that is to reform the process known as section 4(f). This process causes more delay in my State than any other planning or environment review requirement. I will bring that situation to the attention of my colleagues during debate on this bill.

This is a good bill. I urge my colleagues to support S. 1072. The current surface transportation authorization expires at the end of this month. People are waiting. They want it passed. They want to see the jobs. The time to act is now.

Nationwide, this bill would create 2.8 million new jobs, including 106,000 new jobs in Ohio. This is important jobs-creation legislation that will put hard-working Americans back to work and jump-start our sluggish economy, especially States like Ohio, where our economy is still struggling.

Mr. INHOFE. Mr. President, I see the minority leader. I certainly defer to the minority leader.

Mr. DASCHLE. I thank the distinguished Senator from Oklahoma. I am happy to accommodate the order at whatever time someone may come to the floor. I have a few comments to make as we begin this debate.

Let me express our gratitude to the two managers of the bill and other Members of the Senate who have put so much effort into this legislation. We have come a long way. I am grateful to them for producing a bill that merits strong bipartisan support.

The debate on this bill is long overdue. We have already lost 90,000 jobs by our inability to pass the bill last October. At a time when we have lost 3 million jobs over the last several years, we cannot afford to keep losing jobs. We had the first meager job increase just last month with 1,000 jobs across the entire Nation. The importance we can put on job creation with this legislation should not be underestimated.

Now that the Senate has begun the debate on the bill, we need to ensure it goes forward in a bipartisan fashion—the way this institution has worked on legislation similar to this over its long history.

If we ultimately pass a transportation bill into law, it is expected to create 830,000 jobs over the next 6 years. These would be good jobs for Americans, jobs in engineering, in the environment, in construction—good jobs in all States.

In addition to jobs, there is another critical reason to be moving forward on this bill. Yesterday, there was a lot of talk about the $520 billion Federal budget deficit, a very troubling figure. But there is another deficit we have not talked much about yet and that is in our Nation's infrastructure. Our Nation's transportation infrastructure—our roads, highways, transit, ports, and rail lines—is a thread that holds our Nation together to make it possible to have a free and open society, which is suffering a remarkable deficit, one that can be addressed with the passage of this legislation.

Our transportation infrastructure impacts what we do every single day, and most of the time it is simply taken for granted and unrecognized.

Over 30 percent of our roads and highways are now considered in poor or in substandard condition. Over 30,000 of our Nation's bridges are functionally obsolete or structurally deficient. The transportation bill reported out of the Environment and Public Works Committee will address this infrastructure deficit.

Likewise, we need to ensure this transportation bill is intermodal and includes provisions to improve the conditions of rails and ports. Rail lines in the United States alone require $7 billion each and every year just to maintain them. Our Nation's transit programs are a critical and interconnected portion of our transportation infrastructure.

I am particularly pleased Finance Chairman GRASSLEY and Ranking Member BAUCUS included as a part of the financing provisions reported from the committee yesterday a provision which treats transit in a similar manner to highways. It was the right decision to go forward with some symmetry on transit and highways. Both receive funds from the highway trust funds. I applaud Senators GRASSLEY and BAUCUS for doing so.

I am pleased we are finally working on this bill in the Senate. As I said, Senators INHOFE and JEFFORDS need to be complimented, along with Senators BOND and REID, for the hard work and leadership they have shown in getting us to this point. I look forward to moving ahead in a bipartisan fashion to do not only what is needed but what is required to address our transportation infrastructure deficit.

If we go forward in that fashion with that goal, we will not only improve the condition of our infrastructure but create hundreds of thousands of needed jobs and improve the condition of our country, as well.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I thank the minority leader for the excellent statement. We have a new chart on job opportunities which talks about the cumulative effect when a job is offered—say a construction job on a bridge or highway—and what that does to the rest of the economy. It is about 2.8 million jobs as opposed to some of the figures we have been using, one-fourth of that number. It is very significant.

The Senator from Ohio gave an excellent statement also. The State of Ohio, in terms of new job opportunities, is No. 5 in the Nation under this bill. The Senator has done an excellent job. I am sure the people of Ohio are very appreciative of the job opportunities that will be there as a result of the legislation we hope to pass in the next few days.

The Senator from Ohio, who has vast experience in clean air, was a breath of fresh air when he came in, someone who really has the answers. He was the chairman of the Clean Air Committee of the National Association of Governors. His expertise is very much appreciated.

Senator JEFFORDS and others have already mentioned the difficulties in putting together a formula, considering the fast-growing States, with a ceiling there. We have some of the small States, such as that of the Presiding Officer, in terms of population, which have to be considered because even though it is a small population there are a lot of roads that have to be cared for. Taking into consideration all of these considerations was not easy.

However, when we compare what we have done with what has been done in the past, I am very proud of it. The equity bonus program replaces the minimum guarantees.

Now, I have been criticized for the way I simplify my explanation of minimum guarantees, but it is pretty accurate; that is, we took a percentage of the total amount of money and gave it to each State until we got 60 votes, not caring too much what happened after that. We took into consideration all the issues we have been talking about.

The bill does four things, essentially. It takes care of the donor States. I have been part of a donor State for as long as I can remember, certainly as long as I have been in the Senate. We were down below 80 percent, and as mentioned by the Senator from Ohio, ISTEA, then TEA–21, and now with this bill, we are up to 95 percent.

Streamlining provisions is very important. It is important we have money to spend on road construction, but also we can get the maximum out of the dollars we do spend. We go a long way to making this a reality.

The third major area is that of safety. We have talked about the number of deaths on the highways. It has to be addressed. That is why we named this SAFETEA, with many safety provisions, at the same time allowing the States to come, recognizing they know more about their States than we do in Washington.

And lastly, the area of freight movement.

With that, it is my desire throughout the day today when there are not speakers to be heard on the highway bill to go through this, section by section, and see specifically how these things are handled.

If any Members who come to the floor want to be heard on the highway bill, I will suspend. Of course, we will break in 20 minutes for our policy luncheon.

I start with section 1101, the authorization of appropriations. We are talking about $255 billion in contract authority over the next 6 years. This was difficult to come up with. At the same time, we have $56.5 billion contract authority in transit, for a total of $311 billion, considerably more than the Budget Committee originally came up with, considerably more than in the President's budget.

And we have received, only yesterday, the President's budget message. I think, however—and I did talk to the President yesterday—when he realizes fully the great work the Finance Committee did—the fact that we now have the offsets necessary to do this without increasing the deficit—the President is going to be more supportive than he has been in the past.

So this represents an overall increase of 31 percent over TEA–21. The link between a robust economy and a strong transportation infrastructure is undeniable. The movement of people and goods is one of the foremost indicators of a growing economy and job creation.

The President recommended a funding level of $200 billion for reauthorization. Given the critical infrastructure and safety needs of the program, we thought it imperative to authorize a higher level of funding for the coming 6 years.

I recall a study that was made—and I do not have the exact figures, but the amount of money even that we are suggesting right now merely maintains where we are today. It was discussed by the minority leader that we have a bridge crisis, and I was wanting to interrupt him to say that my State has the distinction of having the largest percentage of functionally obsolete bridges. We are hoping to correct that with this bill.

On the other end of the spectrum, the House Transportation and Infrastructure Committee has introduced a bill funding highways and transit at $375 billion, which is considerably over our $311 billion. However, achieving this astronomical figure would require raising gas taxes by 13.5 cents per gallon during the next 6 years, in addition to utilizing a number of other costly new financing measures.

The vote before you today recognizes the realities of available revenues without the need for increasing gas taxes, and, I might add, or increasing the deficit. It is designed to make the most of every available dollar to produce better and safer roads by creating thousands of new jobs every year and stimulating the national economy.

In that regard, the Department of Transportation estimates that every $1 billion of Federal transportation funds translates into 47,500 jobs. By the way, that is not a fictitious number. We have had several studies that were done. We realize it is accurate. However, when you say new job opportunities, it is about four times that. If someone takes a construction job, that person is buying more goods and services, and that means manufacturing is going to go up and there are going to be many other jobs. So this figure is a very conservative figure.

We estimate that the SAFETEA will increase the size of the job market by 700,000 but create over 2 million new employment opportunities. I think that is what we need to be talking about.

Section 1102 is an obligation ceiling. The principle that was used to develop obligation limitations was to minimize the gap between the OBLIM or obligation limitations in contract authority levels. This empowers the States to utilize as much available contract authority as possible while still providing them maximum flexibility.

We were able to achieve a total obligation limitation of $238 billion. This is what was recommended in the Reid-Bond amendment that carried this Chamber with 79 votes. This is consistent with that amendment to the budget resolution. So there was a lot of hard work from the Finance Committee and the leadership of Chairman GRASSLEY and Ranking Member BAUCUS, and I thank them for the great work they did.

Section 1103 is the apportionment section. In addition to the overall increases experienced by all programs, the bill makes important changes to the apportionment of a few specific programs. Under TEA–21, the administrative expenses of the Federal Highway Administration were funded as a takedown from the various core programs. This bill recognizes the separate importance of costs associated with the administration of the overall highway program. Therefore, the bill funds Federal highway administrative expenses as its own separate apportionment protecting the authority of the individual core programs or the autonomy of the individual core programs and the administrative fund itself.

Of the amount designated for program administration, the Secretary of Transportation is also given the authority to transfer an appropriate amount for the administrative expenses of the Appalachian Highway Development System.

As a result of the 2000 census, 46 new metropolitan planning organizations or MPOs have been established throughout the country and are now eligible

for Federal transportation planning funding.

We have devoted a lot of time and a lot of attention in this bill to planning as well as to assisting States in doing what they do best, also, which we will get to in a later section. To respond to this expanded need, we have increased the program set-aside for MPOs from 1 percent under ISTEA to 1.5 percent, along with the overall increase in program funds which will help to address the growing transportation planning needs.

TEA–21 used a minimum guarantee. I have been talking about this, and that really constituted a percentage. And it is just not the way this should be done. We wanted it in our formulas, and we wanted it in an attempt to get our donor States up to 90.5 percent. We used a minimum guarantee calculation to guarantee that States received back at least 90.5 percent—that is what they did in TEA–21—90.5 percent of their percentage contribution to the highway trust fund.

The Minimum Guarantee Program was driven by the political distribution known as the 1104 table. I will not go into that because this is somewhat redundant. We have talked about this in the past. It was purely politically driven.

To contrast that, the new Equity Bonus Program does away with the table in TEA–21 which determined each State's percentage share of the total highway fund, the political table to which I have been referring. Rather than have a State's return be set by a politically driven table, the Equity Bonus Program determines each State's return by first relying on the program distribution formulas. The equity bonus calculation identifies a justifiable nexus in equity between the underlying formulas and responsible balanced growth for donor and donee States alike.

If a State fails to reach the minimum return in any year based on the formulas, that State would receive an equity bonus award in addition to their formula. It should bring them up to the required level. I cannot think of a better and more equitable way of doing this.

While we allow the formulas to work under the new Equity Bonus Program, we also recognized that there would be some inequities if we allowed the formulas to be the sole factor in distributing dollars to the States. In order to increase the minimum rate of return for donor States, while ensuring an equitable transition for donee States, rates of return are subject to an annual growth ceiling to smooth out the phase-in of the increased minimum returns.

This accomplishes two goals: It keeps the cost of the Equity Bonus Program affordable; secondly, it ensures that donee States are still able to grow so that there are no States with growth less than 10 percent in dollars. I repeat that. Of all 50 States, every State gets at least an increase of 10 percent.

Now, I have heard from a lot of the people whose State falls into the different categories. One is the category of a fast-growing State, and, obviously, they would prefer that the ceilings not be there so they would bump into them. But if you do not do that, then you would hear equally from some of the older States, such as New York and Pennsylvania, that would have to pay the price if we did not have some type of a ceiling.

For donor States, the effect of the growth ceiling is that a State with a rate of return above 90.5 percent in 2003 will reach a 95 percent return sooner than a State that received only a 90.5 percent return, or below, in 2003. The closer a State was to 95 percent in 2003, the sooner it will reach 95 percent.

Conversely, those States at 90.5 percent in 2003, such as my State of Oklahoma, would likely take longer to reach 95 percent. The time it takes a State to reach 95 percent depends on how much equity bonus funding the State receives and how much faster than the national average that State is increasing its contributions to the highway trust fund. That is taken into consideration as a part of this formula.

Recognizing that States with a lower tax basis due to low population, such as the State of Wyoming and others, or low income face an added challenge of maintaining the transportation infrastructure, the bill sets their TEA–21 rate of return as a minimum for future years.

Section 1105 is the revenue aligned budget authority, or RABA, as we have referred to it. The huge 2003 negative adjustment in the revenue aligned budget authority made it clear that some changes were needed in the RABA calculation in order to provide greater stability and more accurate predictions and less fluctuation in coming years. This is true. The States can get so much more for their dollars if they can predict into the future how they are going to use those dollars and what those dollars are going to amount to.

As I have indicated before, I believe the underlying principle of RABA is an important fiscal policy that highway expenditures should be tied to highway trust fund revenues.

The bill modifies the RABA calculations so that annual funding level adjustments are less dependent on future anticipated receipts and more dependent upon actual receipts to the highway trust fund. If the RABA adjustment in any fiscal year is negative, the amount of contract authority apportioned to the State for that year will be reduced by an amount equal to the negative RABA. However, if the balance of the highway trust fund is greater than $6 billion, then there will be no negative RABA adjustments.

Section 1201 is the infrastructure performance and maintenance program, or IPAM. There is a lot of interest in this program, obviously. The IPAM program is intended for ready-to-go projects that States can undertake and complete within a relatively short timeframe. As a result, States are given 6 months to obligate IPAM funds. We designed this discretionary program to promote projects that resulted in immediate benefits for the highway system's condition and performance while avoiding long-term commitments of funds. The program also provides further economic stimulus to the economy and provides a way to aid in spending down balances in the highway trust fund.

That is very important right now. We are very sensitive to the somewhat job crisis. We have seen our economy on its way up again. However, there is a lag between economic recovery and the jobs. IPAM is going to give more construction sooner, provide more jobs and more jobs sooner. Then, of course, when you put the new job opportunities factor to that, that is going to be very meaningful to job recovery in America.

The States may obligate funds for projects eligible under Interstate Maintenance, National Highway System, Surface Transportation System, Highway Safety Improvements Program, Congestion Mitigation and Air Quality Improvement, or CMAC, and the Highway Bridge Program. Eligible projects under IPAM include the preservation, maintenance, or improvement of existing highway infrastructure and operational improvements to address recurring highway congestion.

Section 1202 is the future of the surface transportation system title. In order to be prepared for future reauthorizations of this legislation, we require the Secretary of Transportation to perform a long-term investigation into the surface transportation infrastructure needs of the Nation.

Specifically, the bill directs the Secretary to look at: the current condition and performance of the interstate system; the future of the interstate system in 15 years or 30 years or 50 years; expected demographics and business uses that impact the surface transportation system; the effect of changing vehicle types, modes of transportation, traffic volumes, and fleet size and weights—we have seen such a dramatic change in the types of vehicles that we drive that we never could have anticipated back when we were putting together ISTEA or one of the previous programs—possible design changes; rural, urban, interregional, and national needs; improvements in emergency preparedness; real-time performance data collection; and future funding needs and potential approaches to collect those funds.

What we are saying is, we are trying to prepare for the future. It is important what we do for the next 6 years, as we go through this reauthorization. I think we have done a good job with that. But things will happen 6 years from now that we cannot anticipate.

That is what the Secretary of Transportation will be looking at and coming back with, so we will be able to anticipate some of the things we will be looking at 6 years from now.

A very important section is 1203. That is the freight transportation gateways, freight intermodal connections. Freight movement in America is expected to grow dramatically in volume and value over the coming decades. Throughout the reauthorization hearings, the Environment and Public Works Committee heard concerns about inadequate freight facilities, insufficient capacity, and insufficient connections.

The GAO recently released a report, dated October 2003, a little over a month ago, regarding freight transportation, recommending strategies needed to address planning and financing limitations. The report noted that the major challenges to freight mobility all shared a common theme—congestion, including overcrowded highways, freight specific check points.

Additionally, the GAO reported two main limitations that stakeholders encounter in addressing these challenges. The first related to the limited visibility that freight projects receive in the planning and prioritization process. S. 1072 directly addresses this problem by creating a freight transportation coordinator at the State level to facilitate public and private collaboration in developing solutions to freight transportation and freight gateway problems. This is one more area where we will have an increased emphasis on States.

The bill also ensures that intermodal freight transportation needs are integrated into project development and planning processes. The second limitation that the GAO found was inhibiting stakeholders was that Federal funding programs tend to dedicate funds to a single mode of transportation or nonfreight purpose, thus limiting freight project eligibility among some programs. S. 1072 deals with this problem as well as making intermodal projects eligible for STP and NHS funding.

The Freight Gateways program found in this bill promotes intermodal improvements for freight movement through significant trade gateways, ports and hubs, and intermodal connections to the national highway system. States and localities are encouraged to adopt new financing strategies to leverage State, local, and private investments in freight transportation gateways, thus maximizing the impact of each Federal dollar.

The Freight Gateways program is funded from a set-aside of 2 percent of each State's NHS apportionment. However, in the spirit of State flexibility and ensuring that funds go to the areas of greatest need, a State is not required to spend the 2 percent of their NHS apportionment if they can certify to the Secretary that their intermodal connections are adequate. I think this is a recognition that the States do know more about their needs than the Federal Government. That is one of the trends of this.

I know we are ready to recess. I yield to my colleague Senator JEFFORDS for the remainder of the time.

Mr. JEFFORDS. I will take very little time. I commend the chairman again and all the staffs, his and mine, for the incredible amount of work they have put into this effort.

Mr. INHOFE. They are even talking to each other now.

Mr. JEFFORDS. Yes, right. It is fantastic. We know also that we have a long way to go. The work you have done and my staff has done, all of us, has placed us in a great position to start. But now it is the opportunity for all the Members to check carefully to see how their States are doing and maybe make some improvements. We know we will have a number of amendments. We have a long way to go, but I think we are off to a great start. I expect we will have a great finish.

Mr. INHOFE. I would agree with those comments. However, I think we have the basic formula, and this is something for which I am going to be fighting because once you break into this and change the formula, that is going to change every State. That is something we have spent over a year now working out to get as much equity as possible. We look forward to the input from Members who are not on the committee.

Mr. JEFFORDS. They should all have the opportunity, and I know we will provide it. I think we have done a great job, so there should not be too much problem.

Mr. INHOFE. Mr. President, 12:30 has arrived and we are planning to break.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate stands in recess until the hour of 2:15 p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:19 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

SAFE TRANSPORTATION EQUITY ACT OF 2003—Continued

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I know this is a day when we are having discussions about the highway bill, the transportation measure, and the highway portion of it. I appreciate the opportunity to share with my colleagues some of my thoughts on the work that has gone on. As I indicated yesterday, there will be a number of very important amendments. We hope to overcome the technical difficulties which make it impossible for Members to get to their offices so that they can present the amendments.

We have heard from a number of Members who are concerned because they are not getting enough in the bill, but, frankly, this bill has much in it to commend, and we are looking forward to working in a cooperative manner to get this bill passed.

We have lost valuable time, obviously, as we had to get cloture yesterday and we are working under the constraints of the ricin presence today. So we are a bit delayed.

I reiterate, I appreciate and commend the great work of Senator INHOFE, chairman of the Senate Environment and Public Works Committee, the ranking member, Senator JEFFORDS, and my partner on the Transportation Subcommittee, my ranking member, Senator HARRY REID of Nevada. They have done an excellent job.

I believe the committee reported out a bill, S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003, which we know as SAFETEA, which accomplishes several very important goals.

First, safety. Safety in this authorization is for the first time given a prominent position, being elevated to a core program. Our bill mirrors the administration's proposal continuing our commitment to our motoring public's safety. This is accomplished by providing much needed funding to reduce highway injuries and fatalities, all without the use of mandates.

A key component of the bill before us will go a long way to saving lives by providing funds to States to address safety needs at hazardous locations, sections, and elements. This includes roadside obstacles and unmarked or poorly marked roads that may constitute a danger to motorists, bicyclists, pedestrians, and other highway users.

We know in my own home State of Missouri that inadequate roads delay, deny, and derail economic development opportunities. But most important, inadequate highways kill people. We have more than three deaths a day on Missouri's highways. I think a large number—at least a third and perhaps more—of those are attributed to inadequate infrastructure.

When there is traffic of 10,000, 15,000 to 20,000 cars a day on a narrow two-lane road, there are going to be people passing when they should not and they run into other people head on.

I have lost friends. I know too many families who grieve the loss of loved ones. I can point out roads in Missouri where one can drive not very far and see white cross after white cross put up as a reminder that some lost their lives on those roads. They lost their lives because the traffic was heavy. Very often, someone not from the area or even not from the State has come in and is not familiar with the road and they pass where they should not. They meet someone else head on, and that is a tragedy. Several weeks ago, I attended the funeral of the husband of a former staffer of mine who has been incapacitated. He was killed on a two-lane road. It was a terrible tragedy and an unspeakable loss.

We heard numerous testimony from the administration that nearly 42,000 people are killed on our roads and highways each year. I think the bill reflects a continued commitment to making not only investments in our infrastructure but also to the general safety and welfare of our constituents.

The second feature of this bill which is very important is equity. While previous authorizations have talked about equity, our bill carefully balances the needs of the donor States while also recognizing the needs of the donee States.

For those who may not be familiar with the terminology, donor States such as Missouri and Oklahoma are ones that get less than a dollar back for every dollar they put in. Donee States are ones that get back more than a dollar for every dollar they put in. We are seeking to get a better return on our money, realizing that in this bill we cannot overcome the inequities between the donor and donee States.

There are many sections in the bill I am proud of supporting. One of the most important facts is all donor States will receive a 95 percent rate of return at least by the end of the authorization. These States include Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, and Washington. There are 24 States in total. These have been getting less than 95 cents in the past and will be getting up to 95 cents.

My home State of Missouri, like many of the donor States mentioned, has some of the worst roads in the Nation. According to a survey, Missouri has the third worst roads. Fifty-nine percent of its roads are either in poor or mediocre condition, requiring immediate repair or reconstruction. Missouri also has the second worst bridges in the Nation.

I guess I ought to remind people the one State that ranks even worse than Missouri is our neighboring State, Oklahoma, the State of the chairman of our committee. So obviously we have an interest in bringing about some repair and some safety improvements.

During the reauthorization of TEA–21, the previous currently extended highway authorization, donor States did not think it was possible to achieve a 95 percent rate of return. Under our proposal, we are able to get them there—get all of us there. However, I am aware some of the donor States are concerned that they hit the growth caps and they do not achieve a 95 percent return in the first year. We were unable to bring all donor States up as early as we might have wished due to budgetary constraints and balancing the needs of the donor States with the needs of donee States. For this reason, as the donor States grow, the donee States see a gradual decline to bring greater equity between the States.

I am proud to tell all Senators from all States, however, that every State will grow at least 10 percent over the funding provided in the current bill TEA–21. This new bill, SAFETEA, also addresses several environmental issues such as the need to ease the transition under the new air quality standards. The conformity process is better aligned with air quality planning, as well as streamlining the project delivery process by providing the necessary tools to reduce or eliminate unnecessary delays during the environmental review stage.

The third aspect of the bill which I think is very important is there is a sufficient level of growth. The administration proposed, in my view, an insufficient level of growth for our Nation's aging infrastructure. The reason for offering the Bond-Reid amendment, which was adopted on the budget amendment in this body with 79 votes last year, was because the administration's SAFETEA proposal came in at only $200 billion for highways. During the last year's budget debate, I, along with Senator REID, offered an amendment to fund highways at $255 billion over 6 years, and that was supported by a vote of 79 to 21. I am pleased to report that the bill we have before us follows the Bond-Reid amendment providing a 31 percent increase in funding over TEA–21. While this is not as high as some might have wanted, we are able to achieve this goal without raising fuel taxes.

Last, I think it is important to note that this is a jobs bill. The Department of Transportation estimates that every $1 billion in new Federal investment creates 47,500 jobs, or more. Accordingly, in 2009 our comprehensive 6-year bill at $255 billion will sustain over 2 million jobs.

According to the Associated General Contractors, the same $1 billion investment yields $500 million in new orders from manufacturing and $500 million spread through other sectors of the economy. Construction pay averages, at $19 per hour, 23 percent higher than the private sector average. Failure to enact a 6-year bill will deprive us of the 90,000 jobs that would be created.

Another accomplishment of our package is it will ensure that transportation projects are built more quickly because environmental stakeholders will be brought to the table sooner, environmental issues will be raised earlier, and the public will have better opportunities to shape the projects. Projects more sensitive to environmental concerns will move through a more structured environmental review process more efficiently and with fewer delays. The bill also ensures transportation projects will not make air worse in areas with poor air quality while giving local transportation planners more tools and elbow room to meet their Federal air quality requirements.

This bill will put transportation planning on a regular 4-year cycle, require air quality checks for projects large enough to be regionally significant, and reduce the requirements for other projects.

In addition to the benefits of this bill, I want to discuss a couple of specific items. I think these benefits are clear, and I think they commend the bill to anyone who is interested in good highways, safety, and jobs.

There is an amendment that was adopted in the committee which I find troubling. It was adopted in the committee without my support. The Highway Stormwater Discharge Mitigation Program requires 2 percent set-asides from highways. That is about $1 billion. It is a mandate that tells States what they have to do with their highway money.

I was hoping we would not get into mandates such as that. It is a massive environmental program. As the occupant of the chair knows, there are tremendous needs for environmental investment, particularly in clean water, safe drinking water, and other water needs. But this is a highway bill and I do not think it makes sense to tell all the States that they are going to have to set aside 2 percent of the funds apportioned to each State under the surface transportation program for use only on storm water mitigation activities in a new section 176.

I think the bill as introduced more than adequately addresses the issue of contaminated runoff from highways while also protecting States' flexibility to manage their programs to meet their individual needs. The bill as introduced increases State flexibilities and opportunities to address storm water pollution in two ways.

