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Senate

The Senate met at 9:45 a.m. and was called to order by the Hon. JIM TALENT, a Senator from the State of Missouri.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, we look to You for hope. Teach us the power of being quiet in Your presence. Shelter us from the noise, tension, sound, and fury that bewilder us. Remind us to be still in order to know Your wisdom. Help us to see that those who love You are never alone, for we are sustained by Your powerful companionship.

May we find our peace in the knowledge that You are always with us. Bless our Senators. Give them the wisdom to trust You without wavering. Make them constantly aware of Your unfailing love. Rescue them from danger and keep their feet from slipping.

We pray this in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JIM TALENT 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.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 26, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JIM TALENT, a Senator from the State of Missouri, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. TALENT thereupon assumed the Chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

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

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will begin our session with a 1-hour period of morning business. Following morning business, the Senate will have an hour for debate on the motion to proceed to the highway bill. Under the order, after the 60 minutes of debate, the Senate will begin a vote on the motion to invoke cloture on the motion to proceed to the highway legislation.

I do expect that cloture will be invoked and that we would be able to consider the substance of the bill during today's session. Once we are on the bill, Senators can expect amendments. Therefore, additional rollcall votes will occur today.

Today we will also recess from the hour of 12:30 to 2:15 to accommodate the weekly policy luncheons.

In addition to the highway bill, this week we will consider any conference reports that become available. We hope both the budget and the emergency supplemental conference reports will be ready for floor consideration before we conclude our business this week.

Finally, I would announce we have several district judges who should be cleared for Senate action. If votes are necessary on those nominations, we will be scheduling those votes periodically throughout the week.

I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be time for the transaction of morning business for up to 60 minutes, with the first half hour under the control of the Democratic leader or his designee and the second half hour under the control of the majority leader or his designee.

The Senator from New York.

JUDICIAL NOMINATIONS

Mr. SCHUMER. Mr. President, I rise under morning business to discuss some events that occurred overnight. Most important, there is a story in today's USA Today, based on a direct interview, that Karl Rove rejected a compromise with Senate Democrats Monday on long-stalled nominations for the Federal judiciary and strongly defended President Bush's choice of John Bolton.

I am going to talk about the first matter.

It is disconcerting and surprising to see an aide to the President, an important aide, tell the Senate how to conduct itself. The Senate has conducted itself by its own rules for decades—for centuries. Those rules, by the design of the Founding Fathers, written into the Constitution, talk about the Senate as being a preserve of minority rights. The Founding Fathers called it the cooling saucer.

It is clear, if you read the Federalist Papers and look at the history of this Republic, that when a Senate minority of 45 rejects 10 out of 215 judges and supports 205 out of 215, that is the very way the Founding Fathers wanted the Senate to behave. After all, one of the very earliest nominations of President

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

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Washington, John Rutledge, was rejected by the Senate for the Supreme Court—rejected by the Senate. In that Senate were I believe eight Founding Fathers, the people who wrote the Constitution, rejecting the President's choice.

We have, in a certain sense, people way out of the mainstream, way over—a small group—telling the Republican Party in the Senate and telling the President that they must have all the judges, including the most extreme. Because, after all, it was only the most extreme we rejected, judges who believe, for instance, that the New Deal was a socialist revolution and should be undone; judges who believe zoning laws are unconstitutional; judges who believe the purpose of a woman should be to be subjugate herself to a man; judges who believe slavery was God's gift to white people.

These are some of the judges we have rejected. It was not based on any one particular issue. People say this is all code for abortion. It is not. I have voted for I believe it is about 190 of the judges. The overwhelming majority do not agree with me on abortion, but I believe they met the ultimate test, that they would interpret the law, not make law. Thus, even though they had strongly held beliefs on their own, they would be good judges. The 10 we rejected failed that test. They feel so passionately that they have to impose their views.

One of them, Priscilla Owen of Texas, was criticized repeatedly by conservative members of her own court, the Texas Supreme Court, for placing her interpretation of law ahead of the standard interpretation, the interpretation everybody accepted.

So we were proud to do our constitutional duty and reject these judges, judges we were not consulted about, judges who were way out of the mainstream.

Now, because of the demands of a few—way over, way out there—it seems the majority leader is pushing the so-called nuclear option. The problem is a large number, a good number of people on the other side, do not want to do the nuclear option. They know it would change the rules in the middle of the game. You don't change the rules in the middle of the game because you cannot get your way on every single judge. Our Constitution, our system of laws, is too hallowed, is too important to do that.

These wavering Republican Senators know the Senate has been the repository of checks and balances. That is why we have not done the nuclear option yet. I have to say I wish the majority leader would not be moving it. He should as a Senator stand up for the rights of the Senate. He should as an American stand up for the rights of the American people. But that has not happened.

Yesterday they had to call the heavy guns in. Karl Rove, a member of the executive branch, told the Senate Republicans there should be no compromise.

It is quite natural, by the way, that the White House would not want a Senate with checks and balances. This is not simply true of Republican Presidents, it is true of all Presidents, whether they be Democrat or Republican. They want to have their way. They regard the legislature, and particularly the Senate, as sort of a pesky obstacle to getting their way.

But the wisdom of our Republic has shown that when the Senate does slow things down, when the Senate does invoke checks and balances, the Republic is better off.

Now we have Karl Rove telling the Senate how they ought to act—how we ought to act—to change a tradition of 200 years.

Senator REID has said publicly that the President told him the White House would stay out of this. That is clearly not the case. The White House is not staying out of this and they are trying to aggrandize executive power. The American people, though, are not buying it. There is a story today in the Washington Post that shows " . . . by a 2 to 1 ratio"—that is pretty strong, that is more than the filibuster amount—

> the public rejected easing the Senate rules in a way that would make it harder for Democratic Senators to prevent final action on Bush's nominees. Even many Republicans were reluctant to abandon current Senate confirmation procedures. Nearly half opposed any rule changes, joining eight in 10 Democrats and seven in 10 political independents. . . .

The American public may not follow minute to minute, day by day, what we do on this floor, but they have a pretty good nose to smell what is going on. What they smell is a whiff of extremism, a whiff of "I can't get my way so I change the rules in the middle of the game," a whiff of "not simply a fight of the moment over a particular judge but rather a desire not to live with the traditions of this body and this Republic, which involves compromise and mediation."

Honestly, when I recommended to our caucus early on that we filibuster a few of the judges and then later that we prevent and stand up to the nuclear option no matter what it took, I thought we would lose politically. I thought the argument: "Well, have 51 votes on everything" would prevail. But the American people's wisdom is large, deep, and hard to fool. The American people have said they understand what is going on. When the Republicans were in charge, they didn't allow judges to come out. We are not in charge now and the filibuster is a way of mitigating the President's desire to put whomever he wants on the bench and that the filibuster is appropriate.

I do not believe what some on the other side say, that the public is with the Democrats because they have gotten their message out ahead of us. Please. The public is with the Democrats in this case, not because they are Democratic and not because they may agree with the stand or disagree with the stand of each of the judges we have rejected—although I suspect that would be the case if they knew—the public is with us because they understand fundamentally the checks and balances that are so important in this Republic and that because a President gets 51½ percent of the vote he doesn't always have to get his way, particularly when it comes to choosing the third, unelected—only unelected branch of Government.

So Mr. Rove can order Senators not to compromise. I hope and pray the Senators will not take direction from the White House on something where the interests of the White House, whatever party the President might be, are different from those of the Senate and frankly different from the Republic's—and I believe they will not.

The wisdom of the American people is strong. I let my colleagues know, if they should try to invoke the nuclear option and it succeeds, we will have no choice but to enforce the Senate rules and try to bring up issues the American people want us to bring up: the high cost of energy and gasoline, health care, education. We do not usually do that because of comity in the Senate. After all, the other party is the majority party.

But if they are not respecting the rights of the minority, as a majority, they do not deserve that same deference. What we will do is not shut down the Senate, not not show up. We will, rather, use the remaining rules at our disposal to bring up issues the American people care about.

Again, my plea to my colleagues on the other side—I know many of them have doubts about this nuclear option but are under tremendous pressure—resist the entreaties of the executive branch, in this case in the personification of Mr. Rove, stand tall, stand firm. Do not change the rules in the middle of the game; protect the sacred checks and balances at the core of the Republic by rejecting this trampling on the rules, the so-called nuclear option.

I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from North Dakota is recognized.

Mr. DORGAN. How much time remains on our side?

The PRESIDING OFFICER. There are 18 minutes.

DANGEROUS POLITICAL INTERSECTION

Mr. DORGAN. Mr. President, everyone in this country knows what a dangerous intersection is. We all drive and understand the consequences of a dangerous intersection. We are coming to a dangerous intersection in American politics, especially in the Congress: first, by actions that are, on their face, wrong and are harmful to our country; and second, by inaction on matters that cry out for attention—but, again, get none in this Congress and by this administration.

We face a different kind of politics than most have experienced before when we see prominent members of the Congress participate in exercises with outside groups who suggest those who are not with them on the issues are people who lack faith, are people who are not people of faith. Those are dangerous grounds to tread on politically. Yet they do it and do it willingly.

As I was listening to my colleague, I remembered going to a puppet show my daughter participated in during grade school some years ago. Of course, in a puppet show you see only the puppet; you do not see who is behind the black cloth. There are puppet shows going on here in the Congress, of course, and in the administration. Perhaps today's USA Today tells us a little bit about who is behind the screen. The chief political adviser to the White House, Mr. Karl Rove, says there will be no compromise on this issue of judges. It seems to me, a White House that has said it is not involved in this issue is clearly neck deep in this issue, and perhaps is the one behind the screen in this case. Whether it is on this so-called nuclear option with respect to the vote on the judges in the Senate or the Social Security debate going on regarding whether we should privatize Social Security as recommended by the White House, Mr. Rove has played a very prominent role.

To take Social Security for a moment, the memorandum leaked in January from the White House by the chief strategist on this issue, who works for Mr. Rove, said that, for the first time in six decades, we have a chance to win on Social Security.

What does that mean? It means they have never liked Social Security. They want to take Social Security apart. That memorandum also said we have to claim there is a crisis and convince people there is a crisis in Social Security. Of course, it is not working because there is not a crisis in Social Security which has been and is an enormously important program, lifting tens of millions of senior citizens out of poverty in this country. The fact is that Social Security will be fully solvent until President George W. Bush is 106 years old. That is hardly a crisis.

People are living longer, and we may need to make adjustments in Social Security as we move along, but it does not require major surgery. And, the President's proposal to borrow $5 trillion and then stick it in the stock market and cut Social Security benefits and sit back and hope, is not much of a plan.

It is interesting to me that the American people, in poll after poll after poll, are rejecting this. I was at a Social Security forum over the weekend. We did them in several States. A fellow came up to us at the forum and said, I am 88 years old. I am blind, and Social Security is all I have. I think people are very concerned about this notion of sticking this money in private accounts and just hoping, after you have borrowed trillions, hoping somehow things will be better.

Whether it is Social Security and private accounts and the attempt to take the Social Security system apart or this issue of the nuclear option because the majority party and the President have gotten only 95 percent of the Federal judges they want, these intersections are dangerous.

Let me describe the danger of the intersection with respect to the so-called nuclear option. The Constitution of the United States is clear about judges. In fact, originally when they put this Constitution together, they felt perhaps they would have the Senate or the Congress appoint judges. Instead, there is a two-step process. The President decides who shall be nominated to the Senate for a lifetime appointment on the Federal bench to the Federal courts and then the Senate decides whether they will support that nomination. It is called advice and consent. This President, President Bush, has sent the Senate 215 nominees to serve for a lifetime on the Federal court. We have supported 205 of them. That is 95 percent. But that is not enough. The President and the majority party say we want it all.

I remember people like that on the playground when I was in school. They want it all. If they do not get it all, they are going to take their bat and ball and go home. In this case, if they do not get it all, they will violate the Senate rules in order to change the Senate rules. How will they violate the rules? They will overturn precedent in the Senate in terms of how the rules are changed. It takes 67 votes to change the rules of the Senate. The so-called nuclear option devised by the majority party is a strategy by which they will overturn the ruling of the Parliamentarian that the rules are being violated, and by a majority vote, overturn the rule and effectively change the rules of the Senate by violating the rules of the Senate. Some people do not care about that. That is fine. If you care a lot about the future of this country, if you care a lot about democracy, if you care about making a democratic government work by compromise, you ought to care a lot about this.

It is arrogant. It reflects the feeling of a party that controls the White House, the House, and the Senate, that they must get their way on everything.

The reason a 60-vote requirement—that is, a filibuster—is useful to the workings of democracy is because it requires compromise. It requires Members to reach a threshold of 60 votes in the Senate, which requires you to reach across the aisle and talk to people of the other party. That is a good thing, not a bad thing. Compromise is a good thing. Bipartisanship is a good thing, not a bad thing. We have people now who look at it as something that is awful. We want to take a partisan group that has 51 votes and is muscle-bound—it is politics on steroids—and ram it through the Congress and violate the rules in order to change the rules. It is not what this country should expect from the Congress.

Here is today's paper: ''Filibuster Rule Change Opposed.'' It is interesting that there is a broad center of common sense. There always has been. Over two centuries, this country's political system moves one direction and then the other direction. But there is a strong magnetic pull back to the center. That magnetic pull comes from a reservoir of common sense all across this country of people who basically know what is the right thing. They know from their school days, from their civic organizations, they know from their everyday lives you do not violate the rules to change rules. We have certain rules. You do not violate rules to change rules. People know that inherently, and they also know the consequences of one-party rule that says it is our way and that is the only way and we refuse to compromise on anything.

For that reason, it is quite clear that two-thirds of the American people have that reservoir of common sense and are expressing it. I hope the majority party will listen. I especially hope Mr. Rove and the White House, who says there will be no compromise, will understand that compromise is what makes this Senate work.