First, it makes storm water projects eligible under the National Highway System program, whereas under current law these projects are only eligible under the STP program.

Second, the underlying bill extends eligibility to storm water mitigation projects that are not tied to ongoing reconstruction, rehabilitation, resurfacing or restoration, only to an existing Federal aid highway. Therefore, the States have the flexibility. The States with storm water problems will know they have those problems and they will have the flexibility to direct the money to storm water. They have much greater flexibility. The bill as introduced allows those States that choose to do so to use their highway money for storm water. The States that have other means for addressing storm water and need the money for roads can use it for roads.

I think we ought to address the problems on water issues, clean water and safe drinking water, but let's stay with the highway bill and not try to shoehorn a new environmental program into it.

While roads certainly contribute to contaminated runoff, the appropriate place to address storm water runoff is in the context of other clean water programs through the water infrastructure bill. If gas receipts increase, it

could exceed the amount we provide EPA to address all other clean water programs combined without ever assessing if this is the best place to devote funds.

To me, this could be a serious problem for States where there is not storm water. We have storm water problems in Missouri. We just need the flexibility. We don't need a mandate. There are other States that do not have storm water problems and they should not have to deal with it.

Another item that is important: Many of my colleagues will recall that in 1974, specific Federal money for grade crossing safety was first established, the Rail/Highway Grade Crossing Safety Program. A determination was made by Congress that at least one-half of the funds provided for the crossing program should be utilized for the installation of protective devices—flashing lights, gates, bells, and the circuitry that operates these devices.

The rationale for these provisions was to assure that the constrained funds made available by Congress would not just be ''saved'' to install costly grade separations. Instead, Congress wanted to assure that the funds would enhance safety in the broadest possible way through the installation and upgrade of crossing warning devices at many more locations would be possible if the funds were reserved mostly for crossing separations, particularly in rural areas of the country.

The committee adopted an amendment in markup that did three things. It increased funding for the section 130 program from $100 million to $200 million. It included specific funding for other hazards and grade separations. But it also eliminated the current law provision that requires at least one-half of the section 130 funds be available for protective devices.

In an effort to assure that the maximum level of safety be realized at the highest number of grade crossings throughout the United States, the current law provision of section 130 that says at least one-half the programs be used for protective devices I think should be restored to the program.

The section 130 program has a very credible safety performance record. When measured as a percentage of reduction in accident fatalities since its inception, the grade crossing program has been the most effective highway safety program. This record of accomplishment certainly justifies maintaining the existing programmatic structure of the program. I hope the Senate will be willing to restore the current law requirement for one-half of the section 130 program for grade crossing protective devices.

Let me just tell you my experience in Missouri. There are 3,879 public highway/rail crossings and 3,011 private highway/rail crossings. Only 1,629 of the public highway/rail crossings in Missouri are equipped with active warning devices, flashing light signals and/or gates—about 42 percent. The remaining 58 percent are referred to as passive crossings and are equipped with crossbuck signs only.

Missouri installed 212 active warning devices between 1997 and 2003 and spent nearly $24 million on these projects from section 130 funds.

Currently, the Highway/Rail Crossing Safety Program in Missouri is required by the Federal Highway Administration to spend $1,999,000 annually for protective devices and the same amount for hazard elimination. The protective device money can only be used to install lights, gates, signs, and/or pavement markings at highway/rail crossings. The highway hazard funds have more flexibility to them and can be used to build a grade separation, close a crossing, improve the roadway at or near a crossing closure in order to reroute traffic.

It is important to maintain funds in the hazard elimination category so our Department of Transportation and departments of transportation around the country can continue to work with local communities on crossing closure projects and corridor projects.

Mr. President, I thank the Chair for giving me the opportunity to address these vitally important programs. I see our other members, leadership members of the EPW committee, are here to address these issues.

With that, I will yield the floor and thank the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, it is my understanding we do not have anyone to speak on the highway bill. There are several people who desire to speak on other matters. We will have no objection, although if we get back on the bill we would like to enjoy some type of priority.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, actually my intention was to speak in favor of the highway bill and compliment our colleagues for the construction of this legislation, but I did also want to comment on several other issues. I will be relatively brief. If others present themselves to the Senate who wish to speak at length on the highway bill, I will accommodate that.

At a time when our economy has had a pretty tough time, the one certain way to produce jobs is through a highway bill. This is the kind of legislation that invests in the infrastructure of our country, and we know exactly its consequences. It produces jobs and it produces them very quickly all across this country. The construction and the maintenance of roads and bridges and the basic investment in infrastructure in this country is a certain way not only to expand the economy but to expand our job base.

In recent years, we have had a slowdown in the economy. Now we see what is called a ''recovery,'' but the recovery does not include a recovery of U.S. jobs. That is a major deficiency and a serious problem. I believe the legislation brought to the Senate today that will be debated for some while dealing with a new highway bill is important legislation for this country.

At a time when we have record budget deficits, if we were really producing an accounting system that worked the way it should work, most Members of the Senate would recognize this bill is funded by money that is put in a trust fund. When people drive up to the gas pumps and fill their tank, they are paying an excise tax. There is a specific purpose for this excise tax, and that is to improve the roads, bridges, and infrastructure of the country. It is important to understand we raised the money for this, by and large, through an excise tax.

I know there is debate about formulas and other issues, but, in my judgment, Senator INHOFE and Senator JEFFORDS have done extraordinary work in bringing this bill to the Senate. I like the bill and intend to support the basic construct of what they have done.

While I mention this bill is largely paid for with excise taxes, the tax on gasoline and other similar excise taxes—when you fill up your tank you are paying a tax and expect that to be invested in America's roads and infrastructure—we have in the rest of Government, in a budget released yesterday by the President, serious deficiencies.

THE PRESIDENT'S BUDGET

Let me mention in the construct of discussing various spending issues, the budget released yesterday is a roadmap and a series of choices by the President. I heard the President say last week before he released this budget that, with respect to Federal budget deficits, he needed action by Congress. It is important to note that the budget deficit requested by the President in his own submission yesterday was the largest deficit in this country's history of budgets submitted by Presidents. This fiscal year, we are now told by the President and by his own budget in this fiscal year, the budget deficit will be over $520 billion. That, clearly, is a failure of fiscal policy and a failure of choices.

I have said repeatedly the President's construct of fiscal policy just does not add up. I come from a small town and a small school, but mathematics works the say same way in a small school or big school as in a big town or a small town: Two and two equals four. In budgets where we talk about trillions, two and two still equals four. We cannot increase defense spending substantially, increase spending on homeland security substantially, cut taxes again and again and again, and tell the American people it will all work out; that we will just grow sufficiently; and it will all be just fine.

It is not all just fine. In the middle of all of this we ran into a recession, an attack against this country on 9/11, the requirement to wage a war against terrorism. But then at the same time the

President is saying, let's increase spending and let's cut our revenue.

The slowest member of my high school class would have understood where that ends up. It ends up in the largest deficits in history. The $520-plus billion deficit is, actually, by the way, a faulty number as well because that is taking all the Social Security trust funds and using them to show that number. The Social Security trust funds also belong over here. They are required to pay for Social Security benefits in the future and they are being saved for that purpose, and we ought not include them in this operating budget. For that reason, the current budget deficit is somewhere around $660 billion this year. That is the amount of money that our children and their children will be obligated to pay in the future.

There is an urgency and a seriousness that I don't see represented in the budget the President sent to us yesterday. In his budget, he proposes a very large Federal budget deficit. But his budget also says, I will request zero spending for operations in Iraq and Afghanistan. At the moment, we know we spend $5 billion a month for operations in Iraq and Afghanistan, a little over $1.25 billion a week. Five billion a month is $60 billion a year. And what does the President say it will cost in this budget? Zero. So this budget is not an honest reflection of what he is going to spend, either.

Frankly, I don't understand that. I don't understand why a budget comes with no plan to fix the serious and urgent problems and, in fact, will miss the mark on what we will actually spend by well over $200 to $300 billion.

Last year at this time the President said he thought the Federal budget deficit for the year we are in would be $307 billion. Well, it is not. It is well over $200 billion more than that 1 year later.

My point is, this is off the track and out of kilter. It needs leadership from the President and the Congress to fix it. It starts with the first step, which is a budget document that honestly reflects what is going to happen to the best of our ability. The budget document sent to us, regrettably, is a political budget, not a budget document. We need to do better than that.

On the issue of spending, I also want to discuss the February 2, Wall Street Journal article, page 1, ''Halliburton Hits Snafu in Billing on Kuwait.'' It says that as a contractor for the Federal Government, where the taxpayers pay the bill, Halliburton, was billing the taxpayers for 42,042 meals every day but they were only serving 14,000 meals a day. What is it called? A ''snafu.'' They are overbilling us by $16 million and it is called a snafu.

I am sorry, not in my hometown. This is either the sloppiest accounting in the world by a contractor that should not be doing the work or it is cheating. One or the other. It is not a snafu.

The fact is, we are throwing money at these problems. We are contracting with companies without bids, and the result is the American people are being overcharged. This, too, is contributing to overspending and an increase in Federal budget deficits.

Let me make one more point about overspending and budgets. The one area in which the President recommended an increase in funding—I was surprised, as I was looking through the small details, cuts in funding and things that affect Indian children's health, for example, or Indian children's education—the one area where the President recommended some increased funding was in the wild horses and burros program. He actually put a few million extra in that program.

I was looking at that. We have 39,000 wild horses and burros, and I like horses—by the way, I grew up raising horses—39,000 wild horses and burros. Do you know how much the program costs to maintain wild horses and burros? Forty-one million dollars requested by the President. That is over $1,000 per horse or burro. They could have their own apartment in my hometown for that.

I don't understand. This is all about choices and priorities. I just pulled one little issue where increased spending exists, wild horses and burros.

THE FOOD AND DRUG ADMINISTRATION AND THE COST OF PRESCRIPTION DRUGS

Mr. President, let me finally make a point about something that was announced in the last 2 days by the Food and Drug Administration. While this does not relate to the Federal budget, it relates to the budget of every American dealing with the cost of the price of prescription drugs.

The Food and Drug Administration campaign to warn against Canadian drugs. It says: ''Next week the FDA will begin a campaign saying it is dangerous to import drugs from Canada.''

I am sorry, this is the Food and Drug Administration which is supposed to be a regulatory agency. It is supposed to regulate, not represent, the pharmaceutical industry. Yet here we have the FDA doing all it can to try to tell the American people that importing prescription drugs from Canada is unsafe. It is total nonsense.

The Canadians have the same chain of custody as we do. The same pill, put in the same bottle, made by the same company, is sent to a pharmacy in Winnipeg and is sent to a pharmacy in Pembina, ND. The pills are not different because they are identical, both FDA approved; the difference is price. And often the American is paying double, triple, or 10 times the price that is charged in Canada.

We pay the highest prices in the world, and it is unfair. Those of us who are developing plans by which we would have our pharmacists or our consumers access the identical prescription drug for a much lower price from Canada are now confronting the FDA, which seems to be working full time for the pharmaceutical industry.

I wish Mr. McClellan would take a look at his job description because there is not any way on Earth he can describe a system in which—for example, in the one I propose, North Dakota pharmacists, in a pilot project, buying from licensed pharmacists in Canada FDA-approved drugs—there is not any way the FDA can credibly suggest there is a safety issue. There is no way they can credibly suggest that. Now, they may try, but if they do, they are not being honest with the American people.

THE 9/11 COMMISSION AND AN INDEPENDENT COMMISSION TO EVALUATE INTELLIGENCE WITH REGARD TO IRAQ

Finally—I know my colleagues are waiting to speak—I want to mention two things about commissions. The 9/11 commission is now meeting. It has a May deadline. That needs to be extended. It has had to issue subpoenas to this administration to get information from the administration about events prior to 9/11. What on Earth could people in the administration be thinking about requiring the issuance of subpoenas to get them to cooperate?

Besides the issue of subpoenas, they still have not gotten adequate cooperation from the White House for interviews and information they want. I believe the time for the commission ought to be extended. I also believe the administration ought to comply fully with all the requests for information immediately. I do not, for the life of me, understand why an independent commission investigating 9/11 and the information that led up to it should have any problem getting any information from anyone in this Government. It makes no sense to me.

And finally, the issue of an independent commission to evaluate the intelligence with respect to Iraq. Mr. Kay, the former chief weapons inspector, says our intelligence community failed, failed the President. He should have said failed the Senate, failed the Congress, failed the American people. What happened?

The President is suggesting an independent commission that he appoints. I do not support that. I do not think the executive branch should or could investigate itself, even with a commission they determined independent, especially when they select the commission.

There should be an independent commission as a matter of Federal law, and this Congress ought to pass legislation that authorizes it and funds it. And we ought to do so soon. The safety and security of this country depends on good intelligence.

We are told by Mr. Kay that the intelligence community has failed this country. We need to urgently get to the bottom of it.

Mr. President, I will have more to say later. The Senate, I believe, is on an abbreviated schedule today for a number of reasons. I know my colleague, Senator KENNEDY, wishes to speak, so I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from North Dakota.

EDUCATION AND HEALTH CARE

Mr. President, I want to make a brief comment about the impact of the budget in two important areas; that is, how it relates to the education of the children in this country and, secondly, how it relates to the issues of health care and health care coverage.

Just about every age group will be hurt by this budget. This budget hurts children, hurts our economy, and I believe, it hurts our democracy.

The latest Bush budget does not help young children start school ready to learn. It does not fund public school reform and improvement. It does not extend college opportunity. It does not train workers for new jobs that are needed because of the Bush Administration's poor stewardship of this economy.

For young children and parents, the President's budget cuts the very sound Even Start literacy program. This program helps not only children learn to read but it helps their parents learn to read. By helping previously illiterate or barely literate parents and children learn to read at the same time, you see a quantum increase in both groups' academic achievement and accomplishment. It has been one of the most successful programs we have in terms of expanding literacy in this country. That program is eliminated by the Bush budget.

Over 1 million children and parents will not get Even Start literacy training under the Bush budget. For children in grade school, once again, the President has reneged on his pledge to leave no child behind. This budget leaves over 4.6 million children behind. They will not get better teachers or smaller classes or after-school help they were promised.

In fact, every year President Bush has been in office, he has shortchanged by greater and greater amounts his promise to fund the No Child Left Behind Act.

In 2002, President Bush shortchanged No Child Left Behind by $4.2 billion; in 2003, $5.4 billion; in 2004 by $7.6 billion; and this year by $9.4 billion. In total, President Bush has broken his No Child Left Behind promise by over $26 billion since the day it was signed into law.

That law provided reform in the education of our K through 12th grades. But what we understood when we passed the law was that if we were going to have reform in our education system we had to fund it. That was what was at the heart of the No Child Left Behind Act, the concept of resources for school reform and improvement, and why it had very broad bipartisan support.

If we had reform, in terms of better trained teachers and after-school programs that provided supplementary services, curriculum reforms, and the range of different types of parental involvement, and the kind of help and assistance for those needy schools that needed help and assistance, it was going to require resources to bring the 9 million children, who are the children who are basically the target of No Child Left Behind, up to proficiency over a 12-year period, and all of them had to be included.

That was the agreement. That is why we spent a good deal of time in those negotiations working out what was going to be actually the authorization, because we knew those funds were going to be necessary to be able to achieve those kinds of reforms. We find out now it has been $26 billion short since the time that law was signed.

This budget eliminates 38 different education programs. It eliminates the gifted and talented education. It eliminates the dropout prevention programs. We have schools in this country where they have 30 or 40 or even 50 percent of their children who drop out between the 8th grade and the 12th grade. It is even higher in a number of different schools that I know about. We have about 540,000 children who drop out every single year.

The attempt in terms of No Child Left Behind Act was to try to reach out and find these children and move them back into the education system. When you eliminate any of the dropout prevention programs, you are basically giving up on hundreds of thousands of children. We know what happens to these children if they are not challenged or helped or assisted or given a helping hand to get back into the education system.

One of the most successful new ideas in education has been in the areas where you have very large schools, to try and break those schools down to create smaller schools within the larger schools. It has been extraordinarily successful.

I visited those schools myself in a number of cities in this country. I can remember visiting them in Chicago, as well as in my own city of Boston. We have seen the difference that has made in terms of moving into what we call the ''smaller schools,'' which get smaller class sizes, more intensive kinds of relationships between the teachers and these children. We have seen it has demonstrated to have a marked improvement in terms of academic achievement and accomplishment. Despite all the research on the value of small schools, President Bush wants to eliminate support for smaller learning communities. It just doesn't make sense.

Another program which has had a very significant success has been the Star Schools Program. What we recognized in many States, even including my own, when the State budget is cramped, it is difficult enough to get a well-trained teacher in physics or in the more advanced science areas. Nonetheless, you will have some very gifted and talented children in that school who have an aptitude for math or for science, and the Star Schools Program basically said, with the establishment in the school of what it costs—approximately $1,500 for a receptor—you have a very highly trained educator who teaches those children by distance learning.

They can teach 2,000 or 3,000 children and provide help to maybe a handful of children in a particular school district who have a great aptitude in math and science but do not have the kind of academic teacher who can help them. The Star Schools Program has been invaluable in many different parts of the country. The technology reviews have shown that these children can learn almost as well with this kind of instruction as they can with a teacher in front of them. That program has effectively been eliminated.

For the college students, I refer to the Department of Education Fiscal Year 2005 Budget Summary. Since this President took office, public college tuition is up 26 percent, according to the College Board. Yet the Bush budget provides zero increase for Pell Grant student aid. On page 52 of the Administration's Education Budget Summary, it says, Pell grants: 2003, $4,050; 2004, $4,050; 2005, $4,050. That zero increase in the face of rising tuition. No help. The average income of a Pell recipient is $15,000. These are gifted, talented, hard-working young people who can get into any school, any college in the country, who have to struggle by nature and by circumstances. That Pell grant has been a lifeline to them in terms of their ability to go on to school and to college. And what is the answer of the administration to these young people: Go out and borrow more. See what you can do with your repayments to the banks.

That is bad education policy, and it makes very little sense.

For those out of work or in jobs but seeking to upgrade their skills, this budget adds $250 million for community college, but at the same time the Bush administration has cut $900 million in job training programs over the past three years. For similar programs, they are going to get $250 million, but with the other hand we're going to try to take $900 million. It just doesn't make sense.

So whether it is the very young children, whether it is the children who are going K–12, whether it is the children who are going to college, or whether it is the men and women trying to get new job training, these programs, which I believe are a national priority, have been reduced.

If any one of my colleagues at any time went to any hall anyplace in America and asked the American people how much out of a dollar of Federal money is being spent for education and what would they like it to be—I have done that several times—they will find out, after national security, which is No. 1, they talk about Medicare and Social Security—that is right up there—and right after that comes education. They hope it is 20 percent, 15 percent, 18 percent. Then when they

find out that it is about 2 percent, less than 2 percent and declining, they are absolutely appalled. Not that money answers everything, but the money is a reflection of a national priority.

This business about making choices, $2.4 trillion in this budget and short-changing the investment in education of our children, that is what this is. I would be glad to debate it in very considerable detail with any of my colleagues and will at any time.

I want to add a word with regard to the health care situation, the general concerns that I find in traveling around my own State. People are concerned primarily by two issues. One is the cost of health care and the other is whether they can find affordable coverage in health care insurance.

There is virtually nothing in this budget in terms of controlling cost. We gave up a great opportunity when we passed the alleged Medicare reform bill to permit the Secretary of Health and Human Services to actually negotiate with the drug companies like the Veterans' Administration can to bring lower costs to our seniors. But that proposal was rejected by the administration and by the Republican majority. As a result, we have seen the continued escalation of cost, and costs will continue to rise. There is virtually nothing in this legislation to do anything about getting a handle on health care costs.

And with regard to health insurance coverage, we see we have cut Medicaid. A million people who qualify for Medicaid are going to be off Medicaid. Half of those are going to be children, the poorest of the poor. A half a million are going to be without the Medicaid coverage that provides very good coverage for the children. National priorities? There are close to a trillion dollars in tax breaks in this budget, but denying Medicaid coverage to 500,000 children, the neediest of the children, that is a matter of choice.

We will have a chance to debate it. We are now just talking about what is in the President's proposal.

The insurance industry and the trade associations did very well in the budget. Health savings accounts will benefit, which are products of the insurance companies. Health savings accounts get about $24 billion over a 10-year period with the initiative in this budget. Association health plans will do very well for the trade associations, even though those plans will mean an increase in the cost of premiums for health insurance for others. Then we have the proposal for tax credits for health insurance. That is really some proposal. The budget includes a proposal to give a $1,000 tax credit for health insurance to an individual—but the coverage actually costs $4,000. The budget also proposes giving families a $3,000 credit, but a family policy costs nearly $10,000. That is like throwing someone who is in the river needing help a 4-foot line, when they need a 10-foot line to save them. Just try to find a family health insurance policy that is worthy of its name for $3,000 in this country. We know that is completely unrealistic.

Finally, when we talk about fighting disease, take AIDS or TB, there is a cut of some $356 million for CDC. Two major bioterrorism programs have been cut $144 million. These programs provide the assistance to contain a bioterrorist attack locally. You need the initial help to the primary responders, who are police and firefighters and nurses. Then you need to contain a disease outbreak. For that, we need to help our hospitals and our other health clinics in order to contain disease outbreaks so they do not spread. That is particularly important, as anybody who has listened to the experts on bioterrorism will tell you. Those programs have been seriously cut.

Then the most amazing reduction is the CDC cut, $364 million, when we are confronting the danger of SARS, Ebola, other dangers that come from countries all over the world.

Under Dr. Gerberding, who has been an outstanding public servant at the Centers for Disease Control, CDC has been extraordinary in protecting the American people and people all over the world. The budget provides a reduction in support for the CDC. We are having a hearing in our committee on mad cow disease, in the HELP Committee this week. You name it, there is another disease that comes from overseas every day, and our front line of defense is the CDC. They have some of the most talented experts in the world in that agency, and the budget undermines it in a significant way. It makes no sense.

We will have a chance to debate these issues later as we consider the full budget. For the average American, who is concerned about their job—and they are concerned about their jobs because they find out, with all of the uncertainty about our economy, that they lose their job and they know if they are able to find another job, they will be paid about 22 percent less, average, nationwide than the job they are holding—if they are able to find one. They are uncertain about their jobs, and they are uncertain about what is happening in schools with their children. This budget does little about that uncertainty. They are uncertain whether they will be able to save enough to send their children to college. That is because of the proposals of the administration to eliminate overtime.

We have to understand the amount that is earned on overtime has been used day in and day out to pay tuition for working families for their children who go to college, or to pay a mortgage. So people are worried about the economy. They are worried, if they are unemployed, that their unemployment insurance has been lost. They are worried about that. If they are among the 1 in 7 Americans who are making the minimum wage, they realize they haven't gotten any increase in the last 7 years. Where is anything about that, or anything about education, or anything about health care for the children? It has been missing in that budget. But the trillion dollar tax break for the wealthy is included. It is the wrong priority.

The American people are going to reflect on these misguided priorities as they watch our votes when we debate the budget in the Senate. If they don't do it then, they will do it in November.

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

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. 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. DURBIN. Mr. President, I spoke earlier to the Senator from Oklahoma and he indicated one of his colleagues, the Senator from Pennsylvania, may be coming to the floor, and perhaps also the Senator from Arizona. I wanted to defer to them because we want to go back and forth.

Mr. INHOFE. He is in the cloakroom. May I inquire about how much time the Senator from Illinois would like to have?

Mr. DURBIN. About 20 minutes.

Mr. INHOFE. We will go back into a quorum call, then, until the Senator from Pennsylvania arrives.

Mr. DURBIN. That is fine. 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. SPECTER. 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. SPECTER. Mr. President, I have sought recognition to comment on the pending highway bill, and also to offer legislation on the Abandoned Mine Reclamation Program Extension Reform Act of 2004.

The highway bill is pending, and tomorrow Secretary of the Interior Norton will be in Harrisburg to announce the President's program. The administration has made available this statute for introduction which should be done on a timely basis this afternoon since there will not be morning business tomorrow because of the Joint Meeting of Congress.

First, my comments are directed toward the highway bill. Yesterday, I voted against cloture—that is, voted against cutting off debate—because of my view that there ought to be more consideration to the bill before we proceed to take up the bill itself.

I am concerned about the total cost of the bill in light of the position of President Bush's administration where there have been concerns raised about

the total cost because we are facing such a large deficit this year. I do believe that infrastructure—highway construction, mass transit, and bridge repairs—is indispensable for economic growth and economic development, but in the very complex Federal budget all of these matters have to be prioritized.

We are looking at a budget next year of $2.4 trillion, where there is a projected increase of close to 10 percent—9.7 percent—for homeland defense, 7 percent for the Department of Defense, and less than 1 percent for discretionary spending.

I am concerned about where we are heading on all of those lines, with very heavy emphasis of concern about a deficit which is projected in excess of $500 billion.

We faced these problems in the past. I am in my 24th year in the Senate, and it is not unusual for us to be facing very difficult problems. Two years ago, we did not even have a budget resolution, a matter of some considerable concern on the political scales where the Democrats were in control and we did not have a budget. Last year, we had major problems in the appropriations process. As it is well known, we did not pass the omnibus bill until last month. So we are not unaccustomed to having major problems as we look forward to the budget.

I am comforted by the famous words of Winston Churchill that somehow we always muddle through and that democracy—paraphrasing Churchill again—is a terrible system except compared to all others. I believe we will be able to work through the budget problems we have.

Notwithstanding the economic problems, we now see an upturn, and I think we are heading for better days on the economy. I think that will have a very profound effect on the deficit in the long run. It is difficult to realize, or surprising, perhaps I should say, that less than 3 years ago we were projecting a $5.6 trillion surplus in 10 years and we were talking about paying off the national debt. Then an economic downturn, facing two wars—one against al-Qaida and one in Iraq—we have had very substantial problems. But we have a very productive country, we have a great work ethic, and I think we will have an economic rebound. I think that will have a very profound effect on easing the difficulties of the deficit.

Notwithstanding those factors, we are looking at a tough deficit, and I think more consideration needs to be given on this bill as to how we are going to face the overall problems and establish priorities.

With respect to the allocations in this bill, I believe that my State, the Commonwealth of Pennsylvania, is not being dealt with appropriately, not being dealt with fairly. My colleague, Senator SANTORUM, and I wrote to the distinguished chairman of the Committee on Environment and Public Works on January 28 listing the concerns we have. I realize there has not been sufficient time for the chairman to respond to this letter, but that is part of the concern.

Senator SANTORUM and I wrote this letter as soon as we could after we knew what was in the highway bill and knew how Pennsylvania was going to be treated. Again, I am not unaware that it is a very difficult matter to make allocations among 50 States and it is not possible to satisfy everyone. I have heard quite a number of my colleagues express concerns that their States were not being appropriately treated. But I believe that when the facts are analyzed, Pennsylvania ought to have more of a share of this highway bill, or even more of a share of a reduced highway bill, if the bill were to be pared down to come within the confines of what the President has in mind for the highway bill.

The allocation that Pennsylvania has is the fourth lowest increase, an increase of 19.54 percent over the 6 years. With that limited increase, Pennsylvania will not even be able to keep up with inflation.

Pennsylvania has a very extensive highway system. It is the fourth largest highway system among the 50 States. It has some 40,500 miles of State highway, totaling more highway miles than New York and New England combined. It has some 25,000 bridges, and the highway system in Pennsylvania—a frost belt State, an older State by contrast with the expansion of the South and the West—has found the highways very heavily used and subject to very difficult weather conditions.

Eighty-eight percent of the nearly $300 billion worth of goods delivered from inside Pennsylvania each year arrive on the State's highways. Pennsylvania's highways are the prime routes for delivering goods imported from ports across the mid-Atlantic region.

We have many interstate highways. When calculating the appropriate share of highway funding, due consideration ought to be given to the usage of the highways. If you take some States and areas—Florida, for example, or Maine, or the State of Washington, or southern California—those areas are not as heavily transited. But Pennsylvania has major interstates both east-west and north-south: Routes 80 and 90, Route 480, Routes 95, 81, 79, 83, in addition to a vast complex of highways across the State.

It is my view that Pennsylvania ought to have a higher allocation and ought not to be limited to an allocation which will be less than the inflation rate over 6 years.

There has been some justification offered on the basis of the contention that Pennsylvania had a very large share in the past when Congressman Bud Shuster was the Chairman of the House Transportation and Infrastructure Committee. It is certainly true that the ways of the House and the ways of the Senate accord some special consideration for people who are chairmen, who can establish the mark, but I do not think that Chairman Shuster's departure from the House of Representatives ought to be used as the basis for saying Pennsylvania ought to be reduced in its share.

When one takes a look at the allocation for Pennsylvania, the rate of increase is the fourth lowest among the 50 States. Nobody can deny that Pennsylvania ranks very high among the States which service the country. Traffic coming from the west coast goes through Pennsylvania; some of it on the Pennsylvania Turnpike but a great deal of it on Interstate 80, some on Interstate 90. There is tremendous traffic north to south on Interstate 81, and I–95 is a major highway transiting the east coast.

It is my hope that before this bill is finished we can have an adjustment. I know other Senators are equally concerned as am I. The vote I cast against cloture to cut off debate yesterday was in the nature of a protest vote. I had no illusions in casting the vote. I did so late in the proceeding when the requisite 60 votes had already been achieved for cloture, so there was no doubt that my vote was not going to be determinative or influential. The cloture was going to be imposed.

I have heard many complaints from my constituents who are very dissatisfied with the allocation both as to highways, which affects bridges as well, and transit. I cast that protest vote. I still think we ought to be considering both of those factors. One factor is what is the appropriate priority taking into account the views of President Bush on the increase in expenditures on this bill over what had been allocated or what has been considered appropriate by the President and factoring in the priorities we have on the budget which we are now considering. I hope yet to be able to support this bill, but I am not going to support a bill which does not treat my State fairly.

My vote and the votes of others who have similar views may not be dispositive because there is great public interest in this bill as a jobs bill, very important on the infrastructure to facilitate transit both on the rail lines and on the highways. But fair is fair and I think there have to be some significant modifications to the total amount of this bill, the priorities established, and how Pennsylvania is treated.

Mr. President, I believe I have already asked unanimous consent that the text of the letter from Senator SANTORUM, Senator INHOFE, and myself, dated January 28, be printed in the RECORD at the conclusion of the comments I made on the highway bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, January 28, 2004.

Hon. JAMES M. INHOFE,
Chairman, Committee on Environment and Public Works, U.S. Senate, Washington, DC.

CHAIRMAN INHOFE: We are writing to express our deep concerns with the recently released highway funding formula to be used in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA) proposal. Were this proposal to be enacted, it would have a significant negative impact on Pennsylvania.

Pennsylvania is a key gateway connecting New England and the Northeast to the Midwest and Mid-Atlantic. As such, our roads are by no means limited to Pennsylvanians but are often used by cars and trucks from around the country. Pennsylvania has the fourth largest highway system among the 50 states, with 25,000 bridges and 40,500 miles of state highway, totaling more highway miles than New York and New England combined. Furthermore, Pennsylvania's highways are the prime routes for delivering goods imported from ports across the Mid-Atlantic region. Truly, Pennsylvania is the ''Keystone State'' when it comes to moving goods from East-to-West and North-to-South in our region.

In addition to heavy use, the extreme weather conditions of the Mid-Atlantic region have taken their toll on Pennsylvania's highway system. 46 percent of the Commonwealth's roads are in poor condition, while 42 percent of the Commonwealth's bridges are structurally deficient. Such conditions have a tremendous economic impact: driving on Pennsylvania's roads in need of repair costs motorists $2.4 billion each year in extra vehicle operating costs; traffic accidents and fatalities cost Pennsylvania drivers an additional $2.7 billion annually; and congestion leads to costs totaling $2.3 billion per year.

Under your committee's proposal, Pennsylvania's funding increases at the fourth lowest rate among all the states. It is unlikely the proposed 19.54 percent increase over six years will keep pace with inflation, amounting to a cut in Pennsylvania's highway funding. Such meager levels do not account for Pennsylvania's disproportionate needs.

In light of the infrastructure maintenance needs, population, and geographic location of our commonwealth, we find it completely unacceptable for Pennsylvania to be a donor state in the final year (FY2009) of the SAFETEA program and are convinced that the funding levels in other years are insufficient in light of Pennsylvania's place in our national highway network. While we will continue to work on highway and transit issues and will likely be supportive of many provisions in the SAFETEA bill, we could not support a final SAFETEA bill that so unfairly shortchanges Pennsylvania.

We strongly believe that highway funding must be based in large part on the impact each state's transportation system has on its region and the nation and that a national highway program should direct federal funding to national needs. We welcome the opportunity to work with you to address this matter so that Congress can enact positive federal transportation policy this year.

Sincerely,

ARLEN SPECTER.
RICK SANTORUM.

(The remarks of Mr. SPECTER pertaining to the introduction of S. 2049 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. SPECTER. In conclusion, I compliment the chairman of the committee, Senator INHOFE. I know how hard he has worked on this bill. I know how many people have come to him with concerns. That is one of the vicissitudes of being a chairman. I get the same treatment when I post my bill on the subcommittee for Labor, Health, Human Services, and Education and I post my bills on Veterans' Affairs.

I compliment Senator INHOFE and the ranking member, Senator JEFFORDS, for what they have done here. It is a major matter, bringing a highway bill to the floor. It is my hope that, working together as Senator INHOFE, Senator JEFFORDS, Senator SANTORUM, and I have always done, we will be able to at least reconcile some of these concerns.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I listened with great interest. I think he has some excellent points, I say to the Senator from Pennsylvania. He extensively quoted Churchill. I would like to add another quote to that:

> Truth is incontrovertible. Ignorance can deride it, panic may resent it, malice may destroy it, but there it is.

I say that because there are some things—It is only natural when the Senator from Pennsylvania is not serving on the committee that he would not be quite as familiar with the development of the formula as perhaps someone who is on the committee. So I would like to respond to a couple of points because I really believe we have a very fair formula.

First of all, the formula Congressman Shuster put together is the basis for this bill. I happened to serve in the other body in the committee under Congressman Shuster back during the development of TEA–21. During that time, of course, he was pretty notorious getting a lot for his State. I understand that. I should be more that way myself.

But I would only like to suggest—if staff would be good enough to hold this chart up—this is Pennsylvania. Over here, take 1384 in the red, that is the average amount for each year. If you took all 6 years in the TEA–21 and averaged them out, that would be the amount. That would be $1.3 billion. Then, if you watch each year as it goes up, you end up with a substantially higher amount.

Let's compare that, if we may, with California. I saw an op-ed piece by the senior Senator from California in which she was very complimentary of the way this worked. If you look, you see they end up in almost the same place as Pennsylvania does percentage wise. But it all comes in the last year. That is because they are a donor State. In order for the large donor States to be able ultimately to reach 95 percent, it has to be done in the last year. I think we all understand that.

But when you compare the two charts, I would say if she is satisfied, then the Senator from Pennsylvania should be elated.

I would like to share one other thing, too. I chair the committee. If you take the total amount of road miles that we have in Oklahoma compared to Pennsylvania, it is almost the same, when you take out the toll roads. Of course, we are not dealing with toll roads here.

With the same number of road miles, each year Pennsylvania gets 3.5 times as much as Oklahoma gets. If anyone should be complaining, using that as a criterion, I should be the one.

I think it is very important you share with your constituents some of the things that are in this bill and how well I believe Pennsylvania is treated.

The Senator from Pennsylvania talked about bridges. According to the surveys that have been taken by the Department of Transportation, Oklahoma's bridges are No. 50 in the Nation—way behind Pennsylvania. These are things that need to be corrected. Many of these things will be corrected in this bill.

So I would only say formulas are very difficult. There is no magic formula that is going to make everyone happy. I remember the formulas in TEA–21 and ISTEA, and there were complaints from many States on those. No formula is going to satisfy everyone, but I honestly believe, when I look at Pennsylvania and compare it to California or Oklahoma or some of the other States, that they are very well cared for.

With that, I yield to any questions the Senator might have.

Mr. SPECTER. Mr. President, just a comment or two. I did compliment the Senator from Oklahoma, the distinguished chairman, for being so well prepared. Perhaps he should have charts on all the States. I don't know. Perhaps he would have charts on the States where you anticipate difficulty or others on a comparative basis. But this Senator is not likely to be satisfied, as a general matter, with what satisfies the Senator from California. I think if we check the voting records of Senator INHOFE and Senator SPECTER and the junior Senator from California, Mrs. BOXER, we will find Senator INHOFE and Senator SPECTER on one side and Senator BOXER is on the other side a lot more times than not.

So, I will take a look at the charts and I will take a look at the statistics. I do agree with the chairman that it is a complex matter.

The first opportunity I have to review it is once I see the bill and I will make the analysis with California, and with Oklahoma. I have some substantial familiarity with Oklahoma because I have traveled the highways of Oklahoma a great deal. As the Senator from Oklahoma knows, I am a native of Kansas and went to the University of Oklahoma and drove that highway from Wichita to Norman on many occasions. To my recollection, it was a pretty good highway, but that has been a while ago.

But I again complement the Senator from Oklahoma, the chairman, on his

diligence, having the charts. We will take a very close look at it. The Senator from Oklahoma and I have worked together on many matters in the years we have worked in the Senate together. We approach this in the interests of our States, as we should, but also understanding the needs of other States.

We will try to come to at least some sort of accommodation as we work through the bill. I thank the chairman.

Mr. INHOFE. I appreciate the comments of the Senator from Pennsylvania. I in no way want him to misinterpret the comments I made as being critical of his analysis. Formulas are very difficult. TEA–21 is something we know was totally politically driven. That was a percentage of the total amount of money, so when they got up to 60 votes they could just shut the door and say: Fine, we have our bill. We tried not to do that, take consideration of donor/donee status, fast-growing States.

By the way, you heard the senior Senator from Texas yesterday talking about her dissatisfaction with what Texas was doing. When it gets down to it, under this formula or any other formula, if you do something for a fast growing State that keeps bumping up against the ceiling, you are going to be having a problem. If you try to correct that, it is going to go into the donee States, of which of course Pennsylvania is one.

It is a difficult choice. We spent a whole year working on this and I hope you have a chance to really look at it closely.

Mr. SPECTER. Mr. President, if I might ask the chairman, you say Pennsylvania is a donee State? We are a donor State here in the final year of your bill.

Mr. INHOFE. OK, in the first year, right now, you are a donee State.

Mr. SPECTER. We have been a donee State. If I hadn't been a donee State—for those who do not follow the terms, a donor is one who gives more than the State receives. Senator KYL is bowing. Arizona is in that status. A donee State is one which receives more than it contributes.

Had we really been a donee State throughout the six years of the bill—and I understand it was a slip of the tongue, or at least for 1 year, not the whole projection. But had I been able to hold the chairman to donee status, I would have withdrawn all my remarks and stricken them from the RECORD.

Mr. INHOFE. I was referring to 2003, where it is a very substantial donee State, recognizing it goes up and down.

By the way, Oklahoma has never been a donee State. Oklahoma was bumped against the ceilings: 73 percent, 80 percent, and then 90.5 percent, and of course we are looking forward to getting up to 95 percent, as I am sure the Senator from Arizona is going to share that enthusiasm.

Mr. SPECTER. Mr. President, Oklahoma makes up for donee status with its football team.

Mr. INHOFE. On occasions, yes.

Mr. SPECTER. When you comment about Pennsylvania being a donee State, that is for the existing bill, not the entirety of the one we are voting on now. We are a donor State in the last year, which is the reason for my exchange. I think the exchange has been useful. I see Senators waiting.

I yield the floor.

Mr. KYL. Mr. President, Penn State and the University of Oklahoma have had their share of victories and now it is time for somebody else to have their fair share.

I appreciate the hard work of the chairman, the Senator from Oklahoma. I make it very clear I join those who recognize the need for improvement of our highways. There is not a road in my State that could not stand some improvement. As a very fast growing State, Arizona needs to add to our highway miles.

I appreciate the fact that there is a need to create jobs, and highway construction certainly can help to create jobs in this country. However, it has always been the case that we prioritized because Members would literally ask for everything they could possibly get in the way of funding for their States. We have had to set limits. There is, after all, a limit on the amount of Federal revenue available for all good projects. Certainly, highways are no more important than education or health care or national defense or many of the other categories which also compete for the Federal dollar.

So while we acknowledge there is a need for a highway bill and that can have some jobs benefits, that should not be the driving force in terms of the competition with dollars for other worthwhile projects. We have to set a limit, particularly in this case where we have over a half trillion dollar deficit, according to the OMB; we have to be clear we do not spend more than we are taking in.

The reason this is a bad bill, and why I oppose it, first, it spends far too much money. Second, it spends more money than we collect in revenues from the gas tax. Third, it is very unfair to States such as mine, which are donor States. Arizona has always contributed far more than it has gotten back, and under this bill that gets even worse for the next 5 years.

Let me discuss each of those items very briefly. We start from the premise that we do need highways. We also have a huge budget deficit. Therefore, we have to clearly be sensitive about the kind of bill we pass. In this regard, the Secretary of the Treasury, Secretary Snow, and the Secretary of Transportation, Secretary Mineta, yesterday notified the Senate that they would recommend a veto of this bill if it raises the gas tax or other Federal taxes or draws money from the general fund. They wrote that the bill ''should not use any mechanism that conceals the true costs to Federal taxpayers. Highway spending should be financed from the highway trust fund, not the general fund of the Treasury.''

The bill before the Senate violates this principle in a significant amount, by billions of dollars. Therefore, if my Senate colleagues insist on going down the road of passing a bill that violates the principles that the President has laid out, we risk having the President veto this bill. At a time when we have this large Federal budget deficit, it seems to me we ought to be joining with the President in trying to prioritize our spending and constraining it to at least the amount of revenue we take in, a balanced budget approach. That is the way we have done it in the past, and that is the way we should do it now.

Just the highway portion—and I make it clear there is a mass transit portion of this bill that has not gotten out of the committee of jurisdiction, the Banking Committee, and in terms of funding it is in the neighborhood of $50 billion; it could be more or less and I do not mean to be tied to a specific figure, $49 billion or 50 billion; I will leave that part out of the discussion because that part is not complete until we know the actual numbers—but the highway portion, the amount the Federal Government has to spend over the next 6 years, is $231 billion. This is what the Bond-Reid amendment from last year in the budget resolution called for the Senate to fund. The House is looking at a number far higher than this. I even heard today that some people in the administration are looking at a number above this.

In any event, the number that the Finance Committee yesterday raised revenue for was $231 billion. I sit on the Finance Committee and our job is to try to figure out what kind of revenues we are getting, and therefore, whether we could pay for $231 billion of highway funding. What we learned was that the gas tax, the use tax, that funds highway construction, is only going to bring in $196 billion during that same period of time. So the bill that the Senate said we should try to fund exceeds the amount of revenues by $35 billion.

Now, there are four choices. We can reduce the amount we had hoped to be able to spend last year when we did not have this big Federal budget deficit number staring us in the face, and now that we know the size of the deficit, acknowledge that we were just a little bit too optimistic last year; we were a little bit too forward leaning, shall we say, and trim back to suit the revenues that we are actually going to be collecting. That is the first thing we could do. That is what we should do and what any family would have to do.

Because we are the Federal Government, we could raise taxes to make up that difference. I don't think that will happen. The President says he would veto the bill if that happened.

We could just go into greater deficit. But on both sides of the aisle I think

that would be met with great opposition. We do not want to increase the size of our Federal budget deficit.

That leaves the other alternative, and that is to take money from other areas in the budget and apply it to highways, to take general revenue funds, funds that might be spent on defense or homeland security or education or medical care, for example, to take that money away from those programs and spend it on highways instead. That is what is being proposed.

But it gets worse because the effort that is undertaken here is to confuse the American taxpayer into thinking that it is highway-related revenues. It is not. What the Finance Committee concluded yesterday was that we could legitimately come up with—and I acknowledge this and hope to construct the addition of the funds—that we could come up with about $214 billion in revenues that was, in fact, legitimately connected, money that was connected to highways or to the trust fund.

For example, there is $196 billion from gas taxes. There is an argument that we should be able to count the interest earned on the trust fund balances as part of the trust fund that is currently deposited in the general fund. Most would say that we can legitimately transfer that from the general fund and put it into the trust fund and call that trust fund money, and I agree with that.

I will not get into detail, but there are four or five other areas like that. Some might be a little questionable in some people's eyes, but at least in my view, you could justify $214 billion in revenues, in real money, being transferred from the general fund to the trust fund, but which we could legitimately contend should not belong in the general fund, it should belong in the highway trust fund. That is $214 billion. That leaves a $17 billion deficit. That is just on the amount we were trying to mark up of $231 billion.

So how do we make up the other $17 billion? By sleight of hand, which is why I voted against the bill. We came up with phony money, money that does not really exist but which, for the purposes of paying for this bill, we are going to count in an accounting technique.

There are two key pieces: one $9 billion and the other $8 billion. The $9 billion fund comes from something called the ethanol exemption. The gas tax is 18.4 cents but for ethanol we give a 5.2-cents-per-gallon exemption. We say you do not have to pay that tax. The Finance Committee bill proposes to convert this exemption into a tax credit. But under the new system, even if the money comes in, it will be sent right back to the taxpayer when they seek a refund for it, when they seek to apply for the ethanol tax credit, so the net result is that, even though the Government may collect the money for an instant, it goes right back to the taxpayer who paid it and there is no money, then, to be put in the highway trust fund. So what we have is the Government will collect 5.2 cents it does not currently collect, it will theoretically send that to the taxpayer, and as soon as the taxpayers ask for the refund of the credit, the general fund of the Treasury sends the money back. So no new money has been raised. We collected it; we gave it back. But in the meantime, through an accounting gimmick, we say that the trust fund is 5.2-cents-per-gallon richer. And that amounts to $9 billion over this 6-year period of time. But there is no new money. So that is fraudulent. It is wrong for us to suggest we are actually paying with real money for that part of this bill.

The other is called the fuel tax exemption, and it relates to an exemption that is provided to tax-exempt entities, such as cities and States and schools and churches. They do not pay the gas tax. They receive either a full or a partial exemption from the gas tax.

So the Finance Committee bill just credits the highway trust fund as if it had received those taxes, even though the funds will never have actually been received. That is $8 billion over 6 years. It reminds me of that old riddle Abe Lincoln used to ask. He said: If you call a tail a leg, how many legs does a dog have? And he would always fool the kids, and they would say five. And he would say: No, four. Calling it a leg doesn't make it a leg.

Well, calling this money part of the trust fund does not make it part of the trust fund because it is not ever going to be collected. It is an accounting gimmick. So when the Secretary of Transportation and the Secretary of Treasury write in the letter that they are going to recommend a veto of the bill if it uses mechanisms that conceal the true cost to the Federal taxpayers—they go on to say: Highway spending should be financed from the highway trust fund, not the general fund of the Treasury—I think this is exactly the kind of thing they had in mind.

How does the General Treasury make up this $17 billion? You cannot pay for highway construction with fake money. You have to pay with real money. So you take that money out of the general fund and you somehow have to make that up in the general fund. Do they make it up with a highway user fund or fee? No. Instead, there are a series of tax changes that have nothing to do with highways. Some close down abusive corporate tax shelters, the kind that Enron had used. And there are some other kinds of changes like that—nothing that has anything to do with transportation or highways. Some of these tax changes, by the way, are actually good tax changes and, in fact, we should make the changes, but they should be used to fund other things in general revenue that are traditionally funded by such mechanisms. They should not be transferred from the general fund to the highway trust fund, thus breaking a precedent that has held ever since the beginning of highway transportation.

My view is we should be very clear that by breaking this precedent, by using the general fund against what the Secretary of Treasury warned us, that we would be opening up the possibility that the highway fund or highway spending would be basically unconstrained by any mechanism whatsoever. It would be a honeypot of projects and ways for Members to go home and brag about how much they brought home to their States or their districts with no financial constraint because no longer would it be pegged to the amount of revenues we received through the user fees, from the people who actually used the highways.

So if we go down this road, I think there will be no end to the claim we will make on general revenues for highway projects. And I think it is a very bad precedent for us to undertake.

So, first of all, we are spending too much money. Secondly, we are not funding it in the proper way. We are now going to be spending general revenues to fund the deficit.

The third thing I want to say is that this is not fair to some States. You might imagine that one of them is my State. I am going to describe this very briefly. And with the indulgence of the chairman of the committee, since our offices are closed down right now, I do not have access to the specific information which I wanted to bring to the floor. I am going to say this generally, and then, when we have access to that data, I will come back to the floor with the specific information.

But a bit of history: Arizona has always been a donor State, meaning that Arizonans send a dollar in tax revenue for highways to Washington, and we get back 70, 80 cents. In the last few years, we have gotten 90.5 cents. Just a few years ago that was 83 cents, as I recall.

A lot of the donor States put their foot down and said: Look, we, at least, ought to get 90 percent of what we send. And that is when the 90.5 cents was put into effect. Arizona is a fast-growing State, the fastest growing State in the Union. We have huge new infrastructure needs, including highways. We have large areas of Federal land. Only 12 percent of the land in our State is privately owned. The rest is owned by a governmental entity. We have huge border infrastructure financing requirements. We are now trying to build a new bridge over the Colorado River, below the Hoover Dam, with our sister State of Nevada. We have huge expenses with our highways.

Yet instead of getting back an amount of money that would be commensurate with those needs, Arizonans send a dollar to Washington and get back 90.5 cents.

When the debate about the new highway bill began, we had some thought that perhaps we would finally get to

the point where we could be treated fairly relative to other States. But, unfortunately, this was not to be the case. In a very general way, what happened was this: The Senator from Oklahoma, and others, with very good intentions, said we want to try to bring all of the States we possibly can up to 95 cents on the dollar. And they set out to try to do that.

But what they soon learned was there are some States with needs growing so rapidly, with populations growing so rapidly—States such as Arizona, Texas, Colorado, Florida, the fastest growing States—these States are growing so rapidly that it would cost a lot of money to be fair to them. In other words, we are behind the other States now. We are donor States, and to try to bring us up to parity with those States would cost a lot of money because we are so far behind.

Now, if we had been treated fairly in the past, this would not be a problem because, presumably, we would be like everybody else—right around the norm. But we have not been treated fairly in the past, which is why we are so far behind.

Now they are saying: Because you are so far behind, and it would cost so much to let you catch up, sorry, we are going to take care of everybody else, but you all have to stay that far behind for 5 more years. That, I suggest, is not fair.

Now, it might have been fair to say to folks: Look, we can't get to 95 cents on the dollar. Maybe we can get to 93.5 cents for all of the States. I don't know what the exact number was—93, 94, perhaps, somewhere in that neighborhood. If all the States had been brought up to the same level, then that might be where it is—92, 93, 94, somewhere around in there. But, instead, they decided to go to 95 cents for most of the States, and then, for four or five of the States they say: Sorry, we are not going to bring you up to speed for the first 5 years of this program. Perhaps in the sixth year we will try to get you to 95 cents.

Well, in the meantime, every one of those 5 years the gap will grow wider. And because our populations are growing, because our infrastructure needs are increasing disproportionately to these other States, because we have been behind for so many years—and, therefore, have a backlog that a lot of the other States do not have—instead of gradually being brought up to where the other States are, we are basically being left in the dust. That is not fair.

Now, if you only do that to about five States, you can still guarantee your bill gets passed because you do not need their votes. This is all about vote counting. This is the way the highway formula was always developed. And I commend my good friend and colleague, the chairman of the committee, for noting the fact that in the past that is the way the formula has been derived. That is why his State and mine and a lot of others suffered for a lot of years.

But I suggest that since there now seems to be a will to make things right—again, I commend him for that—that we should make it right for everybody, not just for those States where we can afford to make it right. In fact, I would argue that we really ought to start with those States that have been on the short end of the stick all these years. We should start with the States that are the furthest behind, start with the States, such as Arizona, that have so much further to catch up.