In the McCullough book about John Adams, as I told my colleagues previously, he would write to Abigail—because John Adams was in Europe, representing our country in England and France as they tried to put this new country together—he would write to his wife, Abigail, and ask the question, plaintively: Who will be the leaders? Who will emerge as the leaders to help form this new country of ours? From where will the leadership come? And then in the next letter to Abigail, he would ask the question in different ways again: Who will be the leaders? Then he would say: It appears there is only us. There is me, there is George Washington, there is Thomas Jefferson, Ben Franklin, Mason, Madison.

In the rearview mirror of history, the only ''us'' is some of the greatest human talent that has ever been assembled that created quite a remarkable country. For 2 centuries, Americans have asked the same question: From where will the leadership come? How will the leadership emerge to steer this country and provide direction for this great democracy of ours? In almost every case, the American people have been surprised by those who step forward.

We have been enormously blessed by wonderful leaders—Republicans, Democrats, conservatives, liberals—leaders who step forward at the right time, at the right moment, to say: Here is where America needs to move. Here is how we need to improve and strengthen this great democracy of ours.

I ask again, and I think America asks again, with the backdrop of these questions, violating the Senate rules to

change Senate rules, taking apart the most successful program we have had in this country's history, the Social Security Program, the American people are asking, as they answer these polls: Where is the leadership? Where will the leadership come from to put this country on track?

We do have crisis. It is not Social Security. We have a bona fide crisis in health care. Prescription drug costs, health care costs are going straight up, and no one is doing anything about it. We have a crisis in jobs. We have the biggest trade deficit in human history, and we are choking on it. We have massive numbers of American jobs moving every single day overseas. It is an epidemic because American workers are being told by their multinational employers: You either compete with 30-cent labor from China or we are sorry, it is over for you. That job goes to China for 30 cents an hour, working 7 days a week, 12 to 14 hours a day, often kids. We have an epidemic in jobs and trade. We have a serious problem with the largest budget deficits in the history of this country. Yes, that is a crisis.

Last week, we passed an $80 billion emergency supplemental bill to pay for the costs in Iraq and Afghanistan and not one penny was paid for. The administration that requested it did not suggest it be paid for. Congress did not suggest it be paid for. Just add it to the debt. Send the soldiers to Iraq and bring them back later and have them pay for the debt.

So, yes, we have some crises. Health care, jobs, trade deficit, fiscal policy, energy. Drive to the gas pumps and ask yourself whether there is a problem there. And then we have the Crown Prince of Saudi Arabia going to Texas yesterday to explain how much additional oil they will pump in order to help us with our energy problem. Sixty percent of our oil comes from off our shores, much of it from troubled parts of the world—Saudi Arabia, Iraq, Venezuela, Kuwait.

If, God forbid, tomorrow the pipeline for sending oil to this country from those troubled parts of the world were ruptured, this country's economy would be flat on its back. We are held hostage by oil from off our shores to the extent we have to have the Saudis come to Texas, to the ranch, to explain to us how they are going to help us solve our problems.

The fact is, we do have crises. The operative question is, Where is the leadership? Where is the leadership? Where will it come from to deal with these issues? No, I am not talking about the nuclear option. That is a specious approach, one that will injure this Senate and injure this country. I am not talking about taking Social Security apart—exactly the wrong thing. I am talking about the leadership for things that really matter to American families.

When people are in their homes, sitting at their tables, having supper, they talk about issues such as: Do I have a good job? Does it pay well? Do I have job security? Do grandpa and grandma have access to good health care? How about the kids, do they have access to doctors when they need it? Are our kids going to a school we are proud of? Do we live in safe neighborhoods? Those are things that are operative in the midst of families' interests about this country and where they live.

I hope very much the majority party will understand what the American people are telling them: Lay off the nuclear option. Accept that 95-percent support for judges nominated by this President, which is a pretty good record. Ninety-five percent, that is a good record. Accept and understand there is an opposition party. They, too, have rights. And accept and understand that compromise is not a bad word. Compromise recognizes that this democracy works when you have bipartisanship, when you reach across the aisle. That is what the 60-vote margin requires us to do, in my judgment. And answer the question, Where is the leadership? Just answer that question, Where is the leadership on issues that matter to American families? My hope is, in the coming days we will see some of that leadership both here in the Congress and also from this administration.

Last, and most importantly, let's not ever hear again that those with whom you disagree are not people of faith. What a shameless thing to be doing, to suggest that your political opponents are people who are not people of faith. This country is better than that. Political debate and dialog can be better than that. And the American people expect and deserve better.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

JUDICIAL NOMINATIONS

Mr. BUNNING. Mr. President, I rise to talk about the broken confirmation process for Federal judges. The Senate faces an unprecedented crisis and is failing the Constitution and the American people.

For the first time in the Senate's history, a minority of Senators is twisting the rules of the Senate to block the will of the majority. They are taking for themselves a power granted only to the President of the United States, the power of nominating judges. Just as disturbing is the fact that the minority is also threatening to shut down the Senate and the people's business if the majority acts to restore Senate tradition and fulfill our constitutional responsibility.

Make no mistake about it, we will restore the Senate tradition of taking up-or-down votes on the President's nominees. Hopefully, the minority will support the nomination process the Senate has practiced for more than 200 years and end the filibuster of judicial nominations. But if the majority of the Senate must act to restore that tradition, we will do so.

Like many Senators, I spend a lot of time in my home State. I meet with constituents, give speeches to civic groups, and tour manufacturing plants. I have heard a lot about the war in Iraq and Social Security. People talk about gas prices and the economy, education, and health care. But the topic I hear about the most is the importance of confirming judges.

Last November, election day came and the American people spoke. President Bush won reelection by receiving the most votes ever cast for a Presidential candidate. A majority of the American people clearly endorsed his policies and his leadership. So when this Congress convened, I had high hopes that the crisis of judicial nominations was behind us.

I hoped the Senators who obstructed the Senate's business over the past 2 years realized the errors of their ways. After all, they lost seats in the Senate, and their minority leader also was defeated in the last election. I hoped we could turn to voting on President Bush's nominations to the Federal bench. I hoped we would return to the Senate tradition of giving nominees an up-or-down vote.

But it did not take long to realize that was not going to be the case. The minority proudly boasts about their filibustering the President's nominees. And if the majority acts to restore Senate tradition, they say they are going to expand their obstructionism to the entire business of the Senate and shut down the Government.

In article II, section 2 of the Constitution, the President is given the power to nominate judges. And upon advice and consent of the Senate, those nominees shall be placed on the bench.

So the President alone has the power to pick judges. And the Senate has the responsibility to render its advice and consent. That leads to the question of what does ''advice and consent'' mean? Fortunately, I am not a lawyer or a constitutional scholar. But I can read. And the Framers were pretty clear when they spoke.

First, they said the Senate as a whole is to give its advice and consent. When the Constitution speaks of the Senate as a whole body, it means a majority of the body. The Supreme Court has even stated as much.

Second, the Framers were pretty clear when they required more than a majority to act. For example, they required a two-thirds vote to amend the Constitution. They required a two-thirds vote to convict and remove from office an impeached President or Federal official. But even more telling, in the very same sentence of the Constitution that gives the Senate the duty to render advice and consent on nominations, the Framers also required a two-thirds vote to approve a treaty.

Now, if Framers meant that a supermajority vote was required to approve

a nominee, they would have clearly stated so. The supermajority is something the Constitution rejects for nominees, but that is exactly what the minority is saying when they filibuster a nominee. The minority is attempting to shift the balance of power away from the executive to the legislative branch. That is nothing more than rewriting the Constitution and the separation of powers the Framers designed more than 200 years ago.

What the Constitution does give every Senator a right to do is to express his or her opinion on a nominee and on the nominee's qualifications. That right is to speak in support of or in opposition to, and vote for or against a nominee. But no Senator has the right to prevent the whole Senate from voting on judicial nominees if they are unable to convince enough Senators to join in their opposition.

It is the duty of Senators to speak their objections and then vote yes or no. They may make the ultimate statement against a nominee by voting against him or her, but they may not prevent the rest of the Senate from giving the same ultimate statement. They must not block an up-or-down vote on the nominee. In fact, for more than 200 years, this is how the Senate has considered nominations: with an up-or-down vote. Debate has taken place, and then the nominee has been given a vote.

Never before the 108th Congress was a nominee with majority support denied a vote on the Senate floor. Never before the last Congress had the rules of the Senate been twisted to prevent such a vote. Previous Senates had not even considered filibustering nominees as an option. The rules do not explicitly prohibit it because Senate tradition has always been to allow the nominee, no matter how controversial, an up-or-down vote.

I remember a situation in the 106th Congress. A group of Republicans opposed several of President Clinton's nominees to the Ninth Circuit Court of Appeals. Some Senators wanted to do everything within their power to stop those nominees from reaching the bench. But the majority leader at the time, Senator TRENT LOTT, said this was wrong and filed cloture himself to move the nominations forward. Cloture was invoked, and both nominees were confirmed, with many more Senators opposing the nominations than cloture.

Today, President Bush's nominees, who all have majority support, are being denied a vote by a partisan filibuster led by the Democratic Party leadership. That is unprecedented and must come to an end.

Just years ago, many Senators who now champion the filibuster of President Bush's nominees stated that judicial nominees should receive an up-or-down vote. Some even advocated abolishing the filibuster altogether. In fact, 19 members of the minority who are still serving today voted to abolish all filibusters. And now some of those Senators are the loudest voices in the Senate for filibustering President Bush's nominees.

Some of my colleagues across the aisle have spoken out against filibustering nominations. For example, the senior Senator from New York said, in 2000:

> We are charged with voting on the nominees.

The junior Senator from California said, in 1997:

> It is not the role of the Senate to obstruct the process and prevent numbers of highly qualified nominees from even being given the opportunity for a vote on the Senate floor.

The current minority whip said, in 1998:

> If, after 150 days languishing on the Executive Calendar that name has not been called for a vote, it should be. Vote the person up or down.

And the senior Senator from Massachusetts said, in 1998:

> We should resolve these disagreements by voting on these nominees—yes or no.

It is amazing how some easily forget their own words. Or maybe I should say, conveniently and selectively forget their own words.

Well, Republicans did give President Clinton's nominees an up-or-down vote. And now the minority should allow the same courtesy to President Bush's nominees.

Something we have heard over and over from the minority is how many of President Bush's nominees they have allowed to be confirmed. Let's talk about that. The minority likes to talk about all nominations, but all nominations are not equal in their impact within the judiciary. District court judges, while they are very important, are not as powerful as circuit court judges. President Bush's nominees to the circuit court have the lowest confirmation rate since the Roosevelt administration at 69 percent. President Clinton's circuit court nominees were confirmed at a rate of 77 percent, far above President Bush.

And not all circuit courts are equal. The DC Circuit is the most important. For that court, only 33 percent of President Bush's nominees have been confirmed. President Clinton's nominees were confirmed 78 percent of the time. Those differences are staggering and support the fact that our judicial confirmation system is broken because of the obstruction tactics of the minority.

Something must be done to fix this crisis. The solution can be up to our colleagues on the other side of the aisle. The simplest, fastest, and most desirable option is for the minority to agree to drop its obstructionist ways and allow an up-or-down vote on all judicial nominees. Unfortunately, that does not appear likely to happen.

Last Congress, the current minority leader was asked how much time his side needed to present their case against a nominee. He replied that there was ''not a number in the universe'' that they would accept.

So where does that leave us? The only answer I could see is to restore Senate tradition through a change in the rules of the Senate. Article I, section 5 of the Constitution reads:

> Each House may determine the Rules of its Proceedings . . .

That means a majority of the Senate can act to change the rules. It is the responsibility of the majority of Senators who want to fulfill the Senate's constitutional duty to take action necessary to do so. Majority action to set the rules of the Senate is not unprecedented, nor is it an assault on the body.

It cannot be an attack on the Senate to act to restore 200-plus years of Senate tradition and allow the Senate to fulfill its constitutional obligations. The senior member of the Senate Democratic caucus himself has taken such action. Not once, not twice, but four times in a 10-year period, the senior Senator from West Virginia changed the application of the Senate rules through a majority vote, and all four times his actions were aimed at limiting Senators' rights to debate or filibuster. Senate history is filled with other examples of majority action resulting in a change to the Senate rules to restrict the filibuster.

Let me make something very clear: We are not talking about changing the legislative filibuster. In fact, the only Senators I have heard advocating elimination of legislative filibusters are on the other side of the aisle. Not only does the legislative filibuster have a place in the Senate's tradition and history, it is fundamentally different from the filibuster of judicial nominees. Writing legislation is solely within the power of the legislative branch, and the Senate is empowered by the Constitution to set its own rules.

In the case of nominations, the nominating power is the power of the President, and the Senate can only accept or reject those nominees. The purpose of a legislative filibuster is to force changes in the legislation. However, no number of Senators can amend nominations; we can only accept or reject them. There is a place for the legislative filibuster within the Constitution, but there is not for the filibuster of judicial nominations.

So I urge my colleagues on the other side of the aisle to take a deep breath and step back from the line in the sand that they have drawn. Offer us a compromise that guarantees each nominee a vote. Give us a set of time for debate. Let's take a vote. This issue is too important for the majority of the Senate to ignore anymore. We cannot and will not let a minority of this body rewrite the Constitution and destroy the Senate's traditions. We must vote, and we will vote.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. At this time, morning business is closed.

TRANSPORTATION EQUITY ACT; A LEGACY FOR USERS—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 3, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the consideration of a bill (H.R. 3) to authorize funds for Federal aid highways, highway safety programs, and transit programs, and for other purposes.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes for debate equally divided between the two leaders or their designees.

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I am glad this day is here and that we are proceeding. I certainly encourage my colleagues to vote for this motion to proceed. I have every expectation that it will pass overwhelmingly. It seems as though we are always in a lot of controversy when we talk about a highway reauthorization bill. It doesn't come along very often—about every 6 years. In my tenure here, I have been involved in four of them. This is the fourth, and it is very significant.