If we have money to add to the amount of money that donor States get, why shouldn't we start with those States that have the biggest population growth and infrastructure needs and have received relatively, therefore, the smallest amount of money in the past?

Well, I guess you only get 8, 10 votes out of those States, so we start from a different premise. I do not think it is fair. That is the third reason I have to oppose this bill and why my friends in Arizona are basically saying to me: We can understand why we have to spend more money on homeland security and fighting the war on terror and on fighting in Iraq, and so on. We can understand why there are some other big needs that perhaps could get an increase in funding, such as education and the Medicare prescription drug bill last year. But we will be darned if we are willing to continue to send our money to Washington to be spent by other States when we have such large needs here. And they basically tell us, because you have so many needs, we cannot afford to bring you up to speed with everybody else and, therefore, you are going to have to wait 5 years.

I cannot go back to my friends in Arizona and say: Gee, I am sorry but that is just the way it is in Washington; they expect me to do something about it.

So I hope my colleagues who support this bill will indulge me, and those others, and put themselves in my place and ask what they would do if they were in this position and not give us too hard a time when we ask questions that may be difficult and make sure that from a parliamentary point of view, we use all of the options we have to try to convince our colleagues the bill should be made more fair than it is.

I would be happy if all of us received less money by reducing the top number of this bill down to an amount we can afford, say $214 billion, or to simply reauthorize the existing spending levels for 1 year until we can go back and get this formula right. I would favor either of those two solutions today. I raised them both in the Finance Committee yesterday. Both were defeated. But I would opt for either one of those.

What I can't agree to is a bill that spends far too much money, funds it with general revenues for the first time, and is blatantly unfair to States such as Arizona.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, let me say how much I always enjoy the junior Senator from Arizona. We were both elected to the other body in the same year, 1986. We both came here to the Senate in 1994. Neither of us is shy about the fact we are conservatives. He has heard me say many times that conservatives in some areas are pretty big spenders—that is, national defense and infrastructure—believing that is really what we are supposed to be doing in Washington.

I don't think you can find a State that has had more road problems than my State of Oklahoma. It is kind of a going joke there. Each holiday, so many people come for Thanksgiving, and they say: We could always tell when we got to Oklahoma because of the roads. We always knew when we left Arizona and got over to Oklahoma because the roads aren't nearly as good as they are in Arizona.

I would suggest a couple of things are worthwhile talking about. I have a chart. I want to help the Senator from Arizona when he goes home. I will let him take this chart home. When you look at Arizona, keeping in mind that the average State increase under SAFETEA is 35.6 percent, that is 40.23 percent. That is a huge amount over the average. The Senator from Arizona says it is because they have been on the short end of the stick for a long period of time. I can identify with that because being from the State of Oklahoma, we were at the very bottom. We had to come up by virtue of formula to 77 percent, to 80, then to 90.5, and now hopefully to 95. So that is a very large amount of money.

If you look in the far left of this chart, you have what Arizona averaged under TEA–21. That was $463 million. Then it shows each year thereafter, for the next 6 years, what happens by comparison. With all the difficulties we have in working on any kind of a formula, the Senator from Arizona and I have talked about the complexities of formulas. We have donee States, donor States, fast-growing States, low-population, low-density States. Consequently, to come up with some kind of a formula that takes care of all that, we took all of those things into consideration.

Contrast that with TEA–21. In TEA–21, they had a formula as a base, but they had a percentage. Every State had a percentage. When they finally got up to 60 votes, that was it: We don't care what happens to the rest of you. We have our 60 votes.

We didn't try to do that. That would have been easier, I suppose. I would probably be making the same number of people mad, but nonetheless we didn't do that. We tried to use the logical things to take into consideration in developing the formula.

The Senator talks about a veto. I know this is just a difference in interpretation. The Senator from Arizona is on the Finance Committee. I am not on it. Consequently, I went to the chairman, Senator GRASSLEY, and I said to

him, some time ago: This is what I feel we need to do. It is up to the Finance Committee to figure out how we get there.

The Senator from Arizona ran over it pretty exhaustively, and I bow to his superior intelligence in terms of the finance package because he is on the committee. But when I look over the fuel tax fraud compliance, that is something that came along a little bit later. I think that is real. My staff says that is a conservative figure, the 2.5 cents and the 5.2 cents on ethanol.

The interest, you agree, should go back to the highway trust fund. Spending down the balance is reasonable. I can remember back when we had balances of $18 billion in the highway trust fund. I spent 8 years in the other body on the Public Works and Transportation Committee where we started chipping away on that. And we all know the reason that was there to start with. It goes back to the Lyndon Johnson days, when they were trying to make it look as if the money they were going to be spending was not going to have huge deficits. So they said, let's just go ahead and apply that when we are drawing up our budget. We have changed all that, and we are making great headway in spending that down to a reasonable level.

The $6.5 billion, everybody does agree, is reasonable and I am sure the committee did also. Then on some of the clarifications on the transfer of the gas guzzler tax to the highway trust fund, it should have been there to start with. What we are trying to do is undo some of the damage that has been done to the trust fund over the years. We are doing that with this bill.

As far as a veto is concerned, let me share something that goes into a little more detail than the Senator from Arizona did. We have a letter here that expresses the current feelings, dated February 2, just a couple days ago. And in this letter from Secretary Mineta, this is the administration's position. They said, yes, we recognize we need more money for infrastructure. That is something we all agree and they certainly agree is necessary. They said, if you can get to the Bond-Reid amount without doing three things, then we would support you.

No. 1 would be you would not be increasing gas taxes. We are not going to increase gas taxes. Secondly, we are not going to play around. You know the games you come up with. Let's have a bonding program. You and I both know most of these bonding programs are nothing more than borrowing in some way from the future and encumbering future revenues. Or third—this is our biggest controversy with each other—that highway spending should be financed from the highway trust fund, not from the general fund of the Treasury. I grant you, the last item you talked about is coming from the general fund. I contend it should not have been. It should have been in the trust fund to start with.

That is an argument you and I could have a disagreement on, but I look at it perhaps with a little bit of bias, sitting on the committee and saying: All right, Finance Committee, if you can come up with this, this is what is best for America. I felt they did. And the chairman has told me he believed they did. We had Senator THOMAS on the floor, who is one of your colleagues on the committee, who I think is favorably disposed to the results of the work of the Finance Committee.

Mr. KYL. Will the chairman yield?

Mr. INHOFE. Of course.

Mr. KYL. As to the first items you mentioned, we are in total agreement. Those were items that should have been added to the trust fund, and they make up the difference between the $196 billion in gas tax revenues and the $214 billion. So there is no disagreement there. But as to the last two items, you could argue that the schools and churches and States and cities should have been paying the gas tax all along and that if they do pay it, it should go to the highway trust fund. That is true. You can argue that. But we are not going to collect it from them. We are not going to make them pay.

I suppose what you could say is, from now on churches and schools and cities and States have to pay the gas tax. And when they pay it, it should go to the highway trust funds. We are not saying that. We are going to deem that they have to pay it, but they don't actually have to pay it. There is no real money there. It is the same thing with the gas tax credit on ethanol. There the tax is actually going to be collected but then remitted. So the Government has it for a few days, but when they apply for credit, it goes back. Once again, we are going to credit the trust fund with the money, but it doesn't in fact get the money.

That is why the Finance Committee had to use creativity in finding these other corporate loophole closings and applying the revenue derived from that to make up the difference in the $17 billion or so. So it is not revenue we should have been collecting all along and putting into the highway trust funds. You can argue whether we should have been collecting it or not, but it is not revenue we are going to be collecting in the future from the cities and schools, for example. We are going to have to get it from the corporate loopholes.

Mr. INHOFE. I appreciate the response. I know the Senator to be very sincere. The time that we spent—we are talking about 12 months we have been anguishing over this issue to come up with something that is fair. It is not perfect. It is better than it was under TEA–21. We went to the Finance Committee and said: Can you get us there? It is my information that we got there and, consequently, I still stand behind the bill. We have an honest disagreement on that.

Mr. KYL. I ask the chairman to yield. This has to do with the chart you showed and the percentage increases. When you talk about percentage increases, I start to smile. You can always make a point with a percentage. I can remember when I was an associate in a law firm and I would be making, let's say, a salary of $25,000 a year. The senior partner was making $150,000 a year. We both get a 3-percent increase in our salary and he would say: That is fair. In fact, I will tell you what; I will take a 3-percent increase and I will give you a 4-percent increase.

At first, I would say that sounds all right. Then I said, wait a minute, you get 3 percent on $150,000 and I get 4 percent on $25,000. I think the gap is widening, not narrowing here. When I got to be more of a senior person in the law firm—and certainly with my Senate staff now, I always try to give the people at the bottom a higher percentage. Otherwise, the gap continues to widen. We see on the chart here how bad the pink or red numbers are, where Arizona is today. I appreciate you pointing that out. It is deceptive to suggest that since we are going up, we ought to be happy.

In terms of real dollars, the States that have collected more money in the past than Arizona, which have been donee States and haven't had this huge gap, are making far more in terms of the collections each year than Arizona will. You can show that it is going up, but the averages don't help Arizona. It is like the saying, how deep is the Mississippi River? The average is 6 feet, but if you get in the middle, you are in very deep water. Averages really don't count.

I would rather be the $150,000 senior partner getting a 3-percent increase than a $25,000 associate getting a 5-percent increase. That is, in effect, what Arizona is being offered.

Mr. President, I criticize the product. I do not criticize the chairman or other members of the committee. I know this is hard. Everybody is looking out for their own States, obviously. You cannot be fair to everybody and everybody's view. I appreciate that. So the comments are, I hope, in no way to be considered a reflection on the good faith of the people who are trying to do the work. My point is that I cannot stand here and represent the interests of my State with the kind of unfairness that I think is inherent in the bill, and that is simply, as the chairman said, something on which we are going to have to disagree.

I thank the chairman.

Mr. INHOFE. Mr. President, I suggest that, as the Senator from Arizona returns home, he ignore the 40-percent increase and go home and say $1.11 billion new dollars. Perhaps they can relate to that.

I know Senator CORZINE wants to speak and several others want to be heard but not necessarily on the highway bill. At the appropriate time, I will ask unanimous consent that there be a period for morning business.

Before I do that, I see the chairman of the subcommittee is here. I ask Senator BOND if he has anything further to say insofar as the highway bill is concerned.

Mr. BOND. Mr. President, I thank the chairman, the good Senator from Oklahoma. He is doing a wonderful job. I have been listening to the comments of our friend from Arizona and I understand his concerns. In order to achieve equity, in order to get the bill passed, we were only able to give certain States, under the formula, an increase that maybe in all rights was not adequate. But anybody who gets a 40-percent increase is certainly doing better than most.

I have driven the highways in Arizona, and I know that my colleague from Arizona does an excellent job representing his State. I hope the additional $1.118 billion will be a help.

This is a problem we always face on the highway bill. I don't know any State that cannot make a compelling case that they have needs that are greater. The chairman of the full committee and I are sitting on the first or second and third worst roads and the first and second worst bridges in the Nation. I am not getting a 40-percent increase. I can tell you in detail about friends who have been killed on the highways in Missouri because there was too much traffic—10,000, 15,000 cars a day on narrow two-lane roads. This is a huge problem.

The State of Oklahoma is a major Southwest-to-Midwest freeway. My State is in the center of the States. When you look at a map that shows the truck traffic and you identify the major corridors by red lines, the center of Missouri is a big red spot, and St. Louis is a big red blotch on the map; there is that much congestion.

We were very proud to have the first interstate in the Nation under President Eisenhower's bill, starting through St. Charles, MO. That is the good news. But the bad news is that the road is badly out of shape, and there is not enough money in this highway bill even to make a beginning on repairing it. The Missouri Department of Transportation may be able to make some improvements. We are giving them some options on how to deal with it in our State, but it is clearly a pressing need.

I can make a case that Missouri is the demographic center, because as many people live north of us as south of us, and as many people live east of us as west of us. The national traffic flow is through the State. We have needs. We don't increase at 40 percent, but we had to stay with the funding formula because this is a compromise. We are trying to take care of everyone and meet the needs that are pressing, meet the highest priority needs, and we were not able to do it.

We want to work with our good friend from Arizona. We understand his concerns and we thank him for his kind comments. Again, I will have to say that the effort we put in was a lengthy effort and much compromise—nobody got really all they need, which, unfortunately, is the nature of a compromise.

Again, I appreciate the comments made. I hope all of us can get together and move quickly. We are ready to offer an amendment. I gather we are urged to wait until tomorrow morning. If others have amendments, I hope we can be open for business tomorrow and get going because there are lots of pressing amendments and there are issues that need to be voted on. I hope we can get up and running and begin a very important debate and have votes on these amendments. I thank the Senator.

Mr. INHOFE. Mr. President, I thank the Senator from Missouri. I also would like to say that it has been a very difficult task developing this legislation. While it seems as though all some colleagues want to talk about is the formula in terms of money, there are many other issues we dealt with—environmental issues, streamlining issues, safety issues, issues that are of paramount concern to everyone. A compromise was made on all of those issues—some I don't like, but we did compromise.

MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

Mr. CORZINE. Reserving the right to object.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from New Jersey.

Mr. CORZINE. Mr. President, I wonder if the Senator from Oklahoma will allow for 20 minutes speaking as in morning business.

Mr. INHOFE. Mr. President, I amend that to up to 20 minutes for the first speaker and 10 minutes thereafter.

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

Mr. CORZINE. I thank the Chair.

Mr. President, I, too, respect very much the challenges the chairman of the committee and the ranking member have been able to work through. I look forward to a good, healthy debate about some of the specifics. I think we are on the right track.

INTELLIGENCE OPERATIONS

Mr. CORZINE. Mr. President, I rise to speak on an issue about which I have spoken a number of times and which I passionately believe needs to be addressed—frankly, it is one that is well past the maturation stage where it should have been addressed—and that is an independent look at our intelligence operations, particularly as they relate to the pre-Iraqi invasion and how conclusions were drawn, so that can speak to the American people about the facts we had.

It is an issue which I think is essential to the national security of the American people. If we don't learn from our mistakes, we are bound to make those mistakes again. It is high time we have gotten around to it.

In the past few days, the administration and the world have come to understand and acknowledge on a broad basis the colossal intelligence failures that led us to war, a war that may have led to good ends, but the Nation clearly didn't come to those conclusions on the basis of the information we now seem to be discovering.

There is a question about means to an end that I think is pretty simple in the kinds of discussions I think all of us have in the families and in the communities in which we live. I don't think we want to get into a position where means justify ends when they don't relate to them. I just point that out as some of this discussion has evolved.

On January 8, Secretary of State Colin Powell addressed the lack of connection between Iraq and al-Qaida, stating;

> I've not seen a smoking gun, concrete evidence about that connection.

We were told something different.

Then the President, in his latest State of the Union Address, referred only to weapons of mass destruction and related program activities, whatever that is—a far cry from the active nuclear program and stockpiles of chemical and biological weapons warned of in his last State of the Union Message in 2003.

It was last week's testimony from David Kay, the man responsible for the weapons search in Iraq, that finally brought this matter to maturity and captured the attention of the Nation, the administration, and the world, and that has really changed the whole context of this debate and discussion.

Dr. Kay, a man who told us last fall that Iraq's nuclear programs were only at the most rudimentary level, told the Senate Armed Services Committee there was no evidence of stockpiles of chemical or biological weapons.

David Kay has made an important recommendation—one that I think has been obvious for a number of months—that an independent inquiry be established so that the American people, so that the allies of the United States and those who would work with us, so that all of us who are involved in policymaking know we have the facts that allow us to make good decisions so that we are not committing the lives of our men and women in our military to efforts that are based on false premises, whether those are intentional or unintentional.

We need to have the right answers, and that recommendation apparently has now led—some might say forced—the President to announce he will name a panel to look at the intelligence issues related to Iraq.

I welcome the President's reversal on this critical need, and I suspect we will

see a reversal of support for that concept among my colleagues, about which there have been some healthy debates in the last months.

This is about the Nation's national security, make no mistake. We need to understand on a collection basis, on an analysis basis, and, yes, on a use basis, just exactly how we got to the kinds of conclusions we did. The means need to be understood so that we can connect them with the end, so that we don't make the same mistakes again and again.

I have serious concerns, however, at least from early reports about what the details of the President's plan for this commission will be, that the response is inadequate—I think seriously inadequate. This needs to be an independent commission.

How do we get to an independent commission? How do we make certain that the judgments we get are not designed or at least limited to only a mission defined by those we are actually looking at? And second, will that commission be allowed to explore the use of intelligence, or the misuse, if you will?

I haven't seen the details. I don't think any of us have. We are reading press reports. But if they are true, it would give the appearance that we don't want to have a commission that is going to deal with the fundamental crux of a lot of these questions. Quite obviously, if we don't deal with the crux of the questions, then are we going to get results that create credibility with the American people, with this body, with the world, on whom we need to count to do things as we go forward? Are we going to get to those kinds of conclusions?

If that is not the case, then I don't think we are headed in the right direction. I am very afraid we are moving into something that may satisfy a call for a commission to investigate our intelligence, but not yet at the fundamental problems that led us to this particular decision in Iraq, but also can be and may have well been replicated in other areas.

I actually think the President is right to talk about it in a broader context. It is just an issue of, sequentially, which one do we look at first. Even by the inspection on the ground, we are told that 15 percent of the issues haven't been examined on the ground in Iraq. We need to deal with where our men and women are being killed now, as opposed to putting off and putting together all of these various issues.

We have what some people might say is a tactical issue with respect to Iraq and a strategic problem with our intelligence operations in a more general context. Fine, we should look at a broader scope of issues to get to the restructuring of our intelligence operations, but we need to deal with the reality of, how did our intelligence serve us so poorly, how were the conclusions so far off the mark? Was there a problem with collection? Was there a problem with analysis? Or was there a problem in selectivity and use of the intelligence provided?

As I said, it was last summer when I first offered legislation to establish an independent commission. I think we ought to get to a truly bipartisan, independent commission, one that is not unlike what we see with the 9/11 Commission, headed by the former Governor of New Jersey, a Republican, who is doing, in my view, an incredible service to our Nation. It is a diligent, independent, bipartisan approach to find out the facts that led to that tragedy with which all of us live each and every day, whether it is in your local hometown, like it is the case in mine, or whether it is in the broader context of the Nation.

Given the fact that we have had Presidential claims that Iraq had sought to purchase uranium in Africa, which could not be justified or substantiated by intelligence, is enough to ask the question whether intelligence was properly used. It clearly was not, because the President himself has denied that that should have been in the State of the Union.

So how did that intelligence get misused? How did that come about? Similarly, with regard to the aluminum tube issue, on which a whole host of folks have spoken out both publicly, and I have read some things privately, that call into question whether that was ever a viable concept for intelligence to be used as one of the justifications for entering into this conflict.

How can that happen? We need to have certainty and independence in judging how we got to the collection, the analysis, and the use of the intelligence. I think that is important if we are going to go forward with certainty and credibility with regard to our efforts in using our intelligence for proper and effective policy formulation in the years ahead. We need it so we can speak to the world with credibility, and it will not take place, in my view, if we do not have that independent commission.

So I want to reemphasize the point that use of the information is also very important. We have seen time after time, and opinion after opinion, of a number of people, outside of the David Kay remarks, that much of the use has actually been disputed within the intelligence community. I cite in particular an officer from the State Department, Gregg Thielmann—and I will try to get his particular title—who has made the assertion that we are basically operating under faith-based interpretations of a lot of information. He goes back and cites the Nigeria uranium and the use of aluminum tubes, disputes about stockpiles that were reported, and many elements of different perspectives with regard to the intelligence that was available to policymakers.

How did we get such a one-sided view? I think some people would argue it might be misuse. Some may argue it is selectivity. I think we need an independent commission so we can get to the bottom of these. I think we need to understand how the administration could make public statements that contradicted some of the analysis or failed to incorporate the balance that was actually involved in the communities' reports. Why did these reports Congress mandated under the very resolution that granted the President the authority to go to war include some of those unsubstantiated claims I talked about? Were members of the intelligence community pressured to produce analyses that conformed to the administration policies? They even set up an extra body within the Defense Department to derive points of view that would be used in the Defense Department independent of traditional agencies that are involved in the intelligence. Did the administration officials seek to bypass that normal process by cherry-picking?

I think all of these questions are real and they are ones that need to be independently analyzed. There are plenty of outside experts. I think a lot of people have heard about the Carnegie Endowment study that reported last week, and I quote:

> Administration officials systematically misrepresented the threat from Iraq's WMD and ballistic missile programs.

They may not have all of the information. That is why we need a commission to straighten this out and to give us all confidence that we can go forward.

I spoke about Mr. Thielmann, who was the former director of the Office of Strategic Proliferation and Military Affairs in the State Department. He is incredibly offended by the difference between the information he saw and presented to the Secretary of State, as the one who is responsible for collating that, and what he has seen stated in the public. So how did those kinds of differences come to pass? Why are we dealing with such discrepancies?

The commission I proposed would be established by law independent of any executive orders to change its mission, change its role, change its scope. Its members would be selected by the leadership of both parties, balanced, kind of like the 9/11 Commission which I think people would argue as being very independent and is on the right track; receive an independent budget so there would not be issues about how thoroughly they might be able to pursue particular avenues of research; and would be directed to examine every aspect of this critical problem; obviously all elements of the collection, all elements of the analysis, and all elements of use from top to bottom, from our intelligence operatives to the White House.

By the way, in my view, Congress looks to provide the checks and balances that are expected through our constitutional offices.

I think this commission should be thorough and we need an end result

that gives us all confidence that when we make decisions that send 120,000, 130,000 or 150,000 of our men and women into battle that they are fighting a war based on information that was intended to give pure advice as best understood. I do not think the looking back—20/20 hindsight is always better, but looking back, one has to question whether the claims that Saddam Hussein posed a dire and immediate threat to the United States were real. It is important that we have a full examination, particularly when there were other alternatives that would not have necessarily cost American lives, such as continued pursuit of U.N. inspections which were claimed to have been ineffective, further diplomacy pointless, when in fact apparently all of those efforts at U.N. inspections and other things had actually been successful. There has been a huge failure, one that is very real in the lives of the families who have given up their sons and daughters, and I think one that morally requires we have an independent, bipartisan commission that gets to answers independently of any of us who have been involved in the decision-making, because if we do not have that I think we are going to always have questions of credibility as we go forward.

So I hope we can work together. I certainly intend to offer either on a stand-alone basis or in an amendment format an additional opportunity to support a truly independent and bipartisan commission that can get to the bottom of something I think is fundamental to the national security of this Nation, and make sure all of our sons and daughters are fighting wars and protecting America with the kind of information that is there for the best interests of us executing our policies, not for the best execution of our political desires.

I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I want to answer some of the concerns raised by my colleague from New Jersey. Basically what he is describing is the Intelligence Committee. For 8 months, our staffs have interviewed over 200 people. They have gone through thousands of pages of documents. We have investigated all of the charges and all of the concerns that have been raised.

There will be a preliminary report provided to the members of the Intelligence Committee on Thursday. Starting afresh with another congressional commission is not warranted. The report of the Intelligence Committee has not been seen.

There are certain things that we know we have seen supported. I believe everybody believes David Kay is credible. When he testified before the Senate Armed Services Committee on January 28 this year, he said: I think the world is far safer with the disappearance and the removal of Saddam Hussein. I have said I actually think this may be one of the cases where it was even more dangerous than we thought. I think when we have the complete record you are going to discover that after 1998 it became a regime that was totally corrupt, individuals were out for their own protection. In a world where we know others are seeking WMD, the likelihood at some point in the future of a seller and buyer meeting up would have made that a far more dangerous country than even we anticipated with what may turn out not to be a fully accurate estimate.

There is no question about it not being a fully accurate estimate. This is one of the areas where I think all of us would agree, we did not have as good intelligence as we should have. We didn't have as good intelligence in the 1990s, when we should have. And President Clinton, on February 17, 1998, said:

> If Saddam rejects peace and we have to use force our purpose is clear. We want to seriously diminish the threat posed by Iraq's weapons of mass destruction program.

Secretary of State Madeleine Albright, a day later, said:

> Iraq is a long way from here but what happens there matters a great deal here. For the risks that the leaders of a rogue state will use nuclear, chemical or biological weapons against us or our allies is the present greatest security threat we face.

Sandy Berger, the National Security Adviser, said on that same day:

> He will use those weapons of mass destruction again as he has 10 times since 1983.

All of the people who are making these statements have access to the intelligence information that we as Senators get. We realize, based on what David Kay stated, that we badly underestimated the ballistic missile capability. As a matter of fact, Senator GRAHAM of Florida was prescient in a letter he wrote. In a letter dated December 5, 2001, signed by many others, he said:

> There is no doubt Saddam Hussein has reinvigorated his weapons program. Reports indicate biological, chemical and nuclear programs continue apace and may be back to prewar status. In addition Saddam continues to redefine ''delivery system'' and is doubtless using the cover of a licit missile program to develop long range missiles that will threaten the United States and our allies.

That one was right on the mark because that is what we found.

What are the needs? Obviously, when there are not people who speak Arabic, when we do not have unofficial agents in the country, we are missing out on one of the important elements of a good intelligence program. But, you know something. It is not just Iraq. We didn't know how far Libya was along until Muammar Qadhafi, not wanting to be pulled out of a spider hole by an American soldier standing over him with a grenade, decided he would come clean. We were unaware of how far Iran has gone. And, clearly, prior to the first gulf war, we did not know just how far advanced Saddam Hussein's programs were.

We also know—and David Kay was clear about this—that we cannot account for weapons of mass destruction that he had. There didn't have to be a large stockpile. A suitcase full of anthrax or ricin, or even a handful, can be a great terrorist weapon, and we will be lucky if we find that small amount, particularly after you look at the lengthy program of denial, deception, and destruction in which he engaged.

There is a lot of intelligence that was lacking with respect to Saddam Hussein. We have to do a better job. The purpose of the Senate Intelligence Committee, one of five or six committees already investigating it, is to find out not only what we lacked but also to recommend changes because the one area on which we would agree is that we have to have a better system of intelligence. What we learn is going to put us on that track.

I know the staff has worked hard. I am looking forward to the report. I will be surprised if it does not confirm what David Kay says and lay out some recommendations. The President has a responsibility as well. We have an oversight responsibility. If he wants people to look at it, to tell him how to improve it: Good luck. Go ahead. But we have the Iraqi Survey Group, internal investigations, and I believe probably the best investigation is what the Senate Intelligence Committee has done.

I apologize. I know my colleague from Illinois wants to speak so I will yield the floor.

Mr. CORZINE. Will the Senator from Missouri be willing to take a question with regard to the Senate Intelligence effort?

Mr. BOND. I will be happy to.

Mr. CORZINE. First of all, I compliment him. I am quite supportive of the Senate Intelligence Committee doing a total rundown on both the collection and the analysis that led both to the Iraq situation and some of the failures he mentioned with regard to Iran and Libya and different points of view. God knows the Pakistani dissemination of technology we have read about in the newspapers in recent months is a pretty horrific proliferation issue about which I think all of us should be concerned.

But there is this fundamental issue of whether intelligence has been misused and whether we are getting the checks and balances in looking at the collected and analyzed information. Are we looking at the full range of possibilities?

I ask my colleague from Missouri, am I correct that the chairman of the Senate Intelligence Committee said that studying the use of the intelligence information was really not part of the efforts the Senate Intelligence Committee would take on in this process? I think the record would be specific. But is that the case or not?

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, to respond to that question, what the Intelligence Committee looks at is what is the intelligence that was gathered. There

have been some suggestions that the intelligence was influenced or colored by pressure from the administration. David Kay said absolutely not. He said he talked to the analysts, there was absolutely no information—there was absolutely no information—and he said that really the intelligence community owes an apology to the President—and I would say to the American people—for not having done it better. But they are dealing with a very inexact science.

If you follow what other elected officials had said prior, during the 1990s, 2001, 2002—what they were saying shows that they used the same intelligence. We are looking at the intelligence, the national intelligence estimates and all those things. We look at it, and if you want to second-guess, if you want to argue that we should not have gone into Iraq, I think David Kay answers that and says the world is far safer. It was a much more dangerous situation than we thought.

Yes, there are errors. There are areas where we overestimated his capability. There are areas where we underestimated his capability. But the fact remains that Saddam Hussein had so much weaponry, it is going to take 18 months just to destroy it. He still may have chemical and biological weapons. We look at what the intelligence is.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DURBIN. I ask unanimous consent to be recognized in morning business for 30 minutes.

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

Mr. DURBIN. Mr. President, let me say at the outset I commend my colleague from New Jersey, Senator CORZINE, who came to this floor several months ago and said we need an independent commission to look at the intelligence that led up to an invasion of Iraq, and the use of that intelligence, and called for a vote on that issue. I don't remember the final outcome of that vote, but I know I stood with him because I thought it was the right thing to do. Many people on our side of the aisle and the other side of the aisle resisted that suggestion, saying the Senate Intelligence Committee would be able to do this investigation.

But the Senator from New Jersey has hit the nail on the head. Senator ROBERTS, the chairman of the Senate Intelligence Committee, made it clear long ago that our committee, the Senate Intelligence Committee, would not look into the use of intelligence but, rather, whether it was accurately gathered and presented to the policymakers. That is a critically important question and one that would be part of any valid investigation.

But equally important, if not more, is whether or not that information, once given to the policymakers, was honestly communicated to the American people. I can think of nothing worse in this open forum of government than to have the suggestion that there were misrepresentations made to the American people on something as critical as a decision to invade a sovereign nation. That is the question before the Senate.

This week's Newsweek cover story is based on Dr. David Kay's testimony last week before Congress. It has pictures of the leaders of the Bush administration and the quote from Dr. Kay, ''We Were All Wrong.''

The obvious question is, Where was the error made? Was it just in the collection of intelligence data or was it in the portrayal of that data, the description of that data to the American people? That is a painful question and a delicate question but an important question.

Senator CORZINE has said for many months we need to have people come and ask that question, both questions, in an honest and bipartisan way. I salute him for his leadership on this issue. I know he has been frustrated by the rejection of the Senate for his proposal, but now it is full circle. Now, even the President, who once opposed him, says it is time to move to a commission.

Mr. CORZINE. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. CORZINE. It seems to me it is absolutely essential we understand how the President of the United States can put those 16 words—which were in absolute conflict with the information that generally was available in the Intelligence Committee, if I read that properly—into the State of the Union Message of 2003 with regard to aluminum tubes and with regard to uranium and then later the whole discussion, particularly Secretary Powell's presentation to the U.N. of the use of aluminum tubes. This was also in very strong contradiction to much of the information that is now available. We could go on, with unmanned aerial vehicles and a whole series of other issues.

So somehow or another there were disputes about the response that one should make with regard to collection and analysis of data. And that gets at the fundamental question of how did we use or misuse the intelligence that was presented. To not come up with an answer that is credible to the American people, credible to policymakers in this body, and credible to our allies and the world community is a failure of leadership on our part. It becomes absolutely essential that any independent commission needs to deal with the use, not just the collection and analysis.

Is that how the Senator from Illinois feels?

Mr. DURBIN. Yes, which is why I supported the early resolution. I hope the Senate will return to that. I hope we can find a way to choose people who are fair arbiters. There is a fear on the other side that something will be done to embarrass the administration before an election, especially a feeling we should let the chips fall where they may. Can't we find people in this country—I think we can—who will be honest, dispassionate, and nonpartisan?

At issue is not just a question of who comes out ahead on the political ledger sheet. The question before the Senate is one of the most important elements for America's national defense and security. If we had planes being flown in Iraq that were crashing, if we had tanks that could not shoot straight, if we had a lot of equipment over there that was failing, we would hear very quickly from the press, from the public, from the Pentagon, that we need an investigation.

Here we have a failure of something equally important, a failure of intelligence. We need to get to the bottom of it. If we are going to be successful in any war on terrorism, we need the very best intelligence in the world. Clearly, our intelligence failed us in the leadup to the invasion of Iraq.

We find ourselves today in a situation which is likely to be long term, costing American taxpayers $1 billion a week but, more importantly, continuing to cost American lives. That is a compelling reason to move on this with dispatch.

I sincerely hope Senator CORZINE's suggestion is followed up on as quickly as possible.

Mr. DORGAN. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Mr. DORGAN. I ask the Senator from Illinois if it is not the case that the gathering of intelligence—today, tonight, tomorrow morning, yesterday—might be the very function that determines whether our country is able to determine and prevent a future terrorist attack against our country; isn't the intelligence-gathering system that important?

Mr. DURBIN. I say to the Senator from North Dakota, more important than it has ever been, since September 11. It is only with valid, credible, good intelligence that we are able to anticipate someone who is trying to cause harm to the American people or to strike us in our territory or to, frankly, attack our special interests around the world. Intelligence is a critical part of our national defense.

Mr. DORGAN. I inquire if the gathering of intelligence is so critical—and the Newsweek magazine describes it as a failure in the description by Mr. Kay, the top weapons inspector—if, in fact, it is a failure, then I would expect that the President of the United States, the Congress, and the American people would demand, on an urgent basis, that we figure out what happened, what is wrong, and how to fix it. Not later, now. The safety and security of this country depends on it.

With respect to the issue of intelligence, we ought to now understand, having the vision in the rearview mirror, the issue is not what we think but, rather, what we know when a country changes a doctrine, as the President did, with respect to preemptive attacks. If you talk about preemption

you better know things rather than think things.

I went back and reread the presentation to the United Nations by the Secretary of State. When he made that presentation, I thought to myself, that is a masterful presentation. And what he did, interestingly enough, is say: We know the following; we know the following; we know. And he put pictures up and he put up pieces of information—we know this from human resources; we know this from inspections; we know this from satellite photos.

They did not know it. What he said we knew turns out to have been fundamentally wrong.

So it seems to me the President, the Congress, and the American people ought to demand on an urgent basis there be an independent commission to find out what on Earth happened and how do we fix it.

Let me make one final point, if I might. Can there really be an independent commission, when a President, who did not want a commission in the first place, and said in recent weeks he did not want a commission, now will say our executive branch and our administration will create a commission that is independent? Can that really be a commission? Or is it not the case that a truly independent commission would be one that follows the course that we usually follow on urgent issues, and that is, we put in law, a law from Congress, that creates and funds a commission and creates a truly independent body to take a hard look at what happened.

The executive branch cannot possibly have a commission that investigates itself. This is not about politics. There is no political way to talk about safety and security of the American people and our great reliance on intelligence.

This is not about Republicans or Democrats. This is about the future of this country and getting it right. It is critically important.

The Senator from New Jersey and what he has been talking about for months about this independent commission is right on the mark, as is the Senator from Illinois. I am pleased to join him in this discussion about how important intelligence really is.

I ask that 10 minutes be added to the Senator's allocation for his presentation.

Mr. DURBIN. I think the Senator said something important in relation to the September 11 commission, a commission which is headed up by former Republican Governor Kean of New Jersey, which has asked for an extension of time, so on a bipartisan basis they can ask all the questions as to whether or not we did anything wrong that led up to September 11, and what we could have done to prevent it.

Former President Bill Clinton said to a gathering of Senators, I am prepared to testify before that commission. I am prepared to cooperate with them completely. If there was any shortcoming or failing in my administration, so be it. It is more important that the American people know that we have done everything in our power to make this a safer nation.

That should be the attitude of all Members. We should swallow our political pride and say this is not about partisanship. If an error was made by any President, Democrat or Republican, which has put us in harm's way or endangered America's security, don't we deserve to know that? The fact that the Senate Intelligence Committee has drawn a line and said they are not going to even ask the question as to whether the intelligence was misused by any member of the Bush administration tells me they are being politically protective. They are protecting the political interests of the White House instead of the paramount concern, which should be protecting the American people.

I hope, frankly, there is an independent commission that asks hard questions of those in the Clinton administration and President George W. Bush's administration and any administration that might have some bearing on the intelligence capacity of America and on the protection of this great Nation. I thank the Senators who joined in on this important issue.

THE PRESIDENT'S FISCAL YEAR 2005 BUDGET

Mr. DURBIN. Mr. President, I came to the floor to address President Bush's fiscal year 2005 budget. This budget was presented to Congress yesterday. It has been characterized by the Concord Coalition, and others, as one of the most irresponsible Federal budgets to have been filed. It continues President Bush's failed tax policies, unfortunately, at the expense of Social Security and Medicare. It shortchanges funding for schools. It shifts the burden of paying for environmental cleanup from the polluters to ordinary taxpayers. And it hurts States in the Midwest, such as my own State of Illinois, that are facing terrible budget situations. It imposes new Federal mandates without providing adequate Federal funds.

The budget is a fundamental reversal of the very things the President said his administration stands for. It is not compassionate, it is not conservative, and, sadly, it is not credible.

Why is it not compassionate? The President's budget again fails to provide full funding for No Child Left Behind. This was the premier education policy of the Bush administration, supported, on a bipartisan basis, by this Senator and many others on the floor, with the understanding that as we identified the weaknesses and shortcomings in public education, we would come forward with the money to help the students reach the level of testing where they should be.

Now we find in Illinois and States across the Nation that test scores show that kids need help, and the Federal Government continues to say: Take the test, announce whether you are a failing school or a successful school, and we will provide you with less money than we ever promised.

During the debate on No Child Left Behind, Senator Paul Wellstone of Minnesota sat behind me. He opposed the program from the start. He said: You are going to create a program where the tests become the object of education rather than learning. Unfortunately, because the tests create such high stakes, many teachers will have no recourse but to teach to the test, thus dampening the enthusiasm to learn, the creative element that is part of education.

That was Paul Wellstone's point. I said: Paul, I disagree with you. Tests are about accountability. We have taken tests all through our school years, and we should hold our students accountable, our teachers accountable, our school boards and others accountable through testing. So I disagreed with him on that premise.

Then he added: But I will tell you something else. When it comes to providing the Federal resources that you are going to promise, I'll bet they won't be there. When the schools need them, they won't get the help from the Federal Government to improve the education of our children.

Unfortunately, as I have traveled around Illinois, I am afraid former Senator Paul Wellstone was right on both counts. We are finding more and more teachers and principals and school boards complaining that they are spending more and more time focusing on tests, doing their level best to avoid being branded a failing school and facing sanctions from the Federal Government. And when they find some students who are not meeting the test standards, they are hard pressed to come up with the tutoring that is necessary, the afterschool programs or summer school programs to bring these kids back in the mainstream and to bring them up to the level where they should be.

So what do we find in this budget from President Bush when it comes to his premier policy on education? The law in No Child Left Behind authorized $34.3 billion in funding to school districts in this next fiscal year—$34.3 billion. The President's budget only provides $24.9 billion. The President's budget falls short by over $9 billion of keeping its promise to the American schools and people that we would give them a helping hand so that the kids could move forward in their education.

In Illinois, a State which is facing a deficit, which is causing a lot of hardship, we are going to lose over $250 million which would have come to us had the President put in his budget a request for funds adequate to fund his premier policy for education. So in Illinois we are facing a mandate, No Child Left Behind, and no funds to pay for it.

Well, I can tell you, school districts around my State can think of a lot of

ways to help their students, ways that do not involve the test we are sending them. Unfortunately, they do not have the resources to deal with it. But they deal with the test, paid for by the Federal Government, and do not have the resources to help the children.

When it comes to housing, the President's budget eliminates entirely the Department of Housing and Urban Development's HOPE VI Program—the only Federal program that focuses on revitalizing the Nation's most distressed public housing developments. The Chicago Housing Authority received $105 million in direct HOPE VI grants in fiscal year 2001 and has also given approval to issue another $291 million worth of bonds.

HOPE VI provides grants and unprecedented flexibility to address housing and social service needs. In Chicago, these grants were to be used to demolish 4,500 aging public housing units and to replace 1,675 units with new ones in public and mixed-income housing.

In most States, including my own State of Illinois, we are facing a terrible housing shortage. Working families are struggling to find safe, decent places to live. If we do not provide a helping hand to these working families, these families, with their children, will be pushed into housing situations which, sadly, are going to be very difficult for them to cope with. This decision by the administration to eliminate HOPE VI funding, to say we cannot afford this limited Federal commitment to help with public housing, is going to be an expensive one.

The President's budget also will provide $12.7 billion in additional Federal funding for Medicaid between the current fiscal year and 2009. That sounds good: an additional $12.7 billion for Medicaid, but there is a catch. The President's plan requires that Medicaid funding remain budget neutral over a 10-year period. In other words, in 2011, 2012, and 2013 money going to the States will have to be reduced by the amount that they were compensated in higher payments early on in budget years. Who can believe in these outyears the cost of medical care will go down?

So as the costs go up, the States are going to be asked to give up money that was paid them years before. That is not going to provide health care for a lot of families, particularly lower income families and those who cannot afford health insurance—unfortunately, a growing class in our society.

When it comes to veterans benefits, for the second year in a row the Bush administration proposes that veterans pay a larger share of their health care costs.

All of us come and praise veterans, as we should, the men and women who risk their lives for our country, some of whom I have seen recently at Walter Reed Hospital, and many you find returning from Iraq and Afghanistan. We are all there at the parades to shower them and their families with praise for their contribution to America. But our speeches are cheap and our words are hollow if we do not follow through with support for veterans programs.

The President, in his budget, proposes increased fees for some veterans, including a $250 annual enrollment fee and an increase in monthly pharmaceutical copayments. Congress rejected both of these proposals in recent years. The Bush administration comes back demanding them in their budget.

I might say a word, too, about the global AIDS commitment of the President. I thought the President spoke for this country and our values when he stood up a year ago in his State of the Union speech and said: Let's commit $15 billion over a 5-year period of time to fight the global AIDS epidemic. But for the second year in a row, the President's budget fails to meet his rhetorical promise to the world. It falls short of his full commitment.

The President proposes $2.8 billion, which is again short of the $3 billion annual commitment over 5 years. Furthermore, the President's budget proposes to cut our contributions to the Global Fund to Fight AIDS, Tuberculosis, and Malaria. He cuts it by two-thirds, from $550 million this year to just $200 million in the upcoming year. The problem grows. Our commitment to it recedes and backs off. That does not help.

When it comes to the environment, in the proposed Bush budget, the environmental programs sustained the second largest reduction of any section of the budget, after agricultural programs. For the first time since 1981—almost 22 years now—line items for environmental programs were reduced for two consecutive years.

The President's budget will make taxpayers pay for even more of the cost of cleaning up toxic waste sites in the Superfund Program. Illinois has 40 such contaminated sites that are not to be cleaned up because Superfund is broke. The President refuses to fund it, and the President refuses to hold the polluters responsible. It means that average taxpayers and families across my State will have to pay for pollution caused by industries that are let off the hook by the Bush budget.

The President is asking for $1.38 billion for the Superfund Program this year, all of which will likely come from general revenues because the administration has refused to reinstate the polluter pay program.

To pay for that increase, the President proposes cutting clean water funding from $429 million to $94 million. Last year the Bush administration proposed a 79-percent decrease in the same program.

In agriculture, this is the area hit hardest by the Bush budget. This area sustained the largest cut with a reduction in discretionary spending of 8.1 percent and conservation programs are the first casualties. That is unfortunate, because preserving our soil and water resources are absolutely critical to the future of farming and critical to those who believe that we have a stewardship responsibility for the land. That responsibility is not met.

The President's budget proposal imposes deep cuts in the COPS Program, a program started under the Clinton administration, which has been wildly successful. Cities and counties and local units of government, States as well, have come to the Federal Government and with a very simple application form brought more men and women in uniform onto the streets of America, making it safer. President Bush's fiscal year 2005 budget proposes no funding specifically for the hiring of officers and instead provides $17.6 million for community policing development initiatives, whatever that means.

Even if all of this funding were used to hire law enforcement and school resource officers, it would be a 91-percent cut from the fiscal year 2003 funding level. In Illinois, during fiscal year 2003, COPS hiring grants provided funding for 123 full-time police officers. A cut of 91 percent that the President proposes would mean 111 fewer police officers patrolling Illinois neighborhoods and schools. This is a step in the wrong direction. This program is not only popular; it is needed.

When it comes to homeland security, we can do better than the Bush budget. In Illinois, 671 law enforcement agencies have directly benefited from funding made available through the COPS Program since it was created in 1994. Since that time, over $410 million in COPS grants have been awarded to my State. These grants have funded 5,832 additional police officers and deputies, as well as additional school resource officers who break up gangs and try to find out when children who have problems attending school have much bigger problems at home than even teachers realize.

The President's 2005 budget request for homeland security includes $3.6 billion in the Office of Domestic Preparedness. This funding request represents a 19-percent overall decrease from this year, when $4.4 million was available. So we see that in areas of homeland security, this budget makes cuts.

I am very concerned about this budget. I am also concerned about the fact that this is not a conservative budget. How can you claim to be conservative, as President Bush says he is, when his budget is swimming in more than $500 billion worth of red ink? Let me show you some charts which graphically tell the story.

Every minute the Bush administration spends $991,000 more than it takes in. A few years ago we had a budget surplus under the Clinton administration. The number was $236 billion. A few years later, under this administration, we are anticipating a deficit of $521 billion. So that is a swing of $757 billion from surplus to deficit. It gets worse.

We have asked the President year in and year out: How can you justify this?

Look at the quotes from the President and this administration. He said in 2001:

[We] can proceed with tax relief without fear of budget deficits. . . .

Sadly, he was wrong.

In 2002, the President said:

[O]ur budget will run a deficit that will be small and short-term. . . .

That is certainly not the case. We are facing recordbreaking deficits.

In 2003:

Our current deficit . . . is not large by historical standards and is manageable. . . .

Wrong again.

In 2004:

The deficit will be cut in half over the next five years. . . .

Clearly, he is going to be wrong again on that projection.

Then you take a look at the claim that he will cut the budget deficit in half and you see that it is not credible. By 2009, the operating deficit is likely to be far larger than $237 billion. This is the deficit claim. This is the Social Security surplus which will be included in regular spending for our Government so that the President reaches his goal nominally when, in fact, he is doing it at the expense of Social Security.

The Medicare surplus will be raided for $23 billion. The alternative minimum tax, which I predict will be the biggest single family tax issue this Congress faces over the next 5 years, to even fix that would cost $55 billion by 2009.

And then, of course, we have the additional cost for war. Isn't it interesting that the President's budget doesn't include the cost of the war in Afghanistan and in Iraq, nor does it include increases in homeland security? So the deficit we are talking about doesn't even take into account the billion dollars per week we are spending on that war effort.

Let me tell you how the President will maintain his spending when he runs out of money. President Bush's budget hides the full story. Every penny of the Social Security surplus will be spent by this administration under their proposed budget plan. The amount of Social Security surplus saved between 2005 and 2014: Zero. The amount of Social Security surplus spent in that same period of time: $2.4 trillion. Instead of strengthening Social Security and Medicare as the baby boomers arrive, President Bush's budget plan will make them weaker than ever in our history.

Let me also take a look at what happens with the Bush budget when you look at the full story. The President said repeatedly in his State of the Union Address that the key to our economic prosperity is to make his tax cuts permanent. I think, frankly, the first round of tax cuts were not advisable and were unwise. Not because we didn't need a tax cut and a stimulus but because the majority of the tax breaks went to the wealthiest people in America. The President has said we have to continue on that course, continue to give tax breaks to the highest income Americans.

Sadly, if we follow the President's advice and make those tax cuts permanent, take a look at what this means in terms of the long-term budget picture: a $1.6 trillion, 10-year cost to extend the tax cuts. How can this be sensible, prudent, or conservative? It is a spending spree and cutting spree that fails to take into account the ultimate cost.

I mentioned the cost of the AMT reform, the alternative minimum tax. Just 3 or 4 million people are currently paying this tax. But the way it is geared to take into account inflation, millions more will be brought in to pay this tax. In fact, many families are going to learn that they are paying more in alternative minimum tax than any other tax. You can expect to hear from them. The President ignores this reality. The cost of reform of this alternative minimum tax goes through the roof if we don't do this and do it quickly. Sadly, there is no suggestion that we even consider the problem.

Incidentally, when you take a look at the amount provided in President Bush's budget for ongoing military operations in Iraq and Afghanistan and the war on terror, there is zero provided. So in addition to the budget document we are considering, we will have a supplemental appropriations bill much later in the year which will add on more spending which we must have to sustain the troops in the field. How much: $280 billion is the anticipated cost between 2005 and 2014—a hidden cost which the Bush administration doesn't want to deal with directly in their budget document.

The gross Federal debt, assuming extension of Republican tax cuts on a permanent basis, AMT reform, and defense policies, $15.1 trillion in 2014. What a wonderful and glorious gift we are leaving our children and grandchildren. We are spending them into a debt that, frankly, they are going to have to deal with for the rest of their natural lives.

What do the Bush administration's irresponsible fiscal policies mean? By 2009, each person will have a share of the national debt which will total $35,283. So the President says for the average family: We will send you a check for $300 or $400 for each member of the family, and we will give you a little bit of a helping hand.

What he doesn't tell you is that, at the same time, he is mortgaging the future of this country. For what? For tax cuts for wealthy people.

How do we pay off our debt in this country, how do we sustain it, if we are spending $991,000 a minute more than we are bringing in as the Bush budget proposes? There is only one way to sustain our economy and to pay off that debt. That is to borrow money. Which countries come up to the window and want to buy the securities to fund America's debt? Take a look at the list. The top 10 countries holding America's national debt: Japan, $526 billion; China, $144 billion, United Kingdom, $112 billion. The list goes down the line.

Isn't it interesting that the countries that are holding our national debt in many instances are the same countries that have substantial trade surpluses with the United States? In fact, the two fit together. When China, for example, which now has an inordinate trade surplus with the United States, wants to make good on the extra dollars they have, they buy securities and pay off our national debt in that regard. So we end up beholden to the banking systems in these countries that, frankly, are holding America's debt. They have a powerful position. That has become a reality. In order to fund this debt—the largest deficit in our country, a debt that will grow to record proportions—we do two things. We borrow all the money in the Social Security trust fund and from the Medicare trust fund, and then we turn to nations around the world and ask them to buy the securities to sustain our debt. That is the future which the President is suggesting to us.

During the course of the State of the Union Address, the President said at one point—I remember it well—that manufacturing jobs are increasing. I can say to the President, whether it is the State of Illinois or Iowa or Michigan, manufacturing jobs are not increasing. They are increasing in China. We have lost 20 percent of our manufacturing jobs in the last 5 years, and in Illinois there is no end in sight.

Sadly, as you see the shrinking of our economy in each State, with more than 3 million jobs lost under the Bush administration, you understand that we are not only spending ourselves into long-term debt, we are not getting what is essential for America, and that is strengthening our economic base, making certain that our schools are the best, that we are training our children for the quality jobs of the future, making certain businesses have a helping hand from Government to help meet their health insurance obligations to employees, making certain that our trade laws are enforced in a fair way.

I am a Democratic Senator who has voted for free trade in the past. I believe globalization is as inevitable as gravity. But we have to understand that simply entering into a trade agreement is no assurance that the other party—other country in this case—will live up to the terms of the agreement. We have seen case after case—steel is a classic example, where countries such as Brazil, Japan, and Russia started dumping steel in the U.S. By ''dumping,'' I mean selling it at lower than the cost of production. They were not only trying to bring in dollars from the U.S.; they were trying to close down the American steel industry. Sadly, they were successful, to some extent.

What does it mean today to us to have fewer steel companies and fewer steelmaking jobs? Let me give you one illustration. Today, in Iraq, there are 8,400 Humvees that our troops are using in the field. These 8,400 vehicles are special problems for us because they are not equipped with armored plating. If you go to Walter Reed and meet the amputees and injured soldiers, many will tell you: Senator, do something to make the Humvees safer.