It is interesting that even though there is a lot of criticism, when it gets down to the vote, the vote is always overwhelming. I remind my colleagues that last year's bill was at $318 billion—that was contract authority—and there was about $303 billion in guaranteed spending. It passed by a margin of 76 to 21. It is something I know people are interested in, but there are always problems. First of all, let me just say how this is bipartisan. My good friend, the ranking member of the committee, Senator JEFFORDS—back when the Democrats were in the majority, he was chairman—and I always agreed on these highway issues. It is kind of interesting that those of us who are conservatives really believe this is something we are supposed to be doing here—building infrastructure, building roads. I am particularly concerned that our State Of Oklahoma has not had its fair share. We have been ranked as having the worst bridges in the Nation.

Anyway, we have the bill up. It is going to be essentially the same bill as we had last year. We passed it out of committee. There is always a problem. Let me mention this because it needs to come out in the beginning. There are two different ways to have a highway program. One is to do it—and essentially the other body does it more this way—by taking projects and adding them, and you pass this, so you know what projects will be there for the next 6 years. If you do that, then the people who are on the inside track would have the best opportunity to have theirs, and there is always an accusation of there being pork and having special projects.

In the Senate, we do it the hard way. We have a formula. When you have a formula, it takes into consideration so many different aspects. There is not one State that could not stand and say, my State is not being treated fairly because of this factor or the other factor. If you look at the formula factors, you have so many factors, such as interstate lane miles, vehicle miles traveled on interstates, contributions to the highway trust fund, the lane miles, principal arteries, VMT on principal arteries, diesel fuel, donee status, donor status, and low-income States. Oklahoma is a low-income State. That should be a consideration. You have a low-population State, such as the one of Senator BAUCUS, who has been in the leadership working on this issue. They still have to be able to drive even though they don't have a large population from which to get the funds. You have the high-fatality-rate States. You have a factor for the guaranteed minimum growth and the guaranteed minimum rate of return for donor States.

Oklahoma has been a donor State for as long as I can remember. I remember when we had written into the law we would get back 75 percent of what we have paid in. Now it is up to 90.5 percent. If we passed the bill last year at that funding level, it would be 95 percent. It looks like with the figure that we passed out of the committee on the floor that we will be considering today is one that will allow us to get to 92 percent.

I know the formula is not perfect. There are a lot of donor States that think they are not getting enough. A lot of donee States think they are not getting enough. The unhappy donee States complain about the growth rate, but they are ignoring the high rate of return. The unhappy donor States are complaining about the rate of return, but they are ignoring the high growth rates. I have seen unhappy donors trying to rewrite formulas. You cannot do that in a vacuum. I am sympathetic with unhappy States; however, they cannot change the formula in a vacuum and not affect every other State. One of the States is trying to do that right now, and that would adversely affect the rest of the States. It is something that is difficult to deal with. When we get to conference, there are things we can do that we cannot do on the Senate floor. Perhaps some of these things will be done.

With that, I will yield to Senator JEFFORDS, the ranking member on our Environment and Public Works Committee, for his comments.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, I rise today to add my voice to those calling for the approval of the motion to proceed that we will soon vote on.

For more than 3 years Congress has been trying to pass a highway bill. Today we are taking one more step in the long road toward passage of this important legislation.

Mr. President, our Nation needs this bill. We need this bill because it will make our roads and transit systems more efficient and safer.

This year it is estimated that 33 percent of America's major roads are in poor or mediocre condition; 27 percent of America's bridges are structurally deficient or functionally obsolete; 37 percent of America's major urban roads are congested; and 42,000 Americans will die in traffic accidents.

We need this bill because a fully funded bill is good for the economy.

The Department of Transportation says that for every $1 billion of Federal spending on highway construction nationwide, 47,500 jobs are generated annually; and that every dollar invested in the Nation's highway system yields $5.40 in economic benefits because of reduced delays, improved safety and reduced vehicle operating costs.

We need this bill to maintain our current highways and bridges than ever before, while demand for our roadways only increases.

The Federal Highway Administration says that 52 percent of highway funds spent by States went to preserving highway systems while just 19 percent went to building new roads and bridges.

At the same time, traffic congestion costs American motorists $69.5 billion a year in wasted time and fuel costs and we spend an additional 3.5 billion hours a year stuck in traffic.

This bill isn't perfect. In fact, I think it needs additional funding. The White House has suggested an overall funding level for surface transportation of $284 billion over 6 years.

This despite the President's own Transportation Department saying we need at least $300 billion to simply maintain the status quo, and something well above that level to make progress on conditions and performance.

Thankfully, calls for increased funding have come from Republicans, Democrats and Independents; Members of the House and Senate, Governors and Mayors. But we will address the funding issue in due time.

Today we must get cloture on this bill and move forward.

Once again, I would like to thank the Senate leadership on both sides for their support of this bill.

I would also like to pay tribute to Chairman INHOFE and Senators BOND and BAUCUS for their support and cooperation in helping get us to where we are today.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Mr. President, I thank the Senator from Vermont for his comments. At this time, I would like to recognize that we have four of the real star freshmen, the new Members of this body, on our committee. One, of course, is the presiding officer from Louisiana who made very clear to us the problem of beach erosion in the State of Louisiana. I appreciate his calling that to our attention. Then, of course, we have the new Senator from South Dakota, Mr. THUNE. Senator THUNE is also on the committee, and we yield to him at this time.

Mr. THUNE. Mr. President, I also rise today to speak in support of moving forward with debate on reauthorization of the Transportation Equity Act for the 21st Century. As many of my colleagues know, enactment of a long-term, robust Transportation bill is long overdue. I credit the distinguished chairman of the Environment and Public Works Committee, Senator INHOFE from Oklahoma, and the ranking member, Senator JEFFORDS, for their good work in bringing this to the floor.

It is important work that we are about to undertake. We are in the sixth extension of the current bill. We have another construction season that is going to be lost in the Northern States if we do not get a long-term bill put into place.

I appreciate very much the chairman's work in taking a very fair and evenhanded approach in how he has tried to distribute a certain amount of finite funding for this bill. As he mentioned in his remarks, this is a balance that must be struck between the large States and the small States. Frankly, passage of this legislation is critical not only to my home State, but to the Nation as a whole.

Since my service in the House of Representatives, I have long been a supporter of a strong federal role when it comes to transportation infrastructure funding. In fact, I believe the transportation infrastructure is one of the primary responsibilities of the federal government. After all, an adequate transportation infrastructure that is safe and affordable helps facilitate the movement of the goods and services on which our economy relies. Additionally, investing in our transportation infrastructure is a proven way to ease congestion and improve the safety of our highway system.

If we look at the economic impact of what we are talking about today, it is profound. For every $1 billion invested in federal highway and transit spending, 47,500 jobs and job opportunities are created or sustained. For every $1 billion in highway and transit expenditures, gross domestic product, GDP, will increase by $1.75 billion, a multiplier effect of 1.75.

So this is important to our economy in terms of the jobs it will create, the growth it will bring about in our Nation's economy, and it is critical that this legislation, which has been held up since the last Congress, move forward. It is one of the most important measures the House and Senate must resolve this year. And it is incredibly time sensitive as we look at the sixth extension we are operating with today and the need to get a permanent bill in place so this construction season will not be lost on many of those transportation departments in the Northern States.

I have heard regularly from officials from the South Dakota Department of Transportation who are concerned about the tremendous uncertainty they face as a result of not having a long-term bill. The business community, local officials, tribal leaders, and constituents across South Dakota continue to ask me why critical transportation projects are delayed from getting off the ground. I recognize that a handful of my colleagues from donor States are concerned that the bill, as reported by the Environment and Public Works Committee, does not go far enough to boost their overall rate of return. But the bill the Environment and Public Works Committee reported out last month, S. 732, does more to address the donor issue than the administration's reauthorization proposal or the bill as passed by the House of Representatives last month.

The clearest way to address the underlying concern that donor States have raised is to add more funding to this bill. In fact, I plan to support the amendment I understand Finance Committee Chairman GRASSLEY and Ranking Member BAUCUS intend to offer because boosting this bill's overall funding level is the straightforward way to increase the minimum guarantee donor States seek without unfairly reducing the funding for donee States, such as South Dakota.

I look forward to working with my colleagues and with the chairmen and the ranking members from the various Senate committees responsible for this legislation.

As I said earlier, time is of the essence. It is important we work together to pass this bill so that conference negotiations between the House and the Senate can get underway, especially in light of the extension that is slated to expire on May 31.

I again commend the leadership of our committee, and the leadership on both sides in the Senate for their desire to bring this bill to the floor to ensure we are taking the steps necessary, when this current extension expires at the end of May, to have a new permanent bill in place that will address the critical infrastructure needs of our Nation as we move into the future. Many of the highways, interstates, and roads across this country are in poor or mediocre condition. Mr. President, 27 percent of our bridges are structurally deficient or functionally obsolete. It is important we get to work on this legislation in the Senate so we can get to conference with the House, resolve any differences that exist, and get a permanent funding solution put in place for the States, the cities, the business community, and all the jobs and economic development that go with it.

Mr. President, I again urge my colleagues to support this motion to proceed to the legislation. I thank the chairman and the ranking member for their good work. I see Senator BOND, from Missouri, who has also been instrumental in crafting this legislation. I appreciate the leadership and work this committee has put in to get the bill to the floor. It is time we get it voted on and signed into law.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Oklahoma.

Mr. INHOFE. Mr. President, if there is time during the course of this debate, even though we are operating under 1 hour equally divided, I want to go over, so everybody understands, why it is necessary to pass this bill instead of going with another extension because we do not get all the reforms we need without passing this bill.

I have to agree with the Senator from South Dakota that in order to get up to a higher figure in terms of the donor States—and there are a lot of donee States that are supporting us in this effort—it is necessary to have a more robust bill. I am sure we will have an opportunity to debate that and get to conference and see what we can work out.

The chairman of the Subcommittee on Transportation has been such a strong, hard worker. The Senator from Missouri has been there every step of the way and has been a part of this great bipartisan effort. So we yield to him at this time for whatever time he wishes to use.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, my sincere thanks to the chairman of the committee, Senator INHOFE; to the ranking member, Senator JEFFORDS; and my colleague, the ranking member on the subcommittee, Senator BAUCUS. This is a job well done under the constraints we face. We have worked long and hard to get to this point, and I urge my colleagues to vote in favor of proceeding.

The bill, S. 732, the Safe Accountable, Flexible, and Efficient Transportation Equity Act, is long overdue, 2 years past due. Our roads are deteriorating and safety is deteriorating unless and until we can get this bill up. My thanks to the leader for allowing us to call up the bill. It has a lot of moving parts. Every time you move one part, you make somebody slightly happy and several more very unhappy. But I believe it is a good step forward in attempting to meet our goal of completion prior to expiration of the current extension of the authorization on May 31. If we do not proceed to move to this debate, Senators should be aware we may not be able to pass a seventh extension, and our States may cease to let additional contracts, and thousands of jobs may be at stake.

We called up S. 1072 a little over a year ago, and final passage of that bill last year was 76 to 21. Today's bill, S. 732, is nearly identical to last year's bill, with one major problem: To comply with the President's budget request of $284 billion, we have taken a proportional cut across the board of approximately 10.7 percent.

During conference last year, we were presented with $299 billion in contract authority and $284 billion in guaranteed spending. Today, our obligation limit and contract authority numbers are both the same, at $284 billion. I do not think that will work.

Last year, $284 billion was not sufficient to meet the transportation and safety needs in my State and, I think, many other States. I thought then, and continue to believe, more money is necessary. I understand the Finance Committee will be offering an amendment which we on the Environment and Public Works Committee will be supporting. During the budget resolution debate, my colleague from Missouri, Senator TALENT, along with the Senator from Michigan, Senator STABENOW, offered an amendment that any revenue that does not add to the deficit should be spent. It passed with more than 80 Senators supporting it. I think the Senate will have a similar position when we provide for additional revenues with defendable efforts.

The bill we are bringing to the floor has several major goals.

First, 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. There are many sections of the bill I am proud of supporting, such as the fact that all donor States will receive, at the minimum, a 92-percent rate of return by the end of the authorization.

My State of Missouri is a donor State which essentially means that for every dollar we spend on transportation, we receive less than a dollar in return. In 2004, it was 92 cents.

There are many States that fall under the $1 rate of return—unfortunately, only about 20 of them, which means there were 30 votes for the donee States that got back more than a dollar, and that is where our problem was.

Last year, with the more robust funding, we were able to get all States up to 95 cents, but we were unable to achieve this rate of return as a result of going from $318 billion down to $284 billion.

Donor States that support additional revenue above $284 billion can expect an increase in their rate of return to bring the bill more in line with last year's bill, but I do not think anybody is talking about $318 billion anymore.

I worked diligently with Chairman INHOFE, Senator JEFFORDS, and Senator BAUCUS to ensure the bill remains as fair and equitable as possible among all States. I am aware some of the donor States, which we commonly refer to as superdonors—it is nice when you get to select the epithet by which you are called. I wish I had thought of being called a superdonor or a deserving donor. Senator INHOFE and I come from deserving donor States. We will add Senator THUNE into the deserving donor States. But superdonors are concerned they hit the growth caps and do not achieve a 92-cent return right away. But the average rate of growth from the highway trust fund for all States is about 24.38 percent. The average rate of growth of Texas and Arizona is 31.79 percent. Senators from States that are growing below average are the ones who, it seems to me, should be complaining. We were unable to bring up donor States as early as we might have wished due to budget constraints, as well as balancing the needs of the donor States with the needs of the donee States.

For this reason, as most donor States grow, the donee States see a gradual decline to bring greater equity between the States. Nevertheless, all States will grow at not less than 10 percent over the previous bill, TEA–21. We are hopeful that with additional revenue, we will be able to raise that floor.

Safety is another key feature. We will go a long way toward saving lives by providing funds to States to address safety needs at hazardous locations, sections, and elements.

Safety in this authorization is, for the first time, 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.