So when I went to the Department of the Army and said, ''What are you going to do about the armored doors needed on Humvees?'' they said, ''It is our highest priority.'' I asked them how they would make them. They said they are going to turn to arsenals in Rock Island and Anniston Depot and contract it out. I asked: How long will it take to make 8,400 armored doors and get them there as quickly as possible to protect our soldiers? They said: If we work night and day, we can get it done in 1 year. One year? During World War II, we were building bombers every 12 hours and ships every 30 days, and we need a year to build 8,400 sets of doors to protect these Humvees?

I was incredulous and asked why. They said: Senator, we only have one steelmaking plant left in America, which is in Pennsylvania, which has the capacity to make the steel we need for the armor on these doors. There is one left in America.

When countries violate trade agreements and dump steel in the U.S., ruin our steel industry, close down the businesses, kill the jobs, endanger retiree benefits—after that happens, we find ourselves in this situation where we need steel, the best in the world need it desperately, and we cannot make it in the U.S.

When the President talks about a strong America in the future, it involves education and job training and helping businesses pay for health insurance but also enforcing trade agreements. I supported the President's tariffs on steel as the only way to answer this dumping of steel. Are we going to quit now, since the WTO has threatened they will impose $2 billion in tariffs? I hope not. Frankly, I think we need to take a more aggressive stand when it comes to building our economy and jobs for the future.

Don't tell me we are in a recovery. A jobless recovery is no recovery at all. Families who are still unemployed and cannot meet the basic obligations to keep their families together are not families that are better off just because productivity is higher in America. We need a stronger economy that has good growth, including jobs. Right now, we are far from it. The Bush budget doesn't move us in that direction. It is not a credible budget, a compassionate budget; it is not a conservative budget; it is a testament to a failed economic policy, where the U.S. economy is not back on its feet, where we continue to see people losing their jobs, where good-paying jobs are going overseas, and little or nothing is being done.

That will be an issue which drives this electorate in this election, as it should. As we review the budget, I hope Members of Congress will step back and realize that making tax cuts for the wealthy permanent policy in this country will guarantee weakness in Social Security and Medicare for generations to come. If that is the reason my colleagues believe they came to the Senate, then they should stand and cheer this budget. But if they feel a special obligation, as I do and many colleagues do, to Social Security and Medicare, we should demand more.

How can you claim to be conservative when your budget is swimming in more than $500 billion worth of red ink? The President is proposing a paltry $53 billion in revenue-raising measures to offset the budget's $1.3 trillion in tax cuts. And he's proposing changes in the budget process that will make it harder to increase spending on important social programs down the road while failing to place similar constraints on Congress's ability to extend tax giveaways to the rich.

The cost of extending the tax cuts alone will reach $1.6 trillion between 2005–2014. Before the end of this fiscal year, Congress will have to raise the debt ceiling—currently at $7.4 trillion once again. The continuation of the administration's policies could produce a national debt of greater than $15 trillion by 2014. Is this fiscal conservatism?

Even the unofficial voice of the right seems shocked by the fiscal irresponsibility of this administration. Talk show host Rush Limbaugh weighed in on the gloomy fiscal picture painted by this budget on his nationally broadcast radio program. ''Bush has outspent Clinton,'' Limbaugh told listeners last Thursday. ''I hate to say this; I'm sorry folks.''

And how can you claim to be credible when you increase funding for missions to outer space, provide even more tax breaks for the wealthy but cut money for community oriented policing, for higher education and for critical transportation projects?

In 2000, our Nation had a $236 billion surplus; in 4 short years, the Bush administration has managed to turn that into a deficit for the current fiscal year that they project to be $521 billion. CBO estimates the fiscal year 2004 deficit will be closer to $477 billion. Either way, that is a striking turn of events, and neither figure tells the full story. Once Social Security is factored out of the budget, the OMB's fiscal year 2004 projected deficit soars to $675 billion.

The President claims his budget will cut the deficit in half in 3 years. This promise speaks directly to the credibility gap facing this administration. The President simply isn't leveling with the American people; we've heard this story before.

In 2001, the President, upon inheriting a fiscally sound house, told us that ''we can proceed with tax relief without fear of budget deficits.'' He was wrong.

In 2002, when it was clear that this wasn't the case, he told us that ''our budget will run a deficit that will be small and short-term.'' Wrong again.

In 2003, he said, ''Our current deficit is not large by historical standards and is manageable.'' Once again, wrong.

Now he is promising to cut the deficit by half over the next 3 years and is focusing his deficit reduction plan on limiting domestic discretionary spending. That is not a credible solution. Growth in domestic discretionary spending has been almost non-existent over the past 2 years. Out-of-control spending did not cause these record deficits. The President's irresponsible tax cuts for the wealthiest Americans did.

The OMB's estimates were $134 billion greater than the estimates the Bush administration used to build support for the program in Congress. Democrats in the House are calling for an investigation into when the President knew that the number would be much higher than the one used during deliberations.

The $521 figure is slightly inflated. No one else is this high. CBO is $477 billion. The $521 includes $20 billion in lower revenue estimates for fiscal year 2004 just to be ''careful.'' This would certainly make it easier to cut the deficit in half if the baseline from which you are cutting is artificially inflated tens of billions of dollars higher than anyone else's estimates of that baseline.

Another component of the credibility gap is that the President is engaged in a high-stakes shell game, shifting the actual responsibility for paying for his policies until after he has left town and hiding their true costs from sight in the current budget.

The administration provides no estimates of the cumulative 10-year deficit in this budget, thus masking the real long-term costs of these policies. Groups on the right and the left have estimated that the administration's policies will add over $5 trillion to the federal debt over the next 10 years.

The budget does not include the full cost of the supplemental spending in Iraq that was passed last year, some of which will take place during this fiscal year. We know we will be in Iraq. Why isn't all of this money included in the DOD budget?

Furthermore, the CBO says that as late as 2009, we may still face tens of billions in costs to fight terrorism. Yet, these funds are not included in the budget either. The President has added $250 billion in supplemental requests since taking office; we can certainly expect more of these in the future.

The President's budget ignores the impeding retirement of the baby boomers, and fails to factor in the full cost of the Alternative Minimum Tax relief he requests in this budget.

Finally, despite promising during this campaign to make Social Security solvent, the administration's budget proposals will use every penny of the

Social Security surplus over the next 10 years to pay the bills we are racking up today.

Mr. KYL. Mr. President, I will respond to my colleague from Illinois. First, regarding the budget deficit, and comments made earlier regarding intelligence issues, I will find it interesting to see whether those who are so concerned about the Federal budget deficit will back up their words with actions by voting against runaway spending.

Alan Greenspan, head of the Federal Reserve, says the biggest problem is that Congress cannot restrain its bad spending habits. So for colleagues such as the Senator from Illinois—will they vote against the $30 billion in subsidies in the energy bill? Will they vote against twice that much in unpaid for highway funding—that is to say, unpaid for in the highway trust fund? It will be interesting to see how those who complain about the deficits actually vote when it comes to adding to the deficit.

Remember that last year, when we had a whole series of votes, when the Republican majority finally got a budget passed, we had to defeat a whole series of amendments by our Democratic colleagues—we usually got 51 or 52 votes—because almost all of the members of the Democratic Caucus voted in favor of spending more money in these amendments. We defeated something like $88 billion in spending amendments offered by our Democratic colleagues. Thank goodness we did. That amounted to over a trillion dollars in savings over the 10-year period of the budget.

So for my Democratic colleagues to complain about spending and budget deficits and then go on and vote for the projects that they can brag about back home, I think that at least is—shall we call it a dichotomy, in any event.

What about this business of tax cuts for the wealthy? Actually, I have some statistics here which I think are interesting. It shows that the reduction of the tax rate, the top marginal rate—these are the ''wealthy'' that our Democratic colleague spoke about—actually, mostly helps small businessowners, the very people who create the bulk of the jobs in this country.

You cannot have it both ways, my friends. You cannot complain on the one hand that we are cutting taxes for the people who create the jobs and then complain we are not doing anything to create jobs. That is just exactly what the tax rate reductions on the highest marginal rate accomplished. About 78 percent of that savings went to small businessowners. These are the people who pay at the top individual rate. They are subchapter S corporations or partnerships; we call them flowthrough entities, which pay at the top individual tax rate. They are small business employers. Sixty-two percent of the income tax filers in the top bracket are small businessowners, and 98 percent of the companies are small businesses.

According to the Small Business Administration, 75 percent of all of the new jobs are created by small businesses, which would suggest that small businesses created over 2 million of the 2.8 million jobs added since the start of 2002. How were these small businesses able to create those jobs? They had the capital to invest to do so. How did they get the capital? We cut their marginal income tax rates. Again, they received, by far and away, over three-fourths of all the relief that went to the top filers, the small businessowners, by cutting that rate.

Tax cut for the rich? No. It was for the small businessowners to create the jobs that have gotten our economy moving again.

Let's recall who actually pays the taxes in this country. These are Internal Revenue figures, I might add. The top 1 percent of taxpayers pays over a third of all of the taxes. One-third of all the taxes are paid by 1 percent of our population. The top 5 percent of the taxpayers pay over half, 53.4 percent. So just the top 5 out of 100 are paying more than half of all the income taxes in the country. The top 10 percent pay about 65 percent—in other words, almost two-thirds.

How much does the top 50 percent pay? Ninety-six percent. In other words, the bottom 50 percent of taxpayers in this country pay less than 4 percent of the taxes. So divide the taxpayers in this country into two parts. One of our Democratic colleagues running for President is fond of saying there are two Americas out there: the wealthy and not so wealthy.

Let's take the top 50 percent and the bottom 50 percent. The top 50 percent is paying 96 percent of the taxes, and the bottom 50 percent is paying less than 4 percent of the taxes. Naturally, if we are going to give a tax cut to taxpayers, you are going to be cutting the taxes of those who are paying most of the taxes. But I wouldn't call these people all rich.

As a matter of fact, if you look at the categories, the top 50 percent makes $28,528. I wouldn't call that rich. How about the top 25 percent? We ought to be getting into the rich category here: $56,000 income a year. Raising a family of four, that is not exactly a big income these days. You can get by on it, but I wouldn't call those people wealthy or ''the rich.''

I think we have to be a little bit careful. And I know my colleagues wouldn't do this, but there are those outside this Chamber who would demagog this issue saying it is all about dividing America between the wealthy and the deserving, the so-called middle class.

We appreciate the fact that America is made up of every stripe of folks, and they all contribute in one way or another, but when it comes to creating jobs, it turns out if you reduce the highest marginal rate, which is what we did, what we have done is to reduce the rate for small businesses which have created the jobs that have gotten the economy going again. That is the effect of the tax relief that was recommended by President Bush and this Congress approved.

I suggest we give a little credit to the President for helping to stimulate the economy, create jobs, provide economic growth that is unparalleled. We had over 8 percent growth in the third quarter last year, and 4 percent in the last quarter. The stock market is doing very well.

It seems to me the message ought to be one of hope; that we have turned this recession around; that we have reduced taxes. As a result, we are creating jobs and actually things are looking pretty good.

If our Democratic colleagues would like to help us keep a lid on spending, then stop voting for every amendment that spends more money. It is pretty much that simple, Mr. President.

EXCERPTS FROM DAVID KAY TESTIMONY

Mr. KYL. Mr. President, with respect to the other subject which I wish to briefly deal with, this afternoon several of our Democratic colleagues have criticized the President and the administration and invoked the name of David Kay, a weapons inspector, to make the point that they claim proves the administration somehow misled the American people and the rest of the world in making the case for taking military action against Iraq. That is not true. I think it is time people start quoting David Kay properly to see just exactly what he said. I am briefly going to do that.

I have a few excerpts from his testimony before the Senate Armed Services Committee on January 28 of this year. Senator MCCAIN asked him this question:

> [Y]ou agree with the fundamental principle here that what we did was justified and enhances the security of the world by removing Saddam Hussein from power?

David Kay:

> Absolutely.

Senator KENNEDY asked this interesting question:

> Many of us feel that the evidence so far leads to only one conclusion: that what has happened was more than a failure of intelligence, it was the result of manipulation of the intelligence to justify a decision to go to war. . . .

David Kay responding:

> All I can say is if you read the total body of intelligence in the last 12 to 15 years that flowed on Iraq, I quite frankly think it would be hard to come to a conclusion other than Iraq was a gathering, serious threat to the world with regard to WMD.

And WMD, as we know, is weapons of mass destruction.

How about its violations of the United Nations resolutions? Somehow the impression has been created that maybe it was just a fraud, that Iraq

really wasn't in violation of those resolutions, that somehow the weapons of mass destruction never existed. Here is what David Kay said:

> In my judgment, based on the work that has been done to this point of the Iraq Survey Group, and in fact, that I reported to you in October, Iraq was in clear violation of the terms of Resolution 1441. Resolution 1441 required that Iraq report all of its activities: one last chance to come clean about what it had. We have discovered hundreds of cases, based on both documents, physical evidence, and the testimony of Iraqis, of activities that were prohibited under the initial U.N. Resolution 687 and that should have been reported under 1441, with Iraqi testimony that not only did they not tell the U.N. about this, they were instructed not to do it, and they hid material.

Going on:

> Iraq was in clear material violation of 1441. They maintained programs and activities, and they certainly had the intentions at a point to resume their program. So there was a lot they wanted to hide because it showed what they were doing was illegal. I hope we find even more evidence of that.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KYL. Mr. President, if we are going to be quoting David Kay and talking about the state of our intelligence, go to the transcript and present a more fair and balanced picture than has been done today.

The PRESIDING OFFICER. The Senator from Texas.

THE PRESIDENT'S BUDGET

Mrs. HUTCHISON. Mr. President, I appreciate my colleague from Arizona talking about some of the statements that have been said on the floor today and really setting the record straight, which I think is very important.

I would like to continue to talk about the President's budget. I heard people say the budget is too much; we are going to have bigger deficits. And then I hear people say: Oh, but it is not compassionate; we are not spending enough.

What the President of the United States has submitted to Congress in a budget is very bold, but it is also very simple. The President of the United States is doing what every family and every small business would do when they are in a budget crunch, when their revenues are not meeting their expenditures. He is prioritizing the spending.

He put as his very first priority the national defense of this country. He raised the spending from last year on national defense by 7 percent. He made a priority the homeland security of our country, protecting our homeland. He increased spending 10 percent on homeland security needs.

He decreased the growth in spending. We never decrease spending in Washington, DC. He holds discretionary spending to below 4 percent and nonsecurity-related spending to .5 percent—less than the rate of inflation.

The President is saying we are going to prioritize our family budget just like families all over our country are doing. We are going to protect our country in national defense, we are going to protect the citizens of our country in homeland defense, and we are going to cut back in areas that are not absolutely necessary.

I wish to talk about what the President has done and let the people of our country decide who is being responsible in our budgeting.

He advances the ongoing efforts in the war on terror by providing $1.2 billion for rebuilding Afghanistan, continuing to build the broad coalition. NATO is now in Afghanistan in force to try to defeat that center of terrorism where the Taliban took hold and was helping al-Qaida. We are making the commitment and keeping our word in Afghanistan.

There is $5.7 billion in military and economic assistance to front-line States supporting the United States in the war on terror.

The President is strengthening and transforming our defense capabilities by providing $402 billion for the Department of Defense, an overall 7 percent increase. The President's budget is providing a 3.5 percent pay raise for our military personnel; improving housing, which is something that I as the chairman of the Military Construction Subcommittee in the Appropriations Committee want to do, working with the President to assure that we have a quality of life improvement for our military personnel who are on the front lines every day protecting our country and in harm's way in many instances.

He also provides a 10 percent increase in homeland security. We are providing $5.3 billion for the Transportation Security Agency, a 20 percent increase; $6.2 billion for the Coast Guard, a 9 percent increase, because the Coast Guard is being called on today to step up to the plate to patrol our borders and our shores. They are doing a great job and we are making sure they have the capability to do that job.

It doubles the level of first responder preparedness grants, targeting the high threat areas that face greater risk. These are the policemen, the firefighters, the front line first responders who can save lives if we have another terrorist attack. In many instances, it is those people who are outside our Senate Chamber today working on perhaps a new terrorist attack that has occurred in the Senate as we speak. The first responders are there trying to go through our buildings, gathering the unopened mail to see if there is any more of this ricin that was found in the Dirksen Office Building. We need to prepare those first responders so that everyone in America who might be vulnerable will also have an immediate response with trained personnel.

It protects our food supply by providing $553 million, a 180 percent increase in funds for a new agriculture and food defense initiative; $274 million for a new vital surveillance initiative; $5.1 billion, an 11 percent increase, for the FBI, to make sure we have the counterterrorism effort that our FBI can give.

So these are the defense initiatives and the homeland security initiatives the President of the United States is providing for our country. That is exactly what I hoped he would do, focus on the big things that only the Federal Government can do to secure our country. That is his first responsibility, and he met the first responsibility in the budget that is being criticized today.

Let us talk about the discretionary spending. Where are we putting the priorities in discretionary spending? We are cutting back on the increases in discretionary spending but we are holding the priorities that are so important. We initiate a job creation plan. We are looking at an economic recovery that is just in its initial stages, but we have not seen the jobs yet. The President is very concerned about people not having jobs. We are talking about a $250 million grant program for our Nation's community colleges. These are the places where we can train for jobs in the future. These are places where we can train for the high-demand occupations that are identified as the places where we can put people to work if they have the training.

Our community colleges are the unsung heroes and heroines in our country because they can put people back to work with training. They can take people who have lost jobs in one sector and train them for something else. There is $333 million to help students make the transition from high school to college.

He provides for a national energy policy, one of our best job creators, to ensure affordable, reliable energy supply; upgrading our Nation's electrical grid so we will not have blackouts and brownouts in any part of our country; promoting energy efficiency and increasing domestic energy production, which will protect the environment and put people back to work.

The budget will also spur job creation by providing more than $20 billion in small business lending and equity programs. Small businesses are the economic engine of our country. If we free small businesses and help them with the capital they need to expand their businesses and grow, we will be able to create the jobs that will stabilize our country.

So through the President's budget we are trying to increase job creation in our country. We will not have a true recovery if we have a jobless recovery. The President understands and knows that, and he is trying to make sure we address that very important issue.

Let us talk about education. President Bush is the education President. He wants to make the commitments that will allow every child to reach his or her full potential in our country. His budget increases title I funding by $1 billion, 52 percent more than in 2001; it provides $1 billion more for special education, a 75 percent increase since 2001;

it increases funding for early reading programs, a 12 percent increase over just last year. The President knows that if you can catch a child early, you will be able to correct that child's reading problems and allow that child to absorb the education that allows the child then to reach his or her full potential. The budget helps 5 million students pursue postsecondary education by providing $12.9 billion in Pell grants, an $856 million increase.

He is fulfilling his promise to increase the funding for historically black colleges and universities, minority-serving institutions, by 30 percent, $394 million by 2005. That is this year's budget. It provides $57 billion in direct and guaranteed student loans to postsecondary students and reforms higher education student aid by raising loan limits for first year students, expanding options to offer courses online and increasing loan forgiveness for those teaching certain subjects in high poverty schools, a great trade, a win for everyone. If we can put teachers in schools that have teacher shortages and forgive student loans, we will make up the interest that would be paid on those student loans by giving more children a chance for a quality education.

So how can one say the President is not doing right by education when he is focusing on the increases in spending in education that will fund No Child Left Behind, the act we passed to try to increase options for education so that our public school education can compete with private school education and give parents all the choices they could possibly need to do the best for their children?

We know every parent has the dream for his or her child that that child will be able to get a great education and send that child off into America, into the world, fully ready to earn a living, raise a family, and have a good life.

Let us talk about health care. Let us talk about what the President's priorities are in the budget in health care. The President expands health care coverage by making it more affordable for small businesses to purchase coverage for employees through association health care plans. It is very important that we lower the number of uninsured Americans. We can do that by making health care coverage available to small businesses that want to cover their employees and help their employees but they cannot afford the premiums if they are a small business. If we can pass association health care plans, as the President has requested us to do, we can take millions of Americans off the uninsured rolls. That is what we are asking our colleagues to help the President do.

It implements the prescription drug discount card to give immediate discounts of 10 to 25 percent to cardholders. In the next couple of months, our seniors will be able to take those prescription cards and buy drugs with a 10 to 25 percent discount. So that is immediate help. That is while we are also building up a system that will give even better choices and more options for prescription drug coverage to our seniors. The President's budget will give $600 annually in immediate assistance to low-income individuals to pay for prescription drugs. So the low-income people are going to get that $600 direct, immediate assistance. And then the drug benefit plan should be implemented by 2006.

The President does provide incentives in his budget that will provide immediate help for our seniors for prescription drug discounts now, and to work toward the options that will provide real help for a prescription drug benefit for our seniors.

Environment: The President has several things in his budget to enhance the Nation's supply of clean, affordable energy by increasing funding for clean energy resources, by trying to have more research into hydrogen and fuel cell research and development. He wants a zero emissions coal fuel powerplant and he wants to fund development of that in this budget he is presenting.

He presents the President's Healthy Forests Initiative to prevent the catastrophic wildfires we saw raging through western America. It was just horrible to see what was happening in California this last year, the forest fires that were raging and taking people's homes as well as their property. The President has a $58 million increase to remove excess wood and brush that fuel these fires.

He would accelerate the Great Lakes cleanup by providing $45 million, a fivefold increase over previous levels to clean up the Great Lakes.

He tackles the remaining Superfund sites. We all know the toughest sites to clean up are these Superfund sites. But he is willing to take this on and increase, by 50 percent, the funding for Superfund cleanup so we will be able to get a handle on the worst environmental hazardous areas that we have in our country.

I have heard all the talks on the Senate floor today that have criticized the President's budget. I think the President has a balanced budget. He is prioritizing where we need to prioritize. He is providing for the national defense for our country. He is providing for the homeland security of our country. He is putting the money in education. He is putting the money into job creation and job training, and he is helping to meet the health care costs of our senior citizens and people who work for small businesses.

Our President presented to Congress a balanced budget. Everybody can find something to criticize, something they would not prioritize the same way. But the President is leading and the President has presented us a budget that will cut the deficit in half in 5 years while maintaining the homeland security and defense our people have asked him to provide. I think we should work with the President to pass this budget and have some budget authority that will keep us from overspending and increasing the deficit further.

Mr. President, this should be a team, not a critical debating society. We should be teaming together to help America get through the war on terrorism, fund our priorities, cut the deficits, and be responsible to the people who elected us, as the President is trying to do.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I will have a few remarks at the close on what has been a difficult day, but very positive in many ways as we have come together and faced the challenges before this body and have been able to conduct very productive and very useful business over the course of the day in spite of a major distraction on the outside that was magnified and illustrated by the fact that three Senate office buildings closed and people do not have access to a lot of the papers in their own offices. In spite of that, we are continuing the Nation's business in a very productive way.

COMMENDING A FLORIDA IMMIGRATION OFFICER

Mr. NELSON of Florida. Mr. President, I thank the leaders for giving me this time. I want to have the Senate recognize an American citizen who, very likely, prevented the entry into the United States of what is suspected as the 20th hijacker. I want to tell you this story about this immigration officer, who is at the Orlando International Airport. His name is Jose Melendez Perez.

Mr. Melendez, a little more than a month before the attacks on September 11, 2001, denied entry into the United States at the Orlando Airport of a Saudi national who had arrived at the airport from the Middle East by way of London. Federal authorities now believe that this man, Mohamed al-Qahtani, was the missing 20th hijacker. He was later captured in Afghanistan. He is now being held in Guantanamo Bay, a place I have just visited with our four-star general, General Hill, just before Christmas to have Christmas dinner with our troops who are conducting that operation there.

This story is quite an interesting story. It is beginning to get a flurry of recognition, and that is just recognition for this great American. The fact is, he was just doing his job, but he was so expert in it that he stopped the entry into the United States of this person. He alertly denied al-Qahtani entry into the Orlando Airport based on a combination of indicators that suggested he was up to no good. Mr. Melendez's experience, training, and instincts served our Nation very well.

It is interesting that what he told me, when I met with him last Friday to congratulate him, was that he just got

a feeling about this guy as he was referred to Mr. Melendez for secondary questioning, since he did not speak English. After questioning al-Qahtani and discovering many holes in his story—holes about why he was there, how long he was going to stay, who was going to meet him—and it is thought, very possibly, that it was the hijacker pilot of the first plane that went into the World Trade Center who was the guy upstairs to pick him up—Mohamed Atta. We don't know that for sure. But also there was the fact that he didn't have a return ticket or enough cash to purchase one.

After having that uneasy feeling about none of these answers and a very belligerent manner, by the way, by the man being questioned, Mr. Melendez put it into his own hands to make the decision that he was going to have him arrested, put into detention, and sent back the next day on a plane. By refusing al-Qahtani entry into the country, Mr. Melendez very well may have helped save many additional lives on September 11.

So this is a proud professionalism in the Immigration Service which so often gets nothing but complaints. I think it is time for us to stand up and salute Mr. Melendez and his service. He modestly protested to me last Friday that he was only doing his job. But we know because of the replicated actions of folks like him being done every day, not only in our Border Patrol and other immigration activities, but in the State Department and in decisions being made as to whether or not to grant a visa in embassies around this country, and with all of our intelligence services as they are making these decisions day by day, hour by hour, it is working to protect us.

Mr. Melendez has shown us what correct protection of our borders looks like. Now we want to rededicate and congratulate all of the hard-working colleagues at the Department of Homeland Security. We want to provide them with the resources they need to protect our borders and the ports of entry. Dedicated security personnel are not there to make travel more difficult; they are there to make us safer. Mr. Melendez in this instance apparently prevented the compounding of a national tragedy on September 11, 2 years ago.

Mr. President, I thank you for the opportunity that I could recognize a wonderful American, an American who spent 27 years in the U.S. Army.

When Mr. Melendez retired, he decided to continue his Federal service, in this case with the Immigration Service. He is a wonderful American who has a big family centered in Orlando, with nine grandchildren spread over several cities and some back in his native Puerto Rico.

I am very proud today to share his story so our colleagues in the Senate might also recognize his brand of modest heroism.