In my State of Missouri, we know inadequate roads not only lead to congestion, pollution, lack of economic growth, and they delay, deny, and derail economic opportunity, but they also kill people. We have averaged more than three deaths a day on Missouri highways and probably close to 40 percent, if not more, can be attributable to inadequate roads.

I have driven all the Federal highways and all the State highways and a lot of the county roads in Missouri, and I can tell you we have Federal highways which are two-lane highways which have traffic that everybody agrees should be on four lanes. What happens? We have rear-end collisions, passing on blind curves and hills, and we have fatalities.

My home State of Missouri, as many other donor States, has some of the worst roads in the Nation. We are among, unfortunately, that distinguished group that has the highest fatalities per million miles driven on the roads.

That is a distinction we do not like. Recent reports say we have the fifth worst roads in the Nation, with 65 percent of our major roads in fair to poor condition requiring immediate attention. We also rank fourth from the bottom in deficient bridges in the Nation.

Our committee has heard voluminous testimony from the administration that nearly 43,000 people were killed on our roads and highways last year alone. I am glad this bill reflects a continued commitment making not only investments in infrastructure but for the general safety and welfare of our constituents.

The bill addresses several environmental issues, such as easing the transition under 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 environmental reviews.

Another accomplishment of our package will ensure 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 projects.

Projects more sensitive to environmental concerns will move through a more structured environmental review process, more efficiently, with fewer delays. The bill also ensures that 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 responsibilities.

The bill will put transportation planning on a regular 4-year cycle, require air quality checks with projects large enough to be regionally significant, and reduce current barriers that local officials face in adopting projects that improve air quality.

The final goal is jobs. The Department of Transportation estimates that every $1 billion in new Federal investment creates 47,500 jobs. To the Associated General Contractors, the same $1 billion investment yields half of that in new orders from manufacturing and half of that spread through other sectors of the economy. Construction pay averages $19 per hour, 23 percent higher than the private sector average.

This comprehensive package is a good step forward to creating jobs, but as a Governor of the State where we placed a high emphasis on economic development, it is not only the jobs that are created in construction, it is the jobs that are created by the existence of adequate, safe transportation that assures continued growth.

We have spent a lot of time in this body talking about how we get our economy to grow, how we create jobs. Passing this bill to create jobs now and facilitate the creation of jobs in the future is the best thing we can do. I am hopeful our colleagues in the Senate will agree to move this bill quickly in order to pass this legislation prior to the current May 31 expiration date.

I thank the Chair and I reserve the remainder of the time for the leader on this side.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first I thank the senior Senator from Missouri, Mr. BOND, for his hard work and for being so articulate. It is interesting that we have heard from Senator THUNE from South Dakota, a donee State, and Senator BOND from a donor State, and they are both equally enthusiastic about the fact that we have something that should work, and yet we know that any change in any part of a formula is going to have an effect on all the rest of the States. It does not happen in a vacuum.

I will yield the floor to Senator BOND to respond to a question. I ask the Senator, would he enlighten this body as to, according to HAWA, which two States in America have the worst bridges in terms of their state of disrepair?

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Missouri will be permitted to answer the question.

Mr. BOND. Mr. President, there have been some new factors that have come out. In the interest of full disclosure, Missouri has moved up to fifth worst in roads and fourth worst in bridges. As I understand, Oklahoma still occupies a place of dishonor with even worse roads and bridges.

I was hoping those new studies would not come out that we are still right at the bottom. As two States that are in the heart of the Nation with major interstates crossing our States and traffic going east, west, southwest, and northeast through our States we are essential arteries for transportation for the Nation.

Mr. INHOFE. If the Senator will yield for another question, he is a former Governor of the State of Missouri. He knows a little bit about how the construction season goes. What kind of problems would he see—as Senator THUNE mentioned, we are in our sixth extension right now—if we were merely to extend this rather than to pass this bill, from a State perspective?

Mr. BOND. Well, the States are absolutely frustrated beyond all means that we have not been able to reauthorize the bill. Merely extending the bill does not enable us to go forward with major planning. The extensions keep existing projects in line and allow the Department of Transportation to continue to operate, but if we have another extension it means the money that this bill would make available will now not be made available until the construction season. For most of the United States, the construction season is spring, summer, and fall. Not a lot of work can be done in the winter.

So with the necessary contract times, 90 days to let contracts, if we do not make the May 31 deadline with new authorization, we are going to lose a tremendous amount of road construction necessary for economic development and safety.

Mr. INHOFE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, one of the comments was made by I believe it was Senator THUNE about the extensions. Let me make sure we all understand because this is very significant. We have been operating on extensions, and when we operate on extensions we cannot plan in advance. This bill has more provisions in it affecting safety, streamlining, and other factors than any bill of the four that I have been exposed to in reauthorization.

In the event we were to have to go ahead on another extension, there would be no chance of improvement on the donor State of return. In other words, donor State of return is going to stay at 90.5. It is not going to improve. If we were going on an extension as opposed to passing this new authorization bill, there would be no new safety core program to help the States respond to the thousands of deaths each year on our roadways.

I would say to the Senator from Vermont, this is a life-or-death type of a bill before us because more people are going to die if we do not pass the bill, if we just operate on extensions.

If we just do the extensions, there will be no real streamlining of environmental reviews, so critical projects will still be subject to avoidable delay. We see events that do not make any common sense in terms of how many miles can be paved per dollar. We have obstacles that are in the way. We have addressed those obstacles, and it has not been easy.

The Democrats and Republicans on this committee had to give and take. Frankly, there are some provisions in this bill I do not like too well, and I suggest to the Senator from Vermont there are a few he does not like, but one of the major things I think has to be done before we start any meaningful construction in America is to have these streamlining provisions. If we do not have a bill, if we go on with extensions, there will be no increased ability to use the innovative financing, thereby giving States more tools to advance. We are talking about public and private partnerships. We have been building roads the same way now for many years.

I have been notified that the time on our side has expired, and I ask unanimous consent that we be given an opportunity to share the minority time to whatever extent the Senator would like to give us.

The PRESIDING OFFICER. Is there objection?

Mr. JEFFORDS. I yield to the chairman such time as he desires from the time on this side.

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

Mr. INHOFE. I say to the Senator from Vermont, with that very generous offer, as soon as he has someone coming and they want time, I will cease on this side so they can be heard.

Mr. JEFFORDS. That is fair.

Mr. INHOFE. The bill offers an increased ability to use innovative financing methods. Out in California and in Texas, they have been able to do some things where they have convinced us they get many more miles and much more local participation by the public-private partnership, by the TIFIA rule, and it is something that we would not be able to do nationwide if we do not get this bill and we just operate on an extension.

There are a lot of people who are very concerned about a provision in our bill that is called the Safe Routes to School. I know the Senator from Vermont has been interested in that. This is something where we would be talking about saving young lives. Right now, the provision is not there. So if we have an extension, it is merely an extension of TEA–21, the one that we have been operating under for the last 7 years.

If we are not able to pass this bill, then the States will continue to have uncertainty in planning, thereby delaying projects and negatively impacting jobs.

The Senator from Missouri commented that for each $1 billion spent, it provides 47,000 new jobs. So this would easily be the biggest jobs bill probably in the history of America. But if we operate on an extension, there can be no planning. There is not going to be the construction.

The Senator from Missouri is from a northern State and so is the Senator from Vermont. In Oklahoma, though, our construction time is longer than it is in Vermont, and it is actually longer than it is in the State of Missouri. It is something that has to be considered because if we have those delays and they cannot plan in advance, we are not going to have the construction. We are not going to be able to correct these problems.

That is why I asked the question of the Senator from Missouri, who is a former Governor of the State. We need to have certainty in planning. I hear every day from Gary Ridley in our Department of Transportation in Oklahoma that we have things we need to do and we need to be planning right now. We can get so much more for each dollar if we do that, and I suggest that other States have the same situation.

If we do not have a new bill and we just operate on an extension, there is no new border program for border States to deal with NAFTA and other traffic. We hear a lot from the border States—California, Arizona, Texas, and Florida—that they like the borders and corridors program. We have a borders and corridors provision in this bill that will give consideration to the fact that through no fault of their own many border States have a lot of traffic that comes up through Mexico and other places that is all in conjunction with NAFTA.

I can recall 10 years ago when NAFTA was voted on I happened to have been the only member of the

Oklahoma delegation that voted against NAFTA. I think I was right and they were wrong, but nonetheless when we look at what we are able to do with the borders and corridors program, it is something that is very critical for those States.

My State of Oklahoma is also affected by that because those corridors come through the State of Oklahoma. If we do not have the bill, we just have an extension, there is going to be a delay in the establishment of the national commission to explore how to fund transportation in the future. As motor vehicles become more fuel efficient, a tax collection system based solely on gas consumption becomes less practical. Right now the greatest problem we have is the cost of fuel. We have been very much concerned about that. If our taxes were based on a percentage as opposed to a number of cents or dollars, then we would not have that problem. But in Oklahoma if we are paying $2.20 a gallon for gas instead of what it was a short while ago, about $1.40, then people are not going to drive as far. When they do not drive as far, that means the tax revenues are going to come down.

There is no reason we have to continue to do business as we have done business for the last 50, 60, 70 years and not come up with new and innovative ways to pay for our system.

In this bill we have a provision for a national commission to look at different transportation funding in the future. One of my complaints when we talk about the highway trust fund is about how we should or should not pay for it. Every time this body has a new idea to encourage people to use fuel-efficient automobiles, either hybrid or electric cars, that ends up with less gallons of gas produced. Yet those cars still damage the highways with the wear and tear that another car does. I have complained if we are going to have a policy, it should not be paid for on the backs of the highway trust fund.

Anyway, those are issues they can look at. They can look at new ways of financing roads and new partnerships. This commission will come together and will perform for us.

If we do not have a new bill and we have an extension, there will be no increased opportunity to address chokepoints and intermodal connectors. This is not simply a highway bill but an intermodal bill, talking about how the highways, railroads, and airlines come together. It is a complicated transportation system.

There was a time in the beginning during the Eisenhower administration when we wanted to have a national highway system. I will share with my friend from Vermont, when President Eisenhower, during the war, was a major, Major Eisenhower, he was the one who realized our traffic system, our road system, our network, was not a transportation issue as much as a national security issue. He was trying to move his troops around from one place to another. So when he became President, one of the first things he wanted to do was set up the national transportation system. We have had it since that time. At that time we were looking at miles of paved roads in America. Now we are looking at the intermodal system that covers all transportation and brings all transportation together. But we won't be able to do that if we extend what we have today because those portions of the bill will not become law.

There are many other provisions we would lose if we do not pass a bill, if we only have an extension. The firewall protection of the highway trust fund would not be continued, thereby making the trust fund vulnerable to raids in order to pay for other programs.

One of the things we run into in Government I can relate to in the State of Oklahoma. In the State of Oklahoma we have had people, when you are looking the other way, come in and raid a trust fund. The impact aid is a good example. Impact aid was started way back in the 1950s. The idea was if Government comes along and takes the land off the tax rolls, you still have to educate those kids living there, so they are supposed to replenish that particular subdivision to the amount of money they lost in revenue. That was a good program. We all supported it.

In the 1960s, people realized there was a fund and no one was looking, so they took the money out of it. This has happened to other trust funds. This has happened to the highway trust fund. I see that as a moral issue.

In fact, when we had our bill out last year, we looked at it as if this is something we can afford to do because it was paid for almost entirely out of user taxes. Now, if you go to the pump and you pay a Federal tax on the gasoline you buy, you assume that will go to building roads and maintaining roads and people do not complain about it. I have never complained about it. I complain about every other tax, but I don't complain about the highway taxes because I know that is how we will pay for it. They have been diverting money out of the trust fund and putting it into other projects.

What we did in last year's bill, and it is in this year's bill also, is restore that so money will have to go to repairing roads that go into the highway system. If we do not pass this bill, it is not going to happen.

To reiterate, regarding the pending bill, 76 Senators voted for it last year. Very few changes have been made. We produced a solid project last year to go to conference with the House. I suggest that given a few changes we would have made, we would have been able to move it out and we would not be here today. This should have happened a year ago. This should not be happening now.

The bill managers are ready and willing to discuss Members' amendments. We want to work with you on your concerns. We hope you will come down and offer amendments. We will have this vote in 9 minutes. How quickly time flies when you are having fun. When we have this vote, I anticipate it will be a successful vote and we will be able to get on the bill and start with amendments. When that happens, I certainly hope all those individuals who have said negative things about this bill—they didn't like part of the formula, they didn't think they were treated fairly, they thought they were bumping up to the caps for States—come down and offer amendments.

I don't think any of us in terms of Senator JEFFORDS, myself, Senator BAUCUS, and Senator BOND, are going to complain. We may not like the amendments, but we want to have the amendments offered, if for no other reason than it is important so people realize you cannot make one change in a bill without affecting everyone else. I know formulas are different.

It would be easier if we had done the easy thing. That is, Senator JEFFORDS and I could go to 60 Members of this 100–Member body and make them sweetheart deals, give them what they wanted to get their vote, buy their votes, get 60 votes, and tell the rest of them, it is your problem. And we would have a bill today. That is not how we want to do business. We feel we can do it being fair to our colleagues and do it on the basis of a formula.

We had Members who were going to be heard on the motion to proceed and they have not arrived. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the chairman and the ranking member for their work on this issue. I urge my colleagues to support invoking cloture on this important legislation.

I had a meeting yesterday morning with highway contractors in my State. They once again impressed upon me the urgency of passing new highway legislation.

In my part of the country—I represent North Dakota—our construction season is a short one. We urgently need action. There are contracts that are being held up, actions that need to be taken to improve the road network in my State that are being held because there is no new highway legislation passed.

We keep passing extenders. But that does not make adjustments for the increased needs across the country. We know much of our bridge system is deficient and in serious need of repair. We know many of the roads in our country need repair. New highways need to be constructed. Much of that activity will not occur unless new highway legislation passes the Congress.

I thank the chairman and the ranking member for the extraordinary efforts they have made to advance this legislation. We are being held up here because some are unhappy, some are not getting all they would like to get. That is pretty much the norm around here. None of us get quite what we would like. I would like much more for my State. But I know the reality we confront. I know the urgency of the need to act.

I ask my colleagues, please, let's invoke cloture. Let's proceed. We will still have opportunities to amend this bill. Members can come before the Senate and offer amendments to change this legislation. They can either prevail or lose, but they will have had their chance. I hope my colleagues will support the move to invoke cloture on this legislation so we can proceed, so the American people can know the important business of highway construction, highway repair, bridge construction, and bridge repair can move forward.

Mr. JEFFORDS. Mr. President, I thank the Senator for his good words. I hope the Senators viewing this will join so we can expedite passage of this bill.

Mr. CONRAD. Mr. President, again I thank the ranking member, Senator JEFFORDS, who has put so much time and effort into this legislation so that all at the table are fairly represented. I thank the chairman, as well. The chairman has strived valiantly over an extended period of time. I remember last year as we moved, we hoped, toward conclusion, our House colleagues had a different point of view than the Senate. I thank the chairman and ranking member for their exceptional efforts.

Now we have a chance to do it, to move forward. We need this cloture vote to proceed.

I yield the floor.

Mr. INHOFE. I thank the Senator from North Dakota. It is not as great a problem in Oklahoma as the problem in North Dakota because your construction season is shorter than ours. Right now one of our major concerns is that we can get in there and get the contracts in a timely fashion so we can get under construction and do the work we are supposed to be doing.

Also, before the Senator from North Dakota came in, we commented this is somewhat of a life-and-death situation. Last year, nearly 43,000 people died on our Nation's highways. This represents the single greatest cause of accidental death in Americans ages 2 to 33.

The core safety programs will be corrected. According to the Department of Transportation, time in congestion increased from 31.7 percent in 1992 to 33 percent in 2000. We had several discussions yesterday about the cost of fuel and the fact that if you have all this congestion—certainly we know what this is in Washington, DC—the cars are out there idling, burning fuel, not getting anywhere. We need to get this country moving.

I appreciate the comments of the Senator from North Dakota.

We are at the time designated to have the vote. This could be one of the maybe two or three most significant votes we have this year. It will allow us to do all that we have been talking about for the last hour. It is rather refreshing during this time we did not have anyone coming down and opposing this motion to proceed.

The Senator from North Dakota is exactly right. We want to encourage people who have a problem to come down. Maybe we can make them better. We want to consider amendments. We want to get this done.

The PRESIDING OFFICER. Without objection, all time is yielded back.

CLOTURE MOTION

Under the previous order, the Senate will proceed to a vote on the motion to invoke cloture on the motion to proceed to H.R. 3, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 69, H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

Bill Frist, John Warner, Lindsey Graham, Craig Thomas, Mike DeWine, Richard Burr, Susan Collins, Johnny Isakson, James Inhofe, Gordon Smith, Pete Domenici, Thad Cochran, John Thune, Orrin Hatch, Chuck Grassley, David Vitter, Mitch McConnell.

The PRESIDING OFFICER. Under unanimous consent, the mandatory quorum has been waived. The question is, Is it the sense of the Senate that debate on the motion to proceed to H.R. 3, the Transportation Equity Act: A Legacy For Users, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 94, nays 6, as follows:

[Rollcall Vote No. 110 Leg.]

YEAS—94

Akaka	Craig	Kohl
Alexander	Crapo	Landrieu
Allard	Dayton	Lautenberg
Allen	DeMint	Leahy
Baucus	DeWine	Levin
Bayh	Dodd	Lieberman
Bennett	Dole	Lincoln
Biden	Domenici	Lott
Bingaman	Dorgan	Lugar
Bond	Durbin	Martinez
Boxer	Ensign	McConnell
Brownback	Enzi	Mikulski
Bunning	Feingold	Murkowski
Burns	Feinstein	Murray
Burr	Frist	Nelson (FL)
Byrd	Graham	Nelson (NE)
Cantwell	Grassley	Obama
Carper	Hagel	Pryor
Chafee	Harkin	Reed
Chambliss	Hatch	Reid
Clinton	Inhofe	Roberts
Coburn	Inouye	Rockefeller
Cochran	Isakson	Salazar
Coleman	Jeffords	Santorum
Collins	Johnson	Sarbanes
Conrad	Kennedy	Schumer
Corzine	Kerry	Sessions
Shelby	Stevens	Voinovich
Smith	Talent	Warner
Snowe	Thomas	Wyden
Specter	Thune	
Stabenow	Vitter	

NAYS—6

Cornyn	Hutchison	McCain
Gregg	Kyl	Sununu

The PRESIDING OFFICER. On this vote, the yeas are 94, the nays are 6. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to speak for 7 minutes on the topic of the 15th anniversary of the Hubble telescope.

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

FIFTEENTH ANNIVERSARY OF THE HUBBLE SPACE TELESCOPE

Ms. MIKULSKI. Mr. President, this week marks the 15th anniversary of the launch of the Hubble space telescope. As we watched Hubble lift off 15 years ago, we had great hopes for the Hubble and great hopes for science. Guess what. We were not disappointed.

Hubble ushered in a new era of astronomy and science. Hubble has exceeded all expectations. It is the greatest tool for studying the universe since Galileo himself invented the telescope. Because of the Hubble, we are now living in what astronomers call the ''golden age'' of astronomy and physics. How incredible, how spectacular. It has been America's gift to the world. It has been one of the greatest acts of public diplomacy in history. Hubble has become a symbol of America's generosity of spirit. Whatever the Hubble sees in the world, it downloads for the rest of the world to have access. Hubble even has its own Web site. It gets e-mails from people all over the world. Some of them from the children are the most touching. There are e-mails that say: Dear Mr. Hubble, did you see God today? Have you met an angel? Is there another universe? What does it look like? They actually talk to Hubble, and it has inspired their curiosity and their desire to engage in science.

It is not surprising; just look at what it has accomplished.

The Hubble telescope has accounted for 35 percent of all of NASA's discoveries for the past 30 years. It has seen farther and sharper than any telescope in history. It has observed more than 14,000 objects in space. It has been the No. 1 producer of science for NASA over the past 10 years. Over 2,600 scientific papers have been written on the Hubble results. It has dramatically improved our understanding of the atmosphere of planets; the size of galaxies; the birth, life, and death of stars; the existence of black holes; the age of the universe and how the universe expands.

I have a photograph in my office of a swirling galaxy. They call it the ''eye of God'' because you literally see those spectacular pictures, and you feel in this one picture that God himself is staring down at us from the universe.

Hubble has rewritten the science textbooks almost every year. It has exceeded our wildest expectations. But it didn't start that way. Fifteen years ago, I was chairing the subcommittee that finances NASA, and we were so excited when Hubble took off. But no sooner was it in space when we saw that the Hubble did not work. Something was wrong with its mirror. Hubble could not see. I immediately had a hearing and said, oh my gosh, Hubble has a cataract. It needs space surgery. It needs a space contact lens. Well, I never saw myself as a space ophthalmologist, but, quite frankly, working with my dear friend from the other side of the aisle, Senator Jake Garn, we took a risk to finance the fix for Hubble.

Well, this country and this world, this big planet, was not disappointed. We took the risk because we believed in Hubble's potential. We believed in the engineers and the scientists at NASA to know how to fix it. We believed in our astronauts, that they could go to the Hubble and fix it and return safely to Earth. Thanks to those astronauts and engineers, Hubble was saved. We did fix it with a contact lens that has lasted now for many years. We have had to go back to space and give it new batteries. We have also had to give it new gyroscopes so it doesn't vibrate in space. We even improved its lens. Each year it gets better and better. From the brink of failure to extraordinary success, this has been the story of Hubble.

Now we are once again going to have to come to the rescue of Hubble. Last year, the NASA Administrator announced that he was terminating the final servicing mission to give Hubble new batteries and extend its life. The Administrator rejected it, saying that the Hubble would shut down in 4 years when its battery runs out. The reason he gave was astronaut safety. I was troubled by that because astronaut safety has been my No. 1 priority as an appropriator for the space program.

However, I was uncertain about that decision and, like any good scientist, I asked for a second opinion. First, I asked Admiral Gehman, who had done the study of what went wrong with Columbia, for his opinion. He said go to the National Academy of Sciences. I did that, and we found a study that concluded that a servicing mission was no more risky than going back to the space station.

Once again, Mr. President, our shuttle is going to start flying again, and our hearts and prayers will go with Colonel Collins as she takes astronauts back into space and, God willing and with the help of our engineers, returns to Earth safely.

The next mission needs to go up and fix the Hubble. I believe the American people want it. We have the will. Now we have to find the wallet. President George Bush, with poor advice from the NASA Administrator, canceled it out of the budget. I want the President to look at those NASA pictures. I want him to know what NASA has meant to the world and to America in space. I am going to work with him, on a bipartisan basis, to find the money to keep Hubble flying and seeing the universe. Who knows, maybe we will meet an angel and make some interesting new friends.

Mr. President, I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:25 p.m., recessed and, at 2:16 p.m., reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

The PRESIDING OFFICER. In my capacity as a Senator from the State of Ohio, I suggest the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TRANSPORTATION EQUITY ACT; A LEGACY FOR USERS—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I rise today to talk about simple fairness and equity in this highway bill. I commend the chairman and managers of the bill for working hard to get it to the floor. Now that it is here, I have some serious concerns with the bill, as reported, that I would like to share with my colleagues.

This bill is not fair to the States called donor States that send more of their Federal gas tax dollar and get less of it in return. Those are called donor States. We donor States—and Florida is one of them—are, once again, being cheated out of our fair share of highway dollars. Florida and roughly 20 other donor States deserve true equity, not simply what the donee States think we should be happy with. They send in a dollar of gas tax but they get more than a dollar in return. Our States, called the donor States, send in a dollar of gas tax money, and we receive less than a dollar of gas tax money in return.

In the case of Florida over the years, it has been down in the seventies. Presently—although it is scored at 90 cents—return on the dollar, in reality, when all the formulas are plugged in, is more like 87 cents. So in Florida we send a dollar of gas tax money to Washington, and we get only 87 cents of that dollar back. That is not fair.

The argument I am making is not a new argument. These are arguments that the ones who send in a dollar and get back less of their gas tax money are pitted against the donee States. Approximately 30 of the donee States get back more than a dollar of the gas tax money. So there are 20 States that get less and approximately 30 States that get more. I am tired of hearing we should be happy with what we get. I am not happy with the formula on the redistribution of the gas tax money in the highway bill.

Last year's bill that we passed in the Senate got us a lot further toward equity than this year's bill. I was disappointed, even in that bill, because although we had a target to get us from 90 percent, which is really 87 percent, return on our gas tax dollar, all the way up to 95 percent, we did not get that 95 cents back on the dollar until the very last year of the 6-year authorization of the highway bill.

Florida is in the category with other States such as Arizona, California, and Texas. We were not going to get 90 cents on the dollar, boosted to 95 cents on the dollar, until the very last of 6 years in the bill. Those States that I just mentioned, mine included, are named superdonor States. In reality, it means we are the last in line to get our fair share.

As I look back at last year's bill, I yearn for it because that is not what this bill does. This bill gets the States only to 92 cents on the dollar, and large States such as Florida, California, Texas, and Arizona only get there, again, at the end of the 6-year authorization on the highway bill.

So what am I forced to look at? I am looking at we were getting it up to 95 cents on the dollar last year, and under this bill we are only getting it up to 92 cents on the dollar. Well, this is unacceptable. There is clearly a push from both sides of the aisle to add more money to the bill. I support more money in the bill. What we passed in the Senate last year was $318 billion for highway construction authorized over a 6-year period. What is in this bill is $284 billion over a 6-year period. If we want to add more money to the bill for highways, I am certainly for that, but I support more money if there is an increase in the rate of the return for States that are giving more money than what they are getting in return.

It simply does my State and these other States no good to grow a pot of money if we are not getting our fair share of the pot.

I have been told by the 30 donee States—remember, those are the States that get more on their dollar of gas tax than they put in—I have been told by those States to look at how much money, in actual dollars, Florida will receive and how much Florida will grow in an overall percentage from the last authorization bill.

I am happy to know Florida, under the chairman's proposal, gets more dollars in this bill than it did in the last authorization, but Florida should be getting more money this time around because it is putting more money in. The number that is important, and the

number that only donor States want to focus on, is the rate of return on our gas tax dollars. What percentage of Florida taxpayer dollars are actually being returned to Florida to build up our infrastructure, our highways, our bridges, and our transit? I asked that question not only for my State but for 20 other States that are not getting their fair share.

Why is this particularly sensitive to me? Look at all the folks that come to Florida and use our roads. The Orlando area is the No. 1 tourist destination in the world. We have a $50 billion-a-year tourism industry that, in large part, is as a result of our pristine and clear waters on the beaches. People go by car.

What other reasons? Florida is now one of the major growth States also because we are a destination during the twilight years of retirement. That means not only is our population growing at a rapid rate—1,000 people a day net growth in Florida—but on top of that, we get 80 million tourists a year, and they are all using those Florida roads. We desperately need those roads expanded and improved. I can take anyone to parts of Florida and show that if you think traffic jams are big in Washington, DC, they cannot hold a candle to some of the traffic jams in Florida. States such as mine are the States with the greatest need and we are the States that continue to get the least back on our highway tax dollars. Our populations are increasing by leaps and bounds, yet our highway rate of return is staying relatively the same in order to pay for the other States to invest in their roads, and those are States that are not growing like Florida, Texas, California, Arizona, and 15 other states. Florida is the third fastest growing State behind Nevada and Arizona. We will grow by 80 percent in the next 25 years, becoming the third largest State in the country behind California and Texas. Florida will bump New York into fourth place by 2011.