I thank the Chair.

ADDITIONAL STATEMENTS

ANGEL ARELLANO

• Mrs. BOXER. Mr. President, I am pleased to recognize Angel Arellano's efforts in raising funds for the Chaffee Zoo in Fresno, CA.

On Thanksgiving Day, after listening to a family conversation about the Chaffee Zoo's financial struggles, Angel Arellano, a 9-year-old girl from Fresno, CA, wrote a letter to the editor of the Fresno Bee. Her letter contained $1.00 and urged all Fresno residents to match her donation to help pay for the Chaffee Zoo's much needed repairs. Miss Arellano's letter expressed her anguish at the animals' precarious future. She wrote that the animals deserved food, water, and a warm home. Her plea sparked a movement to save the zoo. Her heartfelt letter caught the attention of past and present Fresno residents, inspiring thousands of individuals to send donations, ranging from $1.00 to $10,000.00. Currently, total pledges and donations have reached nearly $180,000.00 and have come from as far away as Great Britain.

Angel Arellano's concern motivated people in Fresno and around the world to help save a Fresno institution. Her letter conjured memories of past visits to the zoo and reminded people of the joy felt by children when visiting with family while spending a Sunday in the sunshine, enjoying one of Fresno's treasures.

Angel is a wonderful example of one person making a difference. To her, I say thank you. She has set a great example for all of us.•

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.)

MESSAGE FROM THE HOUSE

At 9:48 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House insist upon its amendment to the bill (S. 1920) to extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted, and ask a conference with the Senate on the disagreeing votes of the two Houses thereon. Ordered, That the following Members be the managers of the conference on the part of the House:

From the Committee on the Judiciary, for consideration of the bill and the House amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. HYDE, Mr. SMITH of Texas, Mr. CHABOT, Mr. CANNON, Ms. HART, Mr. CONYERS, Mr. BOUCHER, Mr. NADLER, and Mr. WATT of North Carolina.

From the Committee on Financial Services, for consideration of sections 901–906, 908–909, 911, and 1301–1309 of the House amendment, and modifications committed to conference: Mr. OXLEY, Mr. BAUCUS, and Mr. SANDERS.

The message also announced that pursuant to section 11054 of the Antitrust Modernization Commission Act of 2002 (15 U.S.C. 1 note), and the order of the House of December 8, 2003, the Speaker appoints the following members on the part of the House of Representatives to the Antitrust Modernization.

Commission: Mr. Donald G. Kempf, Jr., of New York, New York; Mr. John L. Warden of New York, New York.

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–6027. A communication from the Auditor of the District of Columbia, transmitting, a report entitled ''Fiscal Year Annual Report on Advisory Neighborhood Commissions''; to the Committee on Governmental Affairs.

EC–6028. A communication from the Auditor of the District of Columbia, transmitting, a report entitled ''Audit of Advisory Neighborhood Commission 3C for Fiscal Years 1999 Through 2003 as of March 31, 2003''; to the Committee on Governmental Affairs.

EC–6029. A communication from the Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the Corporation's 2003 Annual Report; to the Committee on Governmental Affairs.

EC–6030. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–238, ''Comprehensive Housing Strategy Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6031. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–239, ''Nurse Staffing Agency Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6032. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–240, ''Authorization of the Spending of the Commercial Trust Fund Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6033. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–241, ''Freedom Forum Newseum Real Property Tax Exemption and Equitable Real Property Tax Relief Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6034. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–242, ''Tax Increment Financing Reauthorization Date Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6035. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–243, ''Emmaus Rehabilitation Project Real Property Exemption Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6036. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–244, ''PSA Restructuring Council Review Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6037. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–245, ''Presidential Primary Petition and Filing Waiver Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6038. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–246, ''Unemployment Compensation Funds Appropriation Authorization Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6039. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–247, ''Eastern Avenue Tour Bus Parking Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6040. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–248, ''Freedom of Information Legislative Records Clarification Temporary Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6041. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–249, ''Medical Support Establishment and Enforcement Temporary Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6042. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–250, ''Charity Auction Sales Tax Exemption Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6043. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–251, ''Income From Discrimination Exclusion Temporary Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6044. A communication from the Deputy Director for Administration and Information Management, Office of Government Ethics, transmitting, pursuant to law, the report of a vacancy for the position of Director, Office of Government Ethics; to the Committee on Governmental Affairs.

EC–6045. A communication from the Director of Selective Service, transmitting, a report submitted in accordance with the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–6046. A communication from the Deputy Associate Administrator, Office of Acquisition Policy, Governmental Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation Federal Acquisition Circular 2001–16'' (FAC2001–16) received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6047. A communication from the Chairman, Federal Trade Commission, transmitting, the report of the Office of Inspector General for the period ending March 31, 2003; to the Committee on Governmental Affairs.

EC–6048. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–254, ''Certified Capital Companies Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6049. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–256, ''Marriage and Family Therapy Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6050. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–255, ''Elimination of Outdated Crimes Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6051. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–259, ''Utility Rate Payers Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6052. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–265, ''Real Property Classification Clarification Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6053. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–264, ''Parking Meter Fee Moratorium Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6054. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–262, ''Washington Convention Center Authority Term Limit Temporary Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6055. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–286, ''Uniform Trust Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6056. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–274, ''Automated Traffic Enforcement Fund Temporary Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6057. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–272, ''Board of Education Campaign Contribution Clarification Temporary Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6058. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15–271, ''Inspector General Appointment and Term Clarification Temporary Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6059. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-270, ''Procurement Practices Vendor Payment Revised Approval Authorization Temporary Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6060. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-269, ''Rehabilitation Services Program Establishment Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6061. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-268, ''Citizens with Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6062. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-267, ''Presidential Primary State Committee Elections Temporary Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6063. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-266, ''National Capital Medical Center Negotiation Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6064. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-260, ''Closing of a Portion of a Public Alley in Square 2677, S.O. 03-0208, Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6065. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-261, ''Housing and Community Development Reform Advisory Commission Temporary Amendment Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6066. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, the report of D.C. Act 15-263, ''Towing Regulation and Enforcement Authority Temporary Act of 2003'' received on January 13, 2004; to the Committee on Governmental Affairs.

EC–6067. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report relative to the General Accounting Office; to the Committee on Governmental Affairs.

EC–6068. A communication from the Chairman of the Board, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6069. A communication from the Attorney General of the United States, transmitting, the report of the Office of Inspector General for the Department of Justice for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6070. A communication from the Chairman, Consumer Product Safety Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6071. A communication from the Chair, Corporation for Public Broadcasting, transmitting, pursuant to law, the report of the

Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6072. A communication from the Chair, Equal Employment Opportunity Commission, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6073. A communication from the Chairman, National Science Board, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Governmental Affairs.

EC–6074. A communication from the Chairman, Federal Communications Commission, transmitting, the Commission's Fiscal Year 2003 Annual Financial Report; to the Committee on Commerce, Science, and Transportation.

EC–6075. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department of Transportation's annual report on the regulatory status of the National Transportation Safety Board's ''Most Wanted'' Recommendations to the Department of Transportation and its Operating Administrations; to the Committee on Commerce, Science, and Transportation.

EC–6076. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: [Including 92 Regulations]'' (RIN1625-AA00) received on January 27, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6077. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Reallocation of Pacific Cod Total Allowable Catch Levels'' received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6078. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Notice of Standard Prices and Fee Percentage for North Pacific Halibut and Sablefish Individual Fishing Quota Cost Recovery Program'' received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6079. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Bluefin Tuna Fisheries; Quota Transfers; Fishery Reopening'' received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6080. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Atlantic Shark Management Measures'' (RIN0648–AQQ95) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6081. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Directed Fishing for Community Development Quota Reserve Amounts of Shortraker/Rougheye Rockfish and Northern Rockfish in the Bering Sea Subarea and 'Other Species' in the Bering Sea and Aleutian Islands Management Area'' received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6082. A communication from the Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Bluefin Tuna Season and Size Limit Adjustments'' (RIN0648–AR12) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6083. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species; Bluefin Tuna Fisheries; Fishery Closure'' (ID#120903A) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6084. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Summer Flounder Fishery; Commercial Quota Harvested for New Jersey; Closure of Commercial Fishery'' received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6085. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Summer Flounder Fishery; Commercial Quota Transfer'' (ID#121803C) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6086. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement Regulatory Amendment 3 to the Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska'' (RIN0648–AQ48) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6087. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement the 2004 Specifications for Surfclams, Ocean Quahogs, and Maine Ocean Quahogs'' (RIN0648–AQ79) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6088. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Apportion Amounts of the Reserve to Certain Target Species in the Bering Sea and Aleutian Islands Management Area'' received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6089. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement Approved Measures Contained in Amendment 13 to the Fishery Management Plan for Atlantic Surfclams and Ocean Quahogs'' (RIN0648–AR57) received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6090. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Pacific Cod by Vessels Using Pot Gear in the Bering Sea and Aleutian Islands Management Area'' received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6091. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Pacific Cod by Catcher/Processor Vessels Using Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area'' received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6092. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Directed Fishing for Pacific Cod by Catcher Vessels Using Hook-and-Line in the BSAI'' received on January 22, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6093. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Safety Standards; Glazing Materials; Low Speed Vehicles'' (RIN2127–AJ25) received on January 13, 2004; to the Committee on Commerce, Science, and Transportation.

EC–6094. A communication from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of the Office of Inspector General for the period ending September 30, 2003; to the Committee on Commerce, Science, and Transportation.

EC–6095. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Change of Broker Revenue Ruling'' (Rev. Rul. 2004–15) received on February 3, 2004; to the Committee on Finance.

EC–6096. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Section 401 of the Code and Certain Rollovers'' (Rev. Rule 2004–12) received on February 3, 2004; to the Committee on Finance.

EC–6097. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Republication of Rev. Proc. 99–41'' (Rev. Proc. 2004–15) received on February 3, 2004; to the Committee on Finance.

EC–6098. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Section 416(g)(4) Top-Heavy Status and Special Rules'' (Rev. Rule 2004–13) received on February 3, 2004; to the Committee on Finance.

EC–6099. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Special Coverage Rules for Certain Dispositions or Acquisitions'' (Rev. Rule 2004–11) received on February 3, 2004; to the Committee on Finance.

EC–6100. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Section 411 of the Code and DOL FAB 2003–3'' (Rev. Rule 2004–10) received on February 3, 2004; to the Committee on Finance.

EC–6101. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Application of Income Tax Treaties to Service Partnerships'' (Rev. Rul. 2004–3) received on February 3, 2004; to the Committee on Finance.

EC–6102. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled

''Low-Income Housing Credit Allocation Certification; Electronic Filing'' (TD9112) received on February 3, 2004; to the Committee on Finance.

EC–6103. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Correction of User Fee in Appendix A of Rev. Proc. 2004–1'' (Announcement 2004–08) received on February 3, 2004; to the Committee on Finance.

EC–6104. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Section 409(p) and Potentially Abusive ESOP's'' (Rev. Rule 2004–4) received on February 3, 2004; to the Committee on Finance.

EC–6105. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Electronic Delivery of Form 1099 and Form 5498 Payee Statements'' (Notice 2004–10) received on February 3, 2004; to the Committee on Finance.

EC–6106. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Information Reporting Relating to Corporate Inversions'' (Notice 2004–9) received on February 3, 2004; to the Committee on Finance.

EC–6107. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Applicable Federal Rates—February 2004'' (Rev. Rule 2004–9) received on February 3, 2004; to the Committee on Finance.

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. GRASSLEY:

S. 2048. A bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for qualified tuition and related expenses and to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to such deduction; to the Committee on Finance.

By Mr. SPECTER:

S. 2049. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes; to the Committee on Energy and Natural Resources.

By Mr. GRASSLEY:

S. 2050. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the affordable education provisions of such Act, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 296. A resolution relating to Senate Adjournments and Recesses; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY:

S. 2048. A bill to amend the Internal Revenue Code of 1986 to make permanent the deduction for qualified tuition and related expenses and to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to such deduction; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2050. A bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the affordable education provisions of such Act, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am introducing two education tax bills today. These bills will help us make permanent the $30 billion in education tax incentives that were contained in the 2001 tax bill.

The first bill will extend and make permanent the tuition deduction that was enacted in the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107–16, or EGTRRA. A lot of people think we don't spend enough money on education, but they also don't think we should make the 2001 tax cuts permanent. I don't know how they can justify that position. The education tax incentives in the 2001 tax bill have done a whole lot of good. The tuition tax deduction is available only through December 31, 2005. The cost of the provision for those four years was about $10 billion. So you can see that it was very expensive.

For parents struggling to send their children to college, the tuition tax deduction has been very important. Some of them probably wish it were set at a higher level, but at between $2,000 and $4,000 depending on your income, it is still a beneficial tax incentive for the middle class.

The second bill that I am introducing today will make the rest of the EGTRRA education tax provisions permanent, as well as the deduction for teacher classroom materials that was passed in the stimulus package of March 2002. That provision expired at the end of last year so it is very important that we enact it on a permanent basis and do so as soon as practicable.

I hope my colleagues will join me in sponsoring these bills and will agree to consider them and pass them in the Senate in the next month or two.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2048

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) PERMANENT DEDUCTION.—

(1) IN GENERAL.—Section 222 of the Internal Revenue Code of 1986 (relating to qualified tuition and related expenses) is amended by striking subsection (e).

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 222(b)(2) of such Code (relating to applicable dollar limit) is amended by striking ''2004 AND 2005.—In the case of a taxable year beginning in 2004 or 2005,'' and inserting ''2004 AND THEREAFTER.—In the case of any taxable year beginning after 2003,''.

(b) REPEAL OF SUSPENSION.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

''(c) EXCEPTION.—Subsection (a) shall not apply to the amendments made by section 431 (relating to qualified tuition and related expenses).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

S. 2050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REPEAL OF APPLICABILITY OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 WITH RESPECT TO AFFORDABLE EDUCATION PROVISIONS OF SUCH ACT.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

''(c) EXCEPTION.—Subsection (a) shall not apply to the amendments made by subtitles A, B, and C of title IV (relating to affordable education provisions).''.

SEC. 2. PERMANENT DEDUCTION FOR CERTAIN EXPENSES OF SCHOOL TEACHERS.

(a) IN GENERAL.—Section 62(a)(2)(D) of the Internal Revenue Code of 1986 (relating to certain expenses of elementary and secondary school teachers) is amended by striking ''In the case of taxable years beginning during 2002 or 2003, the deductions'' and inserting ''The deductions''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after December 31, 2003.

By Mr. SPECTER:

S. 2049. A bill to amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize collection of reclamation fees, revise the abandoned mine reclamation program, promote remining, authorize the Office of Surface Mining to collect the black lung excise tax, and make sundry other changes; to the Committee on Energy and Natural Resources.

Mr. SPECTER. Mr. President, today I will introduce legislation which is entitled the Abandoned Mine Land Reclamation Program Extension and Reform Act of 2004. As I have explained briefly before, I do so because this program is going to be unveiled tomorrow at a ceremony in the Pennsylvania State Capitol attended by Secretary of the Interior Norton in addition to Governor Rendell and a number of other officials. While I would like to be present in Pennsylvania for the event, the Senate will be in session and there is important business to be conducted here. So in my absence there, I thought it appropriate to introduce this bill. I had planned to do so tomorrow, but there is a joint session of Congress in the morning and I am advised there may not be

morning business. So I am taking just a few moments of floor time to introduce the bill now.

The Bush administration has already announced the outline of the bill so I am not in any way preempting the administration by the introduction of this legislation. As I noted earlier, the administration had made this legislation available to me for introduction in conjunction with others in the Pennsylvania delegation, and I am pleased to do so because it will address a very serious problem for my State.

By far, Pennsylvania has the most extensive problem of any of the States in the Union, where we have some 250,000 acres which are in need of reclamation. Some 2,400 miles of streams are affected on our water supply because Pennsylvania has been so heavily mined. Shortly after I came to the Senate in the early 1980s, a little town in Pennsylvania named Centralia received national and international attention when a young man fell into a deep pit and a fire was burning there. It was a fire which resulted from an abandoned mine. For those, if any, who may be watching on C–SPAN, these fires rage underground burning unmined coal. This fire was raging. A large hole enveloped and the young man fell many feet below the surface of the terrain. Fortunately, he was rescued.

It was necessary to move the entire town at a very substantial cost borne in significant measure by the Federal Government, not entirely because homeowners could not fully recoup the losses of their houses. This bill will provide some $3 billion to take care of health and safety. It will be a reauthorization to the year 2018 on an authorization bill which is set to expire in September of this year. There will be a phase-out of payments ramped down until the year 2018 when it is projected that the problem will be solved. This bill will improve the flexibility for the States where they can make a choice of their projects and make a decision based on where they need to go on water quality.

It is obviously a very important matter for the environment, and environmental protection is a high priority in our country. I am pleased to see President Bush and his administration move ahead on this important item. It takes care of all of the smaller States with a minimum allocation of some $2 million. There is some assistance for the Combined Benefit Fund, which has been established for the benefit of the retired mine workers, where the health and benefit plans had been abrogated. We had legislation introduced and enacted several years ago, led by the Senator from West Virginia, Mr. ROCKEFELLER, in conjunction with Senator BYRD, which I cosponsored, and we tried to provide for the retirement health benefits for the mine workers. This bill will make an allocation which will be helpful in that regard. It will not entirely satisfy the matter.

As I noted, this is President Bush's top priority in the Interior section of his budget. Secretary of the Interior Norton will tour some mines in Pennsylvania. Again, I express my regrets not being able to be with her and the Governor when the event will be held in the rotunda of the State Capitol at 11 o'clock tomorrow. Burt we intend to have a news conference here in Washington simultaneously with her announcement there.

Mr. SPECTER. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2049

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. SHORT TITLE.

This Act may be cited as the ''Abandoned Mine Reclamation Program Extension and Reform Act of 2004.''

SEC. 102. AMENDMENTS TO THE SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977.

The Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et. seq.) is amended as follows:

(1) Section 401(c) is amended by—

(A) striking paragraph (2);

(B) striking the word ''and'' after the first occurrence of the word ''subsidence'' in paragraph (1) and redesignating the portion of paragraph (1) following the deleted word as paragraph (2); and

(C) striking the phrase ''section 402(g)(1) of this Act'' in paragraph (2) and inserting in its place ''section 402(g)(1) or section 403(b)(1) of this Act''.

(2) Section 401(c)(5) is amended by inserting before the semicolon '', and other audit and collection activities under sections 402(d) and 414(b) of this Act''.

(3) Section 401(c)(6) is amended by striking everything after ''Department of the Interior'' and inserting in its place ''with public and private organizations conducted for the purposes of this title of this Act to such extent and in such amounts as are provided in appropriation acts;''.

(4) Section 401(c)(10) is amended by striking ''section 411'' and inserting in its place ''section 415''.

(5) Section 401(c)(12) is amended by striking ''section 402(h)'' and inserting in its place ''subsection (f) of this section''.

(6) In section 401, subsections (d) and (e) are amended to read as follows:

''(d) AVAILABILITY OF MONEYS FROM FUND.—

''(1) IN GENERAL.—Moneys from the fund shall be available for the purposes of this title of this Act, or for distribution under paragraph (2) of this subsection, only when appropriated therefor. Such appropriations shall be made without fiscal year limitations.

''(2) DISPOSITION OF UNAPPROPRIATED STATE-SHARE BALANCE.—This paragraph applies to the portion of the fund that was allocated to States and Indian tribes under section 402(g)(1) of this Act and that was not appropriated as of the end of the fiscal year ending September 30, 2004.

''(A) STATES AND INDIAN TRIBES NOT CERTIFIED AS OF SEPTEMBER 30, 2004.—States and Indian tribes that have been certified under section 411 of this Act as of September 30, 2004, shall receive, subject to appropriation, the unappropriated balance of their allocation in annual payments beginning with fiscal year 2005 and ending with fiscal year 2014.

''(B) STATES AND INDIAN TRIBES NOT CERTIFIED AS OF SEPTEMBER 30, 2004.—States and Indian tribes that have not been certified under section 411 of this Act as of September 30, 2004, shall receive, subject to appropriation, the unappropriated balance of their allocation as grants awarded in accordance with sections 403(b) and 405(h) of this Act.

''(C) STATES AND INDIAN TRIBES CERTIFYING AFTER SEPTEMBER 30, 2004.—States and Indian tribes that are certified under section 411 of this Act after September 30, 2004, shall receive, subject to appropriation, the portion of their allocation under section 402(g)(1) of this Act that has not been previously disbursed to those States and tribes as grants under paragraph (2)(B) of this subsection. Disbursement shall be made in annual payments, beginning with the fiscal year following certification and ending with fiscal year 2014. These payments shall be made using funds appropriated for the purpose of making grants to States and Indian tribes under section 405(h).

''(D) NO EXPENDITURE RESTRICTION.—Monies disbursed under paragraphs (2)(A) and (C) of this subsection may be expended without regard to any other provision of this Act; *Provided*, That, whenever a certified State or Indian tribe becomes aware of a coal mining-related problem within its borders, the State or tribe must first use those monies to promptly address that problem if the site is eligible for reclamation under section 404 of this Act and if the problem meets one of the priorities in paragraphs (1) and (2) of section 403(a) of this Act.

''(3) REALLOCATION OF OTHER UNAPPROPRIATED BALANCES.—

''(A) RURAL ABANDONED MINE RECLAMATION PROGRAM.—That part of the fund allocated by section 402(g)(2) for the rural abandoned mine reclamation program under section 406 of this Act that has not been appropriated as of September 30, 2004, shall be available for appropriation for the purposes set forth in section 403(b) of this Act.

''(B) FEDERAL SHARE.—That part of the fund allocated by section 402(g)(3) for use by the Secretary that has not been appropriated as of September 30, 2004, shall be available for appropriation for the purposes set forth in section 403(b) of this Act.

''(C) HISTORIC PRODUCTION ALLOCATION.—That part of the fund allocated by section 402(g)(5) for historic production supplemental grants to States and Indian tribes that has not been appropriated as of September 30, 2004, shall be available for appropriation for the purposes set forth in section 403(b) of this Act.

''(e) INTEREST.—The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the fund is not, in his or her judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the fund in public debt securities with maturities determined by the Secretary of the Interior and suitable for the needs of the fund and achieving the purposes of the transfers under subsection (f). Such securities shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the fund.''.

(7) In Section 401, insert a new subsection (f) as follows:

''(f) TRANSFERS TO COMBINED BENEFIT FUND.—

(1) Notwithstanding any other provision of law, at the beginning of each fiscal year, the Secretary shall transfer from the fund to the United Mine Workers of America Combined Benefit Fund (referred to as the ''Combined Fund'' in this title of this Act), as established under section 9702 of the Internal Revenue Code of 1986 (26 U.S.C. 9702), an amount equal to the amount of expenditures that the

trustees of the Combined Fund estimate will be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 (26 U.S.C. 9704(e)) for the fiscal year of the Combined Fund in which the transfer is made; *Provided*, That the amount transferred shall not exceed the amount available under paragraph (2) of this subsection.

''(2) In making the transfers, the Secretary shall first use the interest that has been earned by and paid to the fund during the preceding year, followed by any interest earned in prior years and not previously transferred.

''(3) If, for any fiscal year, the amount transferred is more or less than the actual expenditures for the unassigned beneficiaries premium account in that year, the Secretary shall appropriately adjust the amount transferred for the next fiscal year.''.

(8) Section 402(a) is amended to read as follows:

''(a) PAYMENT; RATE.—All operators of coal mining operations subject to the provisions of this Act shall pay to the Secretary of the Interior, for deposit in the fund, a reclamation fee according to the following schedule—

''(1) From October 1, 2004 through September 30, 2009—

''(A) 29.75 cents per ton of coal (except lignite) produced by surface mining;

''(B) 12.75 cents per ton of coal produced by underground mining; and

''(C) 8.5 cents per ton of lignite coal produced.

''(2) From October 1, 2009 through September 30, 2014—

''(A) 28 cents per ton of coal (except lignite) produced by surface mining:

''(B) 12 cents per ton of coal produced by underground mining; and

''(C) 8 cents per ton of lignite coal produced.

''(3) From October 1, 2014 through September 30, 2018—

''(A) 26.25 cents per ton of coal (except lignite) produced by surface mining;

''(B) 11.25 cents per ton of coal produced by underground mining; and

''(C) 7.5 cents per ton of lignite coal produced.

''(4) In lieu of the rates in paragraphs (1) through (3) above, the operator may pay a fee of 10 per cent of the value of the coal at the mine, as determined by the Secretary, for each ton of coal produced by surface or underground mining; *Provided*, That the alternate fee for lignite coal shall be 2 per cent of the value of the coal at the mine, as determined by the secretary.''.

(9) Section 420(b) is amended by—

(A) striking ''Such fee'' and inserting in its place ''Reclamation fees''; and

(B) striking ''2004'' and all that follows and inserting in its place ''2018''.

(10) Section 402(c) is amended to read as follows:

''(c) SUBMISSION OF QUARTERLY REPORTS.—

(1) All operators of surface coal mining operations shall submit a report no later than thirty days after the end of each calendar quarter. The report shall include—

''(A) a statement of the amount of coal produced during the calendar quarter, the method of coal removal and the type of coal;

''(B) an identification of the permittee and the operator of the surface coal mining operation, the owner of the coal, the preparation plant or tipple receiving the coal or the loading point for the coal, and the person purchasing the coal from the operator or permittee;

''(C) the number of their permit required under section 506 of this Act; and

''(D) the identification number issued by the Mine Safety and Health Administration for the operation.

''(2) Each quarterly report shall contain a notification of any changes in the information required by paragraph (1) of this subsection since the date of the preceding quarterly report.

''(3) The operator must certify, under penalty of perjury, that the information in each report is true, correct, and complete. Any person, corporate officer, agent or director who, on behalf of a coal mine operator, knowingly makes any false statement, representation or certification or knowingly fails to make any statement, representation or certification required in this section shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than one year, or both.

''(4) The information contained in the quarterly reports submitted under this subsection shall be maintained by the Secretary in a computerized database.''.