We have to have help on our highways. We need, but we also deserve, our fair share. States such as mine have, for the last half a century, given more than our share of highway funds. The interstate system is complete now. It has been for some time. This formula has been operating for over 50 years. It is past time that donor States get justice and equity and fair shares. We deserve to get 95 cents return on each one of our highway dollars.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, in a moment we are going to make a motion to substitute H.R. 3 so we will be considering the Senate-passed bill as it was passed out of our committee on to the floor. I think it is appropriate to make a couple of comments—and, of course, invite Senator JEFFORDS to also comment if he wants to—on the time we have taken on this bill.

We have worked on this bill for some 2½ years. It has been bipartisan all the way, all of last year and this year. I think it is something that is a product we can be very proud of. It has provisions in it that if we do not pass will not be considered. If we are on another extension, we will not have the safety provisions. We will not have the streamlining provisions that will help us build more roads per dollar.

We are prepared now to proceed. I understand there is no further debate on the pending motion.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the motion to proceed is agreed to.

The motion was agreed to.

TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (H.R. 3) to authorize funds for Federal aid for highways, highway safety programs, and transit programs, and for other purposes.

AMENDMENT NO. 567

(Purpose: To provide a complete substitute)

Mr. INHOFE. I send a substitute to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 567.

Mr. INHOFE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. INHOFE. Mr. President, we are now on the substitute. I understand there are some amendments that are either on their way down or are going to be presented at this time. If not, we will talk a little bit about the bill and where we are today. We are prepared now to go ahead and accept amendments. We are going to ask Members to bring their amendments to the desk. The majority and minority leaders have agreed to give us the floor time to consider these amendments. The sooner we get the amendments, the sooner we can get this passed and sent to conference. I would think the minority leader would agree with me that this is one of the three most significant bills of the year.

I yield the floor.

Mr. REID. I would like to give a short speech, if the distinguished manager of the bill would not mind.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, I say to my friend, I am not on the committee now, but I have been on the committee during a number of these highway bills. This highway bill is one of the most important pieces of legislation that the Senate considers. One reason it is such a good exercise is that it forces bipartisanship. It is extremely important legislation. This is one issue on which Democrats and Republicans work together. I certainly wish my friend well. It is an important bill, as he and I know. We worked so hard last year to get it done, and for a lot of reasons it did not happen, but the Senator from Oklahoma has my good wishes on this most important bill for not only Nevada but the country.

JUDICIAL NOMINATIONS

For the last several months, the Senate has operated under a cloud, a nuclear cloud. I would like to give just a brief history for those who are here today. Filibusters have been part of our history from the very beginning of our Republic. In the early years of our country, there were a number of filibusters, but there was no way to stop them. As a result of that, because of the filibuster, a lot of things were not accomplished that Senators wanted to accomplish. In fact, a number of very important Cabinet nominations did not happen because of the filibuster, and a number of judicial appointments in the early years of this Republic simply did not go anyplace because of the filibuster.

It was in 1917 that this body decided to change the rule so that there could be a way of ending filibusters. They decided that two-thirds of the Senators voting could stop a filibuster. Then, during the height of the civil rights movement in this country, the Senate decided to lower that threshold to 60, the way it has been since then.

We, of course, had filibusters of judges prior to 1917. We have had filibusters of judges since then. In recent years, we have had the person who was nominated to be Chief Justice of the Supreme Court, Abe Fortas, who was a member of the Court, filibustered. He was not able to go forward. There are a number of other people who were nominated to be judges, specifically circuit court judges, and there were filibusters conducted by my friends, the Republicans. There were efforts made to stop those with cloture motions. The two that come to my mind are two judges from California.

I worked very hard on one of them—a man by the name of Richard Paez. The other was a woman by the name of Marsha Berzon. A cloture motion was filed, and cloture was granted as a result of 60 Senators voting for cloture.

My friend, the distinguished Republican leader, knows filibusters have been conducted because he voted against cloture. While he was a Member of the Senate, he voted against cloture on a circuit court judge. So for

people to say there has never been a filibuster of a judge is simply wrong. Twenty-five percent of all Supreme Court Justices have been rejected—not always by filibuster, but for various reasons. More than half the filibusters have been conducted by Republican Senators. I do not think that was unconstitutional.

During the tenure of this President, we have had 215 requests to have his nominations approved. We have approved 205 of them. We have turned down 10. That is a 95- to 97-percent confirmation rate, 10 rejected judges, 7 of whom are currently before the Senate. This does not seem reason enough for me, and I think for most people, to think that longstanding rules in the Senate should be changed.

Remember, everyone has to understand that to change the rules as anticipated with the so-called nuclear option, the majority would have to break the rules. The only way a rule change can be stopped when people want to talk—and that is, in effect, what is being done—is to change the rule. If somebody wants to talk, there must be the votes to stop that. That is not what the majority is talking about doing. They are talking about doing something illegal. They are talking about breaking the rules to change the rules, and that is not appropriate.

That is not fair, and it is not right.

The claim that there have been no filibusters, as I indicated, ignores history, including recent history. Throughout the years, many judicial nominees have been denied up-or-down votes. As we know, during the Clinton administration, 69 judges never even got a hearing before the Judiciary Committee. They were dumped into this big dark hole and never saw the light of day. Some of them waited for a very long time, including Richard Paez, who waited for over 4 years. Some of the loudest proponents of the so-called nuclear option opposed cloture on the nominations of President Clinton's nominees.

America is paying attention to this hypocrisy. Citizens are alarmed about what the Republican majority is planning to do. According to a poll that was released yesterday, Americans oppose this—Democrats, Republicans, Independents—by a 2-to-1 margin. They oppose changing the rules to make it easier for the President to stack the courts with radical judges. The American people, in effect, reject the nuclear option because they see it for what it is—an abuse of power, arrogance of power. Lord Acton said power corrupts, and absolute power corrupts absolutely.

The American people need to understand what is going on here in our Congress. Across the way in the House of Representatives, the majority leader was censored three times within 1 year. He will not be censored again because they changed the rules in the middle of the game. That is what is going on. The rules are being changed in the middle of the game. They are breaking the rules to change the rules.

Regardless of one's political affiliation, Americans understand this is a partisan political grab. Nearly half the Republicans polled opposed any rules changes, joining 8 in 10 Democrats and 7 Independents.

Over the last several months, I have talked about a solution. We need to step forward and try to work something out. Before I came here, I tried cases before juries. I had more than 100 jury trials. Every time I had a jury trial was a failure. It was a failure because it indicated the participants could not work things out on their own. That is how I feel about this. We should be able to work this out. We should be able to work it out. My door has always been open to responsible Republicans who do not want the Senate to head down this unproductive path.

I wrote to the majority leader on March 15 and expressed a willingness to find a way out of this predicament we find ourselves in, to find a solution. My friend, the distinguished majority leader, replied 2 days later he would propose a compromise for resolving this issue. We are still waiting on that proposal.

Now, it appears maybe—and I hope this is untrue—that Republican leaders in the Senate do not want a compromise. Senator FRIST and I do not do our negotiations in public, but he and I had a nice conversation about a number of issues about 12:15 today. One of the issues we talked about was my proposal to try to resolve this. I thought it was a very constructive meeting. I walked into a conference at quarter to 1, and I was told he issued a statement that there would be no compromise. I don't believe that. The wires are crossed here somewhere. I hope that, in fact, is the case.

This is something that needs to be resolved. One of my concerns involves Karl Rove. I know Karl Rove was up here today. Karl Rove is world famous. He is from Nevada. I like Karl Rove. He has not been elected either to the executive branch of Government or to the legislative branch of Government. I believe in the separation of powers. I believe this legislative branch of Government is as strong as and as important as the executive branch and the judicial branch of Government. We should conduct our business, especially when it deals with procedures and rules of the Senate, without interference from the White House. In fact, I thought this is where we were headed.

I spoke to the President at the White House. My distinguished friend, the assistant majority leader, was there. I asked the President if he would step into this issue dealing with the nuclear option and help us resolve this, because we have lots of important legislative issues to accomplish.

The President, without any hesitation, said to me, in effect, that this is a legislative matter. He said he was not going to get involved in it at all.

I was dumbfounded to find that the Vice President, a few days later, was giving a speech—and I know under his constitutional role he has certain obligations, one of which is if we are in a tie, he breaks the tie; I have no qualms about his having the ability to do that—he gave a long speech on the history of the filibuster and how we were stopping this constitutional option. Frank Luntz gave nuclear option a new name. And bang, today we get Karl Rove telling everybody that there will be no compromise, saying that we want all of our judges, plus Bolton.

These are not positions that allow for compromise. I want to work this out. These are not positions that allow the Senate to proceed with the work of the American people. These are positions that force a confrontation. I don't think we need that. These are positions that divert attention from the real problems facing America today—gas prices, nearly $2.75 a gallon in Nevada. That is higher than in California. We have poor schools, problems with schools all over America. Minnesota is no different from Nevada. They have problems in their schools. They have inadequate health care coverage.

Again, 95 percent of the President's nominees have been confirmed. The majority leader has said he is willing to break the rules, to change the rules. He will be gone in 15 months and we will still be around. It would not be the right thing to do.

Ultimately, this is about removing the last check in Washington against complete abuse of power, the right to extended debate.

Ronald Reagan sent people to the Supreme Court. Richard Nixon sent people to the Supreme Court. There are still two men there who were nominated by Nixon. We have people whom George Bush No. 1 sent here. Seven of the nine members of the U.S. Supreme Court are Republican appointees. Yet there have been attacks on these people, vile things said about David Souter, vile things said about Justice Kennedy, and others.

The radical right, not representing the mainstream Republicans in this country, wants a different kind of Supreme Court, a different kind of judge—maybe that is the case—one who would roll back equality, liberty, and the rights of all Americans. I don't think that is why President Reagan put his appointees on the Supreme Court. I don't think that is why President Bush No. 1 put his appointees on the Supreme Court.

I think those who were elected to this body, the people who sent us here—not Karl Rove, not James Dobson, and not radical elements of our society—should work out a solution.

There is a way to avoid this nuclear shutdown. I have outlined a proposal for my collective colleagues in some detail in an effort to protect an independent judiciary and to preserve the Founding Fathers' vision of the Senate. I am not going to go into the details of my conversations with my

friend Senator FRIST and other Members of the majority. I spoke in private. But I want to talk about why compromise is necessary.

We stand united against the constitutional or nuclear option, all 45 of us. We have a responsibility to protect checks and balances, not violate them; to protect the separation of power. My offer protects those checks and balances. My offer renews procedures to allow home State Senators to have a say in who sits on the Federal courts in their States. The procedures encourage consultation and will lead to the nomination of consensus judges, judges who will be confirmed unanimously in most cases.

As I indicated on more than one occasion this afternoon, we have approved 205 judges and turned down 10. The 10 were denied confirmation for a lot of reasons. I will not detail that here. We need to ensure the Senate remains as a check on the President's power, especially with respect to the Supreme Court. We were willing to compromise on this, which is hard to do. I believe my proposal strikes the right balance. I hope so because I tried. It protects our democracy and the independence of our Federal courts. The separation of powers doctrine means so much to our country. It protects the American people, lets us do our business, and can break partisan stalemates that are unnecessarily divisive. I emphasize that any potential compromise is of course contingent on a commitment that the nuclear option will not be exercised in this Congress or any Congress. It is very important to understand this is not all done in a vacuum.

What I have spoken to my Republican counterparts about is an effort to work our way through this. I always felt that a good settlement in all those cases I had, the best settlement was when both parties walked out saying, I am happy. We cannot make both parties happy. We will have to compromise. We will have to be statesmen and come up with something the American people will accept.

I recognize the same poll I talked about here, how people feel about the nuclear option—I know, reading these polls, that the present numbers are tumbling downward. I know that because of what has gone on, for a lot of different reasons, numbers for the Senate Republicans are falling. But the general view of the Congress is not that good.

I think it would be a good moment for the American people if Senator FRIST and I could walk out before the American people and say that we have been able to work out our differences. I think the American people would like that. If we do not do that, it is going to be a difficult situation, as I have indicated in great detail. This is not a Newt Gingrich threat. We are not going to shut down the Government. But we are going to work on a number of issues that we feel are important to the American people. In fact, our hours will probably be longer, rather than shorter.

Mr. President, I appreciate everyone's courtesy, and I especially thank my friend from Oklahoma.

If I could say this: During the Clinton years, and during the first 4 years of President Bush, we had a workhorse in the Judiciary Committee. He was chairman; he was ranking member; he was chairman. It went back and forth. He has taken a lot of spears for a lot of different people, standing up for what he believes is right for this country. So I want the record to reflect how much I appreciate the support and the advice and counsel that I have received from Senator PAT LEAHY during the years I have been in the Senate, but particularly during the last 5 months.

The PRESIDING OFFICER. The majority whip.

Mr. LEAHY. Mr. President, will the Senator from Kentucky, inasmuch as I have been mentioned, allow me 2 minutes to refer to what the distinguished leader has been saying?

Mr. MCCONNELL. Mr. President, is the Senator from Vermont asking for 2 minutes?

Mr. LEAHY. Yes.

Mr. President, one, I compliment the Senator from Nevada. I appreciate the kind words he has said about me. I know how hard he has worked to work out this issue. I have been in numerous meetings with him. He has met with both me and the chairman of the committee. We have discussed ways we could work this out. Frankly, I have been in some of those same discussions with my friends on the other side of the aisle. All of us agree this is a reasonable way to work it out.

We should not be talking about judges under the question of nuclear options or religious tests or all the other red herrings that have been out here. It loses sight of what the Constitution is. It speaks of advice and consent. Both the President of the United States and the Senate have a role.

This begins at the other end of Pennsylvania Avenue. The President cannot just simply say: I will send and you will consent. It says advice and consent. I think what the distinguished Senator from Nevada has said is something I have heard Republican Senators say over and over again in my 30 years here.