(11) Section 402(d) is amended by—

(A) striking the word ''PENALTY'' from the title and inserting in its place the word ''AUDITS'';

(B) striking paragraph (1);

(C) redesignating paragraph (2) as paragraph (1); and

(D) inserting paragraph (2) to read as follows:

''(2) The Secretary is authorized to audit compliance with the excise tax payment requirements of section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121) when conducting audits under this subsection.''.

(12) Section 402(f) is amended to read as follows:

''(f) COOPERATION FROM OTHER AGENCIES.—All Federal and State agencies shall fully cooperate with the Secretary of the Interior in the enforcement of this section. Whenever the Secretary of the Interior believes that any person has not paid the full amount of the fee payable under section 402(a) of this Act or the excise tax payable under section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121), he or she shall notify the Federal agency responsible for enforcing the provisions of section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121).''.

(13) Section 402(g) is amended to read as follows—

(A) amending the title to read as follows:

''(g) ALLOCATION OF FEE RECEIPTS AND OTHER MONIES PRIOR TO SEPTEMBER 30, 2004.''.—

(B) striking ''Except as provided in subsection (h)'' in paragraph (g)(1) and inserting in its place ''Except as otherwise provide din this Act'';

(C) amending paragraphs (1)(A)(ii) and (1)(B)(ii) to read as follows:

''(ii) Lands and waters which are eligible pursuant to section 404 (in the case of a State not certified under section 411). In the case of a State certified under section 411, eligible lands and waters shall be those which were mined or processed for minerals or which were affected by such mining or processing, and abandoned or left in an inadequate reclamation status prior to August 3, 1977; and for which there is no continuing reclamation responsibility under State or other Federal laws.'';

(D) striking ''section 401(c)(2)'' at the end of paragraph (2) and inserting in its place ''for the purposes of section 406'';

(E) striking everything in paragraph (4) after ''subparagraph (A)'' in subparagraph (B) and inserting in its place ''if the requirements of section 404(b) are met.'';

(F) striking paragraph (5) in its entirety and inserting in its place ''This subsection applies only to fees and other monies payable to the fund as of September 30, 2004, and to monies appropriated from the fund as of that date. Sections 401(d) and 403(b) of this Act govern allocations and disbursements after that date.''.

(G) striking paragraphs (6) through (8) in their entirety; and

(H) striking paragraph (h) in its entirety.

(14) Section 403 is amended by—

(A) amending the title to reads ''**FUND OBJECTIVES AND EXPENDITURES**.'';

(B) Striking the phrase ''except as provided for under section 411'' in subsection (a) and inserting in its place ''except as otherwise provided in this section, section 401(c), or section 411'';

(C) striking the period at the end of subsection (a)(3) and inserting a semicolon in its place;

(D) amending subsection (b) to read as follows:

''(b) ALLOCATION OF FUNDS AFTER SEPTEMBER 30, 2004.—

''(1) ALLOCATIONS TO STATES AND TRIBES.—

''(A) At the beginning of each fiscal year, or as soon thereafter as practicable, the Secretary shall allocate the monies appropriated from the fund for that year for grants to States and Indian tribes under section 405(h) of this Act. An allocation shall be made to each State and tribe that is eligible to receive a payment under section 401(d)(2)(C) of this Act and to each State and tribe that—

''(i) has an approved abandoned mine reclamation program under section 405 of this Act that is not subject to the prohibition in paragraph (c) of that section;

''(ii) is not certified under section 411 of this Act; and

''(iii) has within its jurisdiction unreclaimed lands or waters that are eligible pursuant to section 404 and that meet one of the priorities stated in paragraphs (1) and (2) of subsection (a) of this section; *Provided*, That, when all States and Indian tribes have completed or provided for completion of reclamation of all lands and waters meeting the priorities in paragraphs (1) and (2) of subsection (a) of this section, this criterion will no longer apply.

''(B) In making these allocations, the Secretary shall use a formula based on historical coal production prior to August 3, 1977, in those States and tribes; *Provided*, That—

''(i) Donations received under section 401(b)(3) shall be allocated in accordance with any stipulations by the donor;

''(ii) No State or Indian tribe shall receive an allocation of less than $2,000,000 under this paragraph; and

''(iii) No State or Indian tribe shall receive an allocation of more than 25 percent of the total monies appropriated for grants under section 405(h); *Provided further*, That this restriction shall expire when fewer than eight States are eligible to receive an allocation under paragraph (1) of this subsection.

''(C) The amount dedicated by section 401(d)(2)(B) of this Act to each State or Indian tribe that is not certified under section 411 of this Act shall be reduced by the amount allocated to that State or tribe under this paragraph.

''(D) Amounts allocated to States and Indian tribes under this paragraph may be used to fund projects that protect, repair, replace, construct, or enhance facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices. In making funding decisions on these projects, the State or tribe need not consider the priorities in subsection (a) of this section. If the adverse effect on water supplies occurred both prior to and after August 3, 1977 (or other applicable date under section 404), section 404 shall not be construed to prohibit a State or Indian tribe from using funds under this paragraph if the State or Indian tribe determines that such adverse effects occurred predominately prior to August 3, 1977 (or other applicable date under section 404).

''(2) FEDERAL EXPENDITURES.—To the extent authorized by annual appropriations, the Secretary may expend monies from the fund for any of the following purposes—

''(A) providing assistance to small operators under section 507(c) of this Act, either directly or through grants to the States, subject to the limitation contained in section 401(c)(11) of this Act;

''(B) conducting emergency reclamation activities and projects under section 507(c) of this Act, either directly or through grants to the States and Indian tribes;

''(C) meeting the objectives of the fund set forth in paragraph (a) of this section for eligible lands and waters pursuant to section 404 of this Act in States and on Indian lands where the State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405 of this Act;

''(D) the administration of this title of this Act by the Secretary;

''(E) making supplemental grants to States and Indian tribes for the purposes of this title of this Act;

''(F) implementation of section 401(c)(6) of this Act; and

''(G) conducting other activities consistent with this title of this Act.'';

(E) in subsection (c), redesignating the first sentence as paragraph (1), the second and third sentences as paragraph (2), the fourth sentence as paragraph (3), and the last sentence as paragraph (4); and

(F) striking ''section 411(a)'' in paragraph (c)(1) and inserting in its place ''section 411''.

(15) Section 404 is amended to read as follows:

''SEC. 404. ELIGIBLE LANDS AND WATERS.

''(a) IN GENERAL.—

''(1) Lands and waters eligible for reclamation or drainage abatement expenditures under this title of this Act are those which were mined for coal, or which were affected by such mining, waste banks, coal processing, or other coal mining processes, and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or other Federal laws. For other provisions relating to lands and waters eligible for such expenditures, see subsections (b) and (c) of this section and sections 402(g)(1), 403(b)(1), and 409 of this Act.

''(2) Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this title of this Act after the release of the bond or deposit for any such operation as provided under section 519 of this Act. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title of this Act may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement. If conditions warrant, the Secretary, State or Indian tribe shall immediately exercise the appropriate authority under section 410 of this Act.

''(b) INITIAL PROGRAM SITES AND BOND FORFEITURE SITES WITH INSOLVENT SURETIES.—

(1) Sites of surface coal mining operations conducted after August 3, 1977, and lands and waters affected by such operations are also eligible for reclamation or drainage abatement expenditures under this title of this Act if they were left in an inadequate reclamation status and if the Secretary or the State, with the concurrence of the Secretary, makes either of the following findings:

''(A) A finding that the surface coal mining operation occurred during the period beginning on August 3, 1977, and ending on or before the effective date of the State regulatory program approved by the Secretary pursuant to section 503 of this Act for the State in which the site is located, and that any funds for reclamation or abatement which are available pursuant to a bond or other form of financial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

''(B) A finding that the surface coal mining operation occurred during the period beginning on August 3, 1977, and ending on or before November 5, 1990, and that the surety for the mining operation became insolvent during that period, and, as of November 5, 1990, funds immediately available from proceedings relating to that insolvency, or from any financial guarantee or other source, are not sufficient to provide for adequate reclamation or abatement at the site.

''(2) All sites referred to in paragraph (1) within any State shall be reclaimed before the State or the Secretary may make the certification referred to in section 411 of this Act.

''(3) Amounts collected from assessment of civil penalties under section 518 of this Act are authorized to be appropriated for the purposes of this subsection.''.

(16) Section 405 is amended by—

(A) in subsection (d), striking ''sections 402 and 410'' and inserting in its place ''sections 402, 414, and 415'';

(B) in subsection (f), striking paragraph (5) in its entirety and redesignating paragraphs (6) and (7) as paragraphs (5) and (6);

(C) in subsection (f)(6), striking the colon after ''grant'' and inserting ''and'' before ''type'';

(D) in subsection (g), striking the colon after ''include'' and inserting ''subsection (f) of'' before ''this section''; and

(E) amending subsection (h) to read as follows:

''(h) GRANT OF FUNDS.—

''(1) IN GENERAL.—Upon approval of the State Reclamation Plan under this section and of the surface coal mining regulatory program pursuant to section 503 of this Act, the Secretary shall grant, on an annual basis, funds to the State to implement the State reclamation program as approved by the Secretary.

''(2) APPLICATION PROCESSING DEADLINE.—Within 60 days of receipt of a complete abandoned mine reclamation fund grant application from any eligible State, the Secretary shall grant to that State any and all funds available for such purposes in the applicable appropriations act.

''(3) DISPOSITION OF UNEXPENDED FUNDS.—Except as provided in paragraph (5), any funds not expended within 3 years after the date of any grant award shall be available for reallocation or expenditure by the Secretary for any purpose under section 403(b) of this Act.

''(4) SOURCE OF FUNDS.—In awarding grants to States and Indian tribes that were not certified under section 411 as of September 30, 2004, the Secretary shall exhaust the funds dedicated to those States and tribes in section 401(d)(2)(B) before awarding any funding allocated to those States and tribes under section 403(b)(1).

''(5) STATE SET-ASIDE.—Any State with an abandoned mine reclamation program approved under subsection (d) may retain, without regard to the 3-year limitation referred to in paragraph (3), up to 10 percent of the total amount of the grants awarded annually to the State under paragraph (1), excluding grants made under the authority of section 403(b)(2), if those amounts are deposited into either—

''(A) a special trust fund established under State law that may earn interest and from which the State may make expenditures solely to achieve the priorities stated in section 403(a) after the State is no longer eligible to receive an allocation under section 403(b)(1) of this Act; or

''(B) an acid mine drainage abatement and treatment fund established under State law and from which the State may make expenditures solely for abatement of the causes of acid mine drainage and treatment of the effects of that drainage in a comprehensive manner within qualified hydrologic units affected by coal mining practices. Any interest earned by this fund shall be expended for the purposes of this paragraph. For purposes of this paragraph, the term ''qualified hydrologic unit'' means a hydrologic unit in which water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources and which contains lands and waters that—

''(i) meet the eligibility requirements of section 404 and at least one of the priorities in paragraphs (1), (2), and (3) of section 403(a); and

''(ii) either are or are proposed to be to be the subject of expenditures by the State from bond forfeiture proceeds under section 509 of this Act, or from other State sources, to abate or treat acid mine drainage.''

(17) Section 406 is amended by—

(A) striking the word ''Soil'' wherever it appears in subsection (h) and inserting in its place the words ''Natural Resources''; and

(B) adding the following new subsection at the end:

''(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Agriculture, from the general fund of the Treasury, such sums as may be necessary to carry out the provisions of this section.''.

(18) In section 408(a), the last sentence is amended by striking '', in accordance with this subsection, who owned the surface prior to May 2, 1977, and''.

(19) Section 409 is amended—

(A) in the second sentence of subsection (a), by striking the second ''the'' before ''governing body'';

(B) in the last sentence of subsection (a), by striking ''State regulatory authorities'' and inserting in its place ''States and Indian tribes'';

(C) in subsection (b), by inserting ''section 403(b)(1)'' before ''the provisions''; and

(D) in subsection (c)(3), by striking ''which have made the certification referred to in section 411(a)'' and inserting in its place ''that have been certified under section 411 of this Act''.

(20) Section 410 is amended by—

(A) inserting the title ''**IN GENERAL**.—'' at the beginning of subsection (a);

(B) inserting the title ''**RIGHT OF ENTRY**.—'' at the beginning of subsection (b);

(C) inserting a new subsection (c) to read as follows:

''(c) STATE ASSUMPTION OF EMERGENCY RECLAMATION PROGRAM.—The Secretary may propose, and, after opportunity for public comment, adopt, regulations to require that States assume responsibility for administering the emergency reclamation program under this section to remain eligible to receive grants under section 405(h) of this Act. The regulations must establish procedures for that assumption, including, at a minimum, a requirement that States revise their abandoned mine reclamation plans approved under section 405 of this Act to include provisions that—

''(1) authorize the State to make the findings required under subsection (a) of this section; and

''(2) enable the State to conduct emergency reclamation activities consistent with subsection (b) of this section.''.

(21) Section 411 is amended to read as follows:

''Sec. 411. Certification of Completion of Coal Reclamation.

''(a) The Governor of a State, or the head of a governing body of an Indian tribe, with an approved abandoned mine reclamation program under section 405, may certify to the Secretary that reclamation of all eligible lands and waters under section 404 with the priorities stated in paragraphs (1), (2), and (3) of section 403(a) has been achieved. The Secretary, after notice in the Federal Register and opportunity for public comment, shall concur with such certification if the Secretary determines that such certification is correct.

''(b) The Secretary may make the certification referred to in subsection (a) on behalf of any State or Indian tribe if, on the basis of the inventory referred to in section 403(c), all reclamation projects relating to the priorities set forth in paragraphs (1), (2), and (3) of section 403(a) for eligible lands and waters under section 404 in such State or tribe have been completed. The Secretary shall only make such certification after notice in the Federal Register and opportunity for public comments.''.

(22) Section 413(d) is amended by striking ''(33 U.S.C.A. 1151, et seq. as amended)'' and inserting in its place ''(33 U.S.C. 1251 et seq.)''.

(23) Section 413(e) is amended by striking the comma after the word ''agencies''.

(24) Section 414 is amended to read as follows:

''Sec. 414. Interagency Cooperation.

''(a) IN GENERAL.—All departments, boards, commissioners, and agencies of the United States of America shall cooperate with the Secretary by providing technical expertise, personnel, equipment, materials, and supplies to implement and administer the provisions of this title of this Act.

''(b) EXCISE TAX COLLECTION.—Notwithstanding any provision of law to the contrary, the Secretary is authorized to collect the excise tax imposed by section 4121 of the Internal Revenue Code of 1986 (26 U.S.C. 4121). The Secretary of the Treasury shall enter into an agreement with the Secretary providing for reimbursement of any additional expenses that the Office incurs in connection with collecting this tax and conducting audits related thereto.''.

(25) Section 415 is added to read as follows:

''Sec. 415. Remining Incentives.

''(a) Notwithstanding any other provisions of this Act to the contrary, the Secretary may propose, and, after opportunity for public comment, adopt, regulations that would prescribe conditions under which the fund may be used to promote remining of eligible lands under section 404 to leverage use of monies available from the fund to achieve more reclamation of those lands than would otherwise be likely to occur. Any such regulations shall specify that these incentives will apply only in situations in which the agency administering this title of this Act determines, with the concurrence of the regulatory authority under title V of this Act that the site is otherwise not likely to be remined and reclaimed under the applicable regulatory program.

''(b) Incentives that may be considered include, but are not limited to—

''(1) A rebate or waiver of the reclamation fee payments required under section 402(a) of this Act. The rebate or waiver shall be limited to operations that remove or reprocess abandoned coal mine waste or that remine sites meeting the priorities in paragraph (1) or (2) of section 403(a). The amount of the rebate or waiver shall be limited to the estimated cost of reclaiming those sites under this title of this Act.

''(2) Use of the fund to provide financial assurance for remining operations in lieu of all or part of the performance bond required under section 509 of this Act.''.

(26) section 510 is amended by—

(A) inserting a sentence at the end of subsection (c) to read as follows: ''In applying the prohibitions of this subsection after October 24, 1992, the regulatory authority shall not include any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making the application.''; and

(B) striking subsection (e) in its entirety.

(27) Section 515(b)(22)(B) is amended to read as follows:

''(B) the areas of disposal are within either a bonded permit area or the boundaries of an abandoned mine land reclamation project approved under title IV of this Act, and all organic matter shall be removed immediately prior to spoil placement;''.

(28) Section 701 is amended by—

(A) in paragraph (33), striking ''section 510(e)'' and inserting in its place ''section 510(c)''; and

(B) amending paragraph (34) to read as follows:

''(34) the term ''lands eligible for remining'' means those lands eligible for expenditures under section 404 of this Act.''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 296—RELATING TO SENATE ADJOURNMENTS AND RECESSES

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 296

Resolved, That the Presiding Office of the Senate may suspend any proceeding of the Senate, including a roll call vote or a quorum call, and declare a recess or adjournment of the Senate subject to existing authorities or subject to the call of the Chair, within the limits of article I, section 5, clause 4, of the Constitution, whenever the Presiding Officer has been notified of an imminent threat.

SEC. 2. When the Senate is out of session, the Majority and Minority Leaders, or their designees, may, acting jointly and within the limits of article I, section 5, clause 4, of the Constitution, modify any order for the time or place of the convening of the Senate when, in their opinion, such action is warranted by intervening circumstances.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on February 4, 2004, at 9:30 a.m., in the Carl Vinson Room of the Rayburn House Office Building, in open session to receive testimony on the Defense Authorization request for fiscal year 2005 and the future years Defense program.

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

APPOINTMENT OF COMMITTEE TO ESCORT HIS EXCELLENCY JOSE MARIA AZNAR, PRESIDENT OF THE GOVERNMENT OF SPAIN

Mr. FRIST. Mr. President, I ask unanimous consent that the President of the Senate be authorized to appoint a committee on the part of the Senate to join with a like committee on the part of the House of Representatives to escort His Excellency Jose Maria Aznar, President of the Government of Spain, into the House Chamber for the joint meeting tomorrow.

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

ORDER FOR COMMITTEE TO MEET

Mr. FRIST. Mr. President, I ask another unanimous consent for a committee to meet during tomorrow's session of the Senate. It has the approval of the majority and minority leaders.

I ask unanimous consent that this request be agreed to and that this request be printed in the RECORD.

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

Mr. FRIST. For the information of Members, Chairman WARNER will hold this hearing tomorrow at 9:30 a.m., in the Rayburn House Office Building, in the Carl Vinson Room. Secretary Rumsfeld will be at the hearing and will provide testimony on the 2004 Defense authorization bill.

Again, this hearing will be in the Rayburn House Office Building at 9:30 tomorrow morning.

ORDERS FOR WEDNESDAY, FEBRUARY 4, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 1 p.m., Wednesday, February 4. 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.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow at 11 a.m., the Senate and House will conduct a joint meeting to hear an address by President Aznar of Spain. We do ask Senators be in the Senate Chamber at 10:40 a.m. so Senators can proceed together to the Hall of the House of Representatives for that address.

At 1 p.m., the Senate will reconvene and resume consideration of S. 1072, the highways bill. Notwithstanding the

recent events, it is still my intention to complete action on this bill before the February recess. Indeed, with the progress demonstrated today, I believe we can indeed accomplish just that.

I do inform my colleagues that rollcall votes should be anticipated during tomorrow's session as we begin the amendment process. I encourage Senators to come to the floor to offer and debate amendments. In addition to the highway bill amendments, the Senate may also consider any available judicial nominations tomorrow. We will alert all Members as these votes are scheduled.

With regard to the events that have occurred over the course of today, I do appreciate the patience of all of the Members with the restrictions we have had to put in place in terms of access to papers and access to their offices. First and foremost, our attention is on the staff and on the safety of the Senate family, the extended Senate family that begins with our own employees in our offices and then extends out through the Senate community and, indeed, beyond the immediate community here.

It has been a difficult day but, as I said earlier, it has given us an opportunity to really come together in some remarkable ways. I contrast it with a lot that we had to go through several years ago with anthrax, which was a very difficult time as well. It was a separate agent, but now another agent has been directed against this body. These agents are weapons that kill. People ask, is it terrorism? Was it a criminal act? To me, both of those demonstrate the intent to harm and to hurt. Both were acts of terror. The whole purpose is not just to physically harm but also to cause insecurity among people.

We have learned over the last several years the best way to alleviate and tone down that feeling of insecurity when dealing with unknown agents—agents that have never been used this way in the history of mankind, poisonous toxins or biological agents that for the most part we cannot really see you can see the powder, but you cannot touch it, and you know the weapons kill when they get into the immediate surroundings and are directed at individuals—is the pulling together and the sharing of information, with openness, holding press conferences, using the Blackberries, the computer and the telephone, the personal interaction. Put that together with good information and accurate information and things can work out in a smooth way, in a way that allays the great fears we all have when dealing with the new powerful agents, we are all more comfortable, more secure, we are all a little more relaxed.

This is very serious business. There is nothing more serious. We are talking about the health and safety and welfare of individuals and, through those individuals, their families. It extends not just on Capitol Hill but the feeling of insecurity around the country.

I keep coming back to the individuals and the families. I do want to share with everybody that the individuals in my office are doing fine. The people who happened to go through the office where this powder was discovered took appropriate procedures on behalf of my staff that went into effect immediately in the response by the police and HAZ–MAT personnel, with appropriate notification all the way up through late last night. I have been very pleased and very proud. They are all doing fine. We have had two conference calls today, one bright and early this morning. Many did not get home until 2 or 2:30 last night, after waiting, of course, for some of the latest results. We had a conference call with everyone early this morning before the Senate session and we just completed another one. We are providing access to medical personnel and physicians and trying to answer as many questions as we possibly can with them. I am mighty proud of them and things are looking fine.

It is remarkable also for me to see, having been involved in both of these attacks with toxins, chemical acts and bioterror agents, the real integration and the working together which people do not see. I share with my colleagues our thanks to the various staff members who, starting immediately yesterday and working through today, include the United States Capitol Hill Police—and they serve on both the Senate and the House side—who demonstrated excellent leadership. Their experience and the protocols immediately came together, working very closely with the response team and the Environmental Protection Agency.

We all asked questions. Yes, you saw a powder, but how far does it aerosolize? How far does it travel over the Capitol grounds? The EPA has been instrumental over the last day having prepared for this sort of event over the last several years.

The United States Marine Corps; a lot of people say, What do you mean? The United States Marine Corps has been very helpful in the process of getting things back up and running.

The Joint Terrorism Task Force is something we did not even think very much about 3 years ago. And that joint terrorism task force is now an organized group. They were prepared for this.

The Federal Bureau of Investigation has been working diligently over the last 24 hours with us and the Department of Homeland Security.

As a physician, of course, I usually start with recognizing the medical personnel. In all public events, we will have the Senate Capitol attending physician there. He, again, walked us through the anthrax threat. He has more experience than anybody in the world today in terms of a bioterrorist or chemical terrorist attack in an institution or society such as this, having gone through anthrax and now the ricin attack, and that is John Eisold who does a tremendous job. One of his physicians was with my staff constantly all last night from early in the evening until the early hours of the morning, sitting with my staff throughout, answering questions and reassuring them and appropriately advising them and counseling them.

The Sergeant at Arms, Bill Pickle, who was not here when we had the anthrax attack but who has been here over the course of the year, again, is doing a superb job. He and I have talked to each other at least every hour except for maybe two hours between 4 and 6 early this morning.

Secretary of the Senate Emily Reynolds' office right now serves as a central hotline point and control room in terms of coordination.

The list could go on and on. I mention all this because Senator DASCHLE and I have worked over the course of today and we are doing our very best in terms of the communication, getting accurate information out, and we are continuing to do just that over the next several days.

The Senate has not missed a beat. We have been in session, had a productive day. We are in session tomorrow, for another productive day. We will have a joint meeting of Congress to hear an address of the President of Spain, a wonderful friend to the United States of America, President Aznar.

Following that, as I mentioned earlier, we will come into session at 1 p.m. and votes will occur.

I mentioned we are moving one committee over to the House side; other committees will be meeting in the Capitol. I do ask that individual committee members check with their committee chairman for the location of individual hearings. We do have three Senate office buildings which are closed: the Hart building, Dirksen, and Russell. All three Senate office buildings will be closed throughout tomorrow. It is primarily to facilitate in the most time-efficient fashion the collection and removal of mail. That is the primary purpose. That is well underway as we speak.

With that, I believe I will bring this session to a close. We will be back working hard tomorrow and we will be staying in touch with everyone over the course of tonight.

Mr. REID. Mr. President, very briefly, I am the only former Capitol policeman here who is a Senator. I have such great respect for the work they do. When I was a Capitol policeman, I did not have near the responsibilities, not even close to what goes on now in this modern police force. We have what I think is, if not the best police force, one of the best. They are the ones who are really talking about first line responders; they are that.

The problem occurred with anthrax, or with this ricin; they are the first to go there. They do it with courage and determination. We see these men and women a lot of times standing at their duty stations and some people wonder

what they do. Well, every day they are working—for lack of a better way to say it, as happened in the Capitol just a few years ago, they take bullets for us. They are well trained in any aspect of law enforcement, as well trained as anyone in the country.

I underscore the remarks of the majority leader. We are very proud of our Capitol police force.

ADJOURNMENT UNTIL 1 P.M., WEDNESDAY, FEBRUARY 4, 2004

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 6:18 p.m., adjourned until Wednesday, February 4th, at 1 p.m.

NOMINATIONS

Executive nominations received by the Senate February 3, 2004:

DEPARTMENT OF ENERGY

JERALD S. PAUL, OF FLORIDA, TO BE PRINCIPAL DEPUTY ADMINISTRATOR, NATIONAL NUCLEAR SECURITY ADMINISTRATION. (NEW POSITION)

DEPARTMENT OF STATE

CRAIG A. KELLY, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF CHILE.

DEPARTMENT OF JUSTICE

MATTHEW G. WHITAKER, OF IOWA, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF IOWA FOR THE TERM OF FOUR YEARS, VICE STEVEN M. COLLOTON, RESIGNED.