Let us work this out. And then let's work with the White House so we have both advice and consent. That is how we got 205 judges. That is why 95 percent of President Bush's judges have been confirmed. That is the way we can work on the remaining ones.

So I compliment the Senator from Nevada. I hope his discussions with the Senator from Tennessee work out. I know there is nothing the chairman of the committee and I would like better than to be able to go on with the work of the Judiciary Committee and not with parliamentary maneuvering.

Mr. SCHUMER addressed the chair.

The PRESIDING OFFICER. The Senator from Kentucky, the majority whip, has the floor.

Mr. MCCONNELL. Mr. President, the Senator from New York approached me a few moments ago off the floor asking for 2 minutes prior to my response to the Democratic leader. I will be happy to grant him 2 minutes, provided that I be recognized as soon as the Senator from New York completes his 2 minutes.

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

The Senator from New York.

Mr. SCHUMER. Thank you, Mr. President. I thank my colleague from Kentucky for his usual graciousness.

I compliment our leader, HARRY REID, not only for his words but for his actions. The compromise he seeks is a vital one to the history of this body. Because if we do not reach compromise, the constitutional confrontation that will occur is something the likes of which the Senate has never seen. It could end up destroying whatever is left of comity in the Senate and undo our efforts to move forward on issues the American public cares about.

We are acting here out of strength, not out of weakness. The public is on our side. They realize the nuclear option is overreaching. As our minority leader said, it is not the first time we have seen overreaching here in the Congress in the last few months.

But the compromise is offered in the best of faith. We seriously love this body and wish to avoid ripping it apart. We plead with our colleagues on the other side—the Republican leadership but also those 10 or 12 Republican Members who know this is wrong but are under tremendous pressure to make it come about.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, let me first join in the compliments that have been expressed toward the Democratic leader. He is new to his position. This new precedent, set in the Senate over the last Congress, in which we routinely saw filibustering for the purpose of defeating circuit judges, was not something introduced under Senator REID's majority leadership.

We have had numerous conversations. I have had conversations with Senator REID. He has had a number of conversations with the majority leader about how we might be able to get the Senate back to the way it operated for 214 years quite comfortably.

So far, a compromise has not been achieved. But I compliment the Democratic leader for his willingness to discuss the issue and his understanding that where the Senate is today is simply unacceptable.

So let's talk just for a moment about what is not in dispute. What is not in dispute is that for 214 years the filibuster was not used to kill a nomination for the judiciary when a majority

of the Members of the Senate were for that nominee. When a majority of the Members of this body have been for a nominee, the filibuster has never been used to defeat a nominee in the history of the country.

It is true, we have had a few cloture votes. My good friend from Nevada, the Democratic leader, mentioned two that I think are illustrative of how the Senate should operate. Toward the end of the Clinton years, we had two nominations before this body, Paez and Berzon, both of whom were quite controversial and quite far to the left, for the Ninth Circuit, which some would argue did not need to be pushed any further to the left.

Senator LOTT was the majority leader then. Senator Daschle was the Democratic leader. There were people on this side of the aisle who did not want to see either of those nominees go forward and were prepared to filibuster those nominees for the purpose of defeating them. So our leader had to say to people on our side of the aisle: That is a bad idea. He joined with Senator Daschle and filed cloture not for the purpose of defeating the two nominations but for the purpose of advancing them because, you see, there was a core of Republicans on this side of the aisle prepared to filibuster for the purpose of defeating those nominations.

Responsible leadership on both sides conspired, filed cloture, and cloture was invoked. I was an example of somebody who was not keen on either of those nominees. I voted for cloture because I believed then, and believe now, that judges are entitled to an up-or-down vote here in the Senate, that any President is entitled to that courtesy. So cloture was invoked as a result of the leadership of Senator Daschle and Senator LOTT. We had the votes on the nominees. They both were confirmed—not with my vote but confirmed.

That is the way the Senate ought to operate when there are some Members on each side of the aisle who would go so far as to deny a judge an up-or-down vote. That was the status quo until the last Congress, when, for the first time in the history of the Senate, the filibuster was used for the purpose of defeating a nominee, even when the nominee had a majority of support in the Senate. So there have been no filibusters for the purpose of killing nominees until the last Congress.

Second, there is a lot of discussion about polls, particularly the unbelievable poll on the front page of the Washington Post today which might give some comfort to those who think filibustering judges for the purpose of defeating them is a good idea until you read the way the question was asked. The way the question was asked was almost guaranteed to get the answer.

A more appropriate way to ask the question was the way it was asked in a recent survey by Voter Consumer Research. In that survey, 81 percent of those tested agreed with the idea that ''even if they disagree with a judge, Senate Democrats should at least allow the President's nomination to be voted on,'' and only 18 percent disagreed with that, an unbiased way of stating the question. Even if you disagree with the nominee, should the nominee get an up-or-down vote: 81 percent yes; 18 percent no. That is where the American people are on this issue.

With regard to the President's involvement, the President has not been involved in this, but the Vice President happens to be the President of the Senate. He is, because of his duties as President of the Senate, going to be called upon at some point, should we have to go so far as to exercise the Byrd option or constitutional option—and let me make the point that the constitutional option is simply a precedent interpreting a rule of the Senate. Senator BYRD did this not on one occasion, not on two occasions or three occasions, but on four occasions during the time that he was leader, interpreted the rules by a simple majority of the Senate. It has been done before and the Byrd option, of course, could be done again.

Let me say I think our good friends on the other side of the aisle may have a legitimate complaint with regard to the possibility that judicial nominees could be held in committee. I have heard it said on numerous occasions that what they have done out here on the floor of the Senate in the last Congress and are proposing to do in this Congress is no different from what the Republicans did in committee during the Clinton years. I would suggest that any solution to the problem include some kind of expedited procedure under which nominees could get out of committee in an orderly way and get voted on up or down on the Senate floor, thereby eliminating the possibility that the majority party could, in committee, in effect do the same thing the minority party did in the last Congress on the floor. We could level the playing field and make certain that any President's nominee is given fair consideration in committee and fair consideration on the floor.

These are the kinds of things we have been kicking around, discussing in good faith on both sides of the aisle. Again, I compliment the Democratic leader. He has certainly been willing to discuss the issue. I believe we both think where the Senate is today is unacceptable. There is a lot of finger-pointing going on on both sides. Democrats are pointing fingers at Republicans for what was done during the Clinton years; Republicans are pointing fingers at Democrats for what was done in the last Congress. There is a way to cure that, a way to fix it.

It would be a huge mistake for the Senate to get to the point where 41 Members of the Senate can dictate to any President of the United States who gets to be on a circuit court or the Supreme Court. Let me say that again. Where this is headed, I would say to my good friend, the Democratic leader, and to our colleagues on the other side of the aisle, is in the direction of 41 Members of the Senate being able to dictate to any President who may be on the Supreme Court or a circuit court. That is a bad idea. Against the best efforts of myself and others on this side of the aisle, there could be a Democratic President again as soon as 3 or 4 years from now. I don't think our friends on the other side of the aisle are going to want to have a well-established notion that a mere 41 Members of the Senate are going to be able to dictate to the President who may be on the courts.

I conclude by saying we should continue our discussions—I do think they have been in good faith—to see if we can resolve this situation and get the Senate back to the way it operated prior to the last Congress when nominees were entitled to an up-or-down vote on the floor and, I would add, should be entitled to an up-or-down vote in committee, thereby leveling the playing field and guaranteeing that any President's nominations to the circuit courts and to the Supreme Court get a fair up-or-down vote.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Democratic leader is recognized.

Mr. REID. Mr. President, I appreciate the statement of my distinguished friend. We have worked together for I don't remember how many years because I had his job. A lot of my previous life has been blurred as a result of the past 5 months, but I enjoyed working with him then. He is a master of procedure, certainly understands the Senate. I appreciate not only what he said but the tone of it.

I would just like to say this to the Presiding Officer, being a new Senator, and some others here: One of the problems I have is the deference to the President. George Bush is my President. I didn't vote for him. When he was elected the first time, I didn't vote for him. But we are a country that is so unique. When his election was decided by the Supreme Court after that election, there wasn't a window broken. There wasn't a demonstration held. There were no fires set. He became President of the United States. He became my President and everybody else's. But the fact that he is President of the United States does not take away the fact that he is President, not king. With all the power that he has in that vast bureaucracy, he has no more power than we have in the legislative branch.

My distinguished friend, the Senator from Kentucky, said: We need to give deference to the President's nominations. Yes, I think we need to give deference to the President's nominations, but we are not a rubber stamp for the President. We have an advice and consent role. My friend said he doesn't think it is right to have 41 Members hold up a vote on his judicial nominations. I think it speaks volumes to a

statement that was issued by the majority leader last week. Obviously, one of his Republican colleagues said: Is this rule that you are breaking to change the rules going to apply to legislative filibusters? He issued a one-paragraph statement and said: No, it won't apply to legislative filibusters.

But what it didn't say was anything about Cabinet officers, sub-Cabinet officers, people we have to confirm by law. Do we have a right to say the Senate rule should be in effect and we have a right to hold one of these up by filibuster? Using the logic of my friend from Kentucky and the statement issued by my friend, the distinguished majority leader, obviously they think he should get his choices there, too.

There have been would-be Cabinet officers from the very beginning of this country who never made it, Cabinet officers who were nominated but were never confirmed because people in the Senate, 100 years ago, 200 years ago, 50 years ago said: No thanks. They didn't have a majority but they had enough to filibuster. That is the Senate. If we continue on this path on which we are going, we will just be an extension of the House of Representatives. I have served there. With every matter that comes to the House floor, without exception, there is what they call a rule on it that comes from the Rules Committee. The Rules Committee is chosen by the Speaker. There are Democrats there, but they are only token because whatever the Committee on Rules says, that is what happens on the House floor.

You can bring a bill to the floor, and the Rules Committee can say: No amendments, debate time 20 minutes evenly divided. Or they can bring a piece of legislation to the floor and they can say: Five amendments, an hour each. They can do anything they want to do. They set a rule on every piece of legislation.

Mr. MCCONNELL. Will the Senator yield for a question?

Mr. REID. Not right now. When Senator INHOFE brings this bill to the floor, the highway bill, this bill is a free-for-all. That is what the Senate is. It is kind of a cluttered, clumsy procedure, but that is what the Senate is. I hope we are not an extension of the House of Representatives where everything we do here is like in the House—a rule is set on it. If people feel strongly enough to break the rules, to change the rules, as they will have to do here, they can change it as to the nominations I have also mentioned. And next, they can change it on legislation. The Senator from Florida has not been here long, but he is certainly an experienced man, a former Cabinet officer of this country. I know he came here a few weeks ago with an important piece of legislation. To him, it was very important because it was important, he believed, to the people of Florida. But you knew, because of Senate procedures, if we wanted to stop that with 41 votes, we could do that. It should apply to everything we do here.

I agree with my friend from Kentucky. I don't think we should be looking to pick fights and say that everybody the President sends up here has to be what we want. We know it is the President's prerogative. But for 214 years, the President consulted with the Senate on judicial nominations, and for many years the committee honored the blue slip, which ensured consultation. We know that during the last few years of the Clinton administration, Senator HATCH said: We are not going to approve anybody unless you run the names past me. That is how we came up with Ginsburg and Breyer. ORRIN HATCH and the Republicans, at that time in the majority, and in the minority other times, said that they liked Breyer and Ginsburg. These nominees flew right through here. Perhaps President Clinton would have liked to have had somebody else. Maybe they were not his first choice. They got out of this body quickly.

So we had this consultation for a long period of time. We honored the blue-slip policy, which ensured consultation. I haven't yet mentioned that one of the many positive things all the political writers talk about is that the filibuster brings about compromise and consultation. You are forced to come and talk about issues, whether it is a piece of legislation the Senator from Florida is trying to get through or whether it is a nomination. I got a call from a Senator today saying: I have a hold on a Senate Cabinet officer, and I want to talk to you about it and see if you can help me work something out. It brings people together. I am confident that on an important issue for the President, we can do that.

Mr. President, I very much thank my friend from Kentucky—not only what he said, but how he said it. I hope something can be resolved here. The right to unlimited debate is something this country has had and something that is needed. I don't think we should be filibustering a lot of judges unnecessarily, but a filibuster is sometimes warranted. There may be unusual situations in the future where we will need to rely on this procedure.

I am happy to yield to my friend from Kentucky.

Mr. MCCONNELL. Mr. President, I can make it in the form of a question.

Mr. REID. I am happy to answer a question.

Mr. MCCONNELL. Basically, what I want to do is not ask him a question, but allay his concerns about this being a slippery slope that would lead to the end of the legislative filibuster. We had that vote in 1995, I remind my good friend from Nevada, to get rid of the filibuster, period. It got only 19 votes; all 19 of them were Democrats. Not a single Republican voted to get rid of the legislative filibuster. Interestingly enough, this was the first vote after my party came back to power in the Senate. So, arguably, we would have been the big beneficiaries of getting rid of the filibuster. We had just had a marvelously successful election in 1994. We were in the majority of the House for the first time in 40 years and in the Senate. Somebody on your side of the aisle offered an amendment to get rid of all filibusters. That was the first vote Senator FRIST cast after he was sworn into the Senate—to keep the filibuster. So I can reassure my good friend there is no sentiment that I am aware of anywhere in the Senate for getting rid of the filibuster.

Secondly, I am not aware of any sentiment about the filibuster being a problem with regard to Cabinet or sub-Cabinet appointments.

Third, I am not aware of the filibuster being a problem with regard to district court judges. Senators seem to be—your side has done a good job of confirming district court judges. That is not in dispute. We appreciate that. We think you have done it in a fair manner. What we are talking about here is this problem: for the first time in history the filibustering of circuit court nominees that have a majority of support in the Senate and, if allowed to have an up-or-down vote, all of these judges would be confirmed. They are for the first time in history denying them a vote when they have a majority of support in the Senate, and many of us have a suspicion this is precisely what our good friends on the other side of the aisle have in mind for any subsequent Supreme Court nominations. So why don't we just talk about the problem, which is circuit courts, and potentially the Supreme Court, and reach some kind of understanding that gets us back to the way we comfortably operated here for 214 years. That is what I would hope my good friend from Nevada, the Democratic leader, and ourselves could agree to at some point.

The PRESIDING OFFICER. The Democratic leader has the floor.

Mr. REID. Mr. President, I say to my friend that if a filibuster is OK for a person who is going to serve 4 years as a member of the President's Cabinet, or some lesser period of time, which is usually the case, why would it be wrong, for someone who is going to get a lifetime appointment, to take a look at that person? Why in the world would that be any different? Don't we have an even higher obligation to look at somebody who is going to be appointed for life? Certainly, we have an obligation to do that. There is no reason in the world that the President should get all of his people. I would say that my friends in the majority should understand that we consider our position as Senators. It gives up power to the executive branch of Government.

I am happy to yield to my friend from New York.

Mr. SCHUMER. I thank the Senator. I will address a question to my friend from Nevada. I have two questions. I will ask them both. The first is this: Our good friend from Kentucky did speak of compromise, and we do want compromise. But you cannot call something a compromise and then say I

want to win everything. To say that there would be no filibusters of any judges, to say that every judge could be discharged from a committee—you can call that a compromise; you can say the sky is green—it is not a compromise. That is totally the position of the other side. A compromise involves a little pain on each side to be a genuine compromise.

So my first question to my good friend and leader, whom I am proud to serve under, is: Would this side saying we will not filibuster any judge be any kind of compromise at all? The second question to my colleague—I will ask both at once—is this: My friend from Kentucky said: Well, we want an up-or-down vote. Majority rules. Are there not many instances where the Senate does not operate by majority rule, where 60 votes are called for, where 67 votes are called for? In fact, I argue it can be said that 51 Senators, representing only 21 percent of the population of this United States, can pass a law. Isn't it a fact that the Founding Fathers wanted the Senate to be something of a different animal, not a place where if you had 51 percent, you got your way 100 percent of the time but, rather, a place where the rules, the traditions, the way of thinking said come together for compromise; and, in fact, isn't it a fact that the time when this is most important, when the Senate plays its most important role, is when the President, the House, and the Senate are in the control of one party?

My two questions: Is it a compromise—so-called compromise—that says no filibuster on any judges and discharge petitions on all judges, any compromise at all, which my friend from Kentucky seems to think it was, even though it would be everything your side wants and nothing our side wants?

And second, is it not true that the Senate has been founded not on 51-to-49 rule governance all the time, but on a tradition of comity, checks and balances, and bipartisanship where a bare majority does not always rule?

Mr. REID. Mr. President, I say to my friend, this was the Great Compromise during the Constitutional Convention, where these visionary men, our Founding Fathers, worked out the difference between the House and the Senate. They did this purposely and specifically.

I say to my friend, there are many issues here that are decided not by 51, not by 60, not by 67, but many issues take unanimous consent. In fact, most things we do in this body are by unanimous consent. All of us have to agree.

We cannot commit to not having any filibusters, but we will exercise to the very best of our ability discretion, judicious discretion, because we think we are in a new day. We believe this is a new Congress, and we want to show the American people we can work together. And I say to everyone listening that I think we have proven that this year. We have worked on issues that have taken 15 years to get to the Senate floor. We know that many people on this side of the aisle did not particularly like the class action bill. We know that many people on this side of the aisle did not particularly like the bankruptcy bill, but we took 15 years of history and came here and did things the old-fashioned way. We had a bill on the floor, we offered amendments—some failed, some passed—and moved on. Those bills are now law. People may not like that—some do not—but it shows we can work together here.

My plaintive plea to every one of my 99 friends in the Senate is, let's work something out. Let's try to get along. Let's set a picture that BILL FRIST and HARRY REID can walk out here not representing these special interest groups but representing the American people and trying to keep this body as it is and has been for over 200 years, and walk out here together and say: We have resolved our differences. We are going to move forward with the business of this country. That is my desire.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, briefly, before the Democratic leader leaves, what I fear is that the only thing that has really changed in recent years is the occupant of the White House. With all due respect to my good friend and colleague—and I thank him for his cooperation on class action and bankruptcy; I know that was not easy—here we have my good friend HARRY REID in June of 2001 saying:

> We should have up-or-down votes in the committees and on the floor.

We should have up-or-down votes in the committees and on the floor. June 2001.

My good friend Senator SCHUMER is, I believe, still here on the Senate floor. In March of 2000, he said:

> I also plead with my colleagues to move judges with alacrity—vote them up or down. . . . This delay makes a mockery of the Constitution.

That is the Democratic leader and our good Senator from New York in 2000, just a few years ago. What has changed between then and now? I suggest the only thing that has changed is the occupant of the White House. All we are pleading for—and again, I thank the Democratic leader. I think he has been gracious, he has been anxious to work with us to come up with some accommodation. But what was routine Senate procedure as late as 2000 and 2001 now has been turned on its head and night is day and day is night. I am having a hard time seeing that anything has changed except the occupant of the White House.

What we need to do is divorce ourselves from who the current occupant of the White House is, who the current majority is in the Senate, and think about the institution in the long term. It seems to me that where we are headed is that 41 Members of the Senate will, in effect, be able to dictate to whomever is in the White House who the nominees for appeals court judges and for Supreme Court Justices may be. I believe that is not where we need to end up. I do not think it is in their best interest. They may have the White House as soon as January of 2009.

Why can't we just pull back from the abyss, get back to the way we were operating in a way apparently the Democratic leader and the Senator from New York felt was quite appropriate as recently as 2000 and 2001? Why can't we just get back to that and settle this dispute once and for all for future Congresses?

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, first of all, I have no problem with what I said. I believe we should have had some votes in the committee. Remember, 69 never even came before the committee. Following that, there should have been votes here on the floor. Remember, every one of these judges turned down had votes on the floor. They were cloture motions.

My distinguished friend says he does not know of any time in the history of this country where there has been a majority that favored somebody, that there was not cloture filed, or words to that effect. The point is, we do not need to relive history, but 69 of President Clinton's people never even got there, and that is what I was talking about in 2000 and 2001. I would never, ever consider breaking the rules to change the rules. I never suggested that at all.

I say to my friend, I want to work something out. I repeat that for probably the fifth time here today, but in the process we cannot give up the basic rights this country and this Senate have had for more than 200 years. We are willing to compromise, and, as my friend from New York said, compromise means just that. If we are seen as not acting appropriately, then people can respond to us at election time. It is interesting to note, I say to my friend, in talking to some of my Republican friends, of all the circuit nominees I have heard of, there are only a few that I have a problem with. My Republican friends have told me that they have a problem with a couple themselves.

We can work through this. Let's not have a hard-and-fast rule that the only way we are going to do this is through an up-or-down vote on judges because if that is the case, we are wasting our time here. They are going to have to break the rules.

Mr. BOND. Will the minority leader yield for a question?

Mr. SCHUMER. Will my colleague yield?

Mr. REID. I yield to my friend from Missouri—he has been patient—for a question without my losing my right to the floor.

Mr. BOND. Mr. President, I would like to ask the minority leader—I came down here to talk about the highway bill. Is it his understanding that we are on the highway bill?

Mr. REID. And my answer is yes, and I am going to get off the floor just as quickly as I can.

Mr. SCHUMER. Mr. President, will my colleague yield?

Mr. REID. Yes.

Mr. SCHUMER. I will be brief, as I know my friend from Missouri has been patient. I want to augment, since my name was mentioned, what my colleague said. What we were talking about was bringing votes to the floor. We did not say majority vote, nor did we try to stop the filibusters that were going on for Mr. Paez and Ms. Berzon.

The bottom line is those two were not allowed to get votes for 4 years, 5½ years. The nominees here have come to the floor and, by the rules of the Senate, they did not garner sufficient support. It is a lot different not bringing them up at all, and that is what we were talking about, rather than bringing them up and then letting them be disposed of by the Senate rules. In fact, the quote, the first part of it I believe I was talking to my colleague from New Hampshire: You can debate this as long as you want, just bring it up.

I thank my colleague.

Mr. REID. I appreciate everyone's patience.

The PRESIDING OFFICER. The majority whip.

Mr. MCCONNELL. Mr. President, I assure the Senator from Missouri, I am also about through. Listening to Senator SCHUMER, maybe we have parameters of an understanding here. I think it was probably before the Senator from New York came on the floor, but I suggested that we couple an assurance that we have an up-or-down vote on the floor of the Senate for appellate court judges and Supreme Court Justices with a guaranteed expedited procedure in committee, guarantee that some of the legitimate grievances his party may have had toward the end of the Clinton years could not be committed again. All of this seems to me presents the possibility for an understanding that might settle this issue once and for all.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, what is the regular order?

The PRESIDING OFFICER. The highway bill is the pending question.

Mr. INHOFE. Mr. President, as we have said, we are on the substitute, our committee substitute. That will be the one that will receive amendments. We have invited Members to come to the floor with their amendments.

While we are waiting for those to come to the floor, I will go over what is before us section by section. Then when someone comes in for the purpose of offering an amendment, I will be glad to stop and then yield to that a person.

I first ask if the ranking minority member, Senator JEFFORDS, had any comments to make before we go on to amendments.

Mr. JEFFORDS. I thank the Senator for the opportunity but the answer is no.

Mr. INHOFE. First, I will start section by section. Section 1101 of the bill authorizes $283.9 billion in guaranteed spending and contract authority over a 6-year period. This level is consistent with levels adopted by the House and the White House. Subtracting authorizations for mass transit and safety and funding for fiscal year 2004, the bill provides $191 billion for maintenance and improvement to the Nation's roads and bridges over the 5-year period from fiscal year 2005 through 2009.

Let us keep in mind that this was essentially the same bill at a different funding level than we had a year ago this week, I believe. So we already have a year behind us. What we have done for this statement is to say what is there other than what has already been used for the first year, fiscal year 2005, and also mass transit and safety.

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. At this point, we need to recognize that people have been concerned—were concerned a few years ago—about the economy, and we are recognizing that this administration actually inherited a recession and we are coming out of it now. But there is no single thing we could do that would provide more jobs and more economic activity. I suggest to the President that for each 1-percent increase in economic activity, it provides an additional 47,000 jobs. So do the math and we can see what a great boon this would be.

The bill before us today recognizes the realities of available revenues without the need for increasing gas taxes. It is designed to make the most of every available dollar for better and safer roads, while creating thousands of new jobs.

It probably is anticipated that there will be amendments to increase this amount. I anticipate there may be an amendment by the chairman and the ranking member of the Finance Committee, Senator GRASSLEY and Senator BAUCUS, and if not them then somebody else would probably do it. When this happens, they would, of course, be in a position to come up with the amount of money that would be necessary.

One of the things I commented about last year is that we were always within the amount of money that we could identify—in other words, the amount of money that was anticipated coming in from Federal revenues from gas purchases, along with other areas we could identify.

The total obligation authorized in this bill is $188 billion for a period from fiscal year 2005 to 2009.

In addition to the increases in funding for the overall program, the bill makes important changes to the apportionments of a few specific programs. Under TEA–21, which we adopted 7 years ago, the administrative expenses for 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 Administration expenses at its own separate apportionment protecting 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 to the administrative expenses of the Appalachian Highway Development System.

As a result of the 2000 census, 46 new metropolitan planning organizations, known as MPOs, have been established throughout the country and are now eligible for Federal transportation planning funding. To respond to this expanded need, we have increased the program set-asides for MPOs from 1 percent under TEA–21 to up to 1½ percent. This, along with the overall increase in program funds, will help to address the growing transportation planning needs.

Section 1104 is the equity bonus section. TEA–21 used the minimum guarantee calculation to guarantee that States receive back at least 90.5 percent of their percentage contributed to the highway trust fund. This is very significant. It has become quite controversial. Last week and this week we have talked for several hours on this bill about the various donor States. My State of Oklahoma has always been a donor State, since the programs began. I can remember that donor amount was 75 percent; that is to say, each State was guaranteed to get back 75 percent of the money that was sent in. Slowly that has crept up and it is currently at 90.5 percent.

Had we passed the bill that we had in conference last year—the bill that we sent to conference had $318 billion of authorization—then we would have everybody at the end of this 6-year period up to 95 percent. So it would have gone from 90.5 percent to 95 percent.

The minimum guarantee program is driven by a political distribution known as the 1104 table. The bill replaces the old minimum guarantee program and the 1104 table with a new equity bonus program that ensures a percentage return to States of 92 percent in each of the fiscal years 2005 through 2009.

At this point we can say it is very complicated, but the equity bonus program is just what it states: it is an equity program. The program does away with the table in TEA–21 which determined each State's percentage share of the total highway program. 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 of formulas.

This is not the easy way of doing it; this is the hard way of doing it. I am sure Senator JEFFORDS joins me in saying it would be a lot easier to have a minimum guarantee for any State, work out their deal, make 60 Members of the Senate happy, and walk away. That would have been done a long time ago if we decided to do it that way. But that is not equitable, and I think that is the wrong way to do business.

In fact, I say to people who criticize this bill saying it has pork in it, there are only two projects in the entire bill. The bill before us right now in the form of a substitute only has two projects in it. That is not the case over in the other body. They have several hundred projects. It has been my philosophy, and I think it is shared by the ranking minority, that the closer one gets to home, the better these decisions are.

If we can determine an equitable formula, which I believe we have done, we can send it back to the States and let the local people make the determinations as to how that is going to be spent. Now, a lot of people in Washington do not agree with that. A lot of them think if the decision is not made in Washington, it is not a good decision. I believe we are doing it the right way.

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 apportionment in addition to their formula funds to bring them up to the required level.

While we allow the formulas to work under the new equity bonus program, we also recognize 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 of donee States, rates of return are subject to an annual growth ceiling to smooth out the phase-in of increased minimum returns. This accomplishes two goals. First, it keeps the cost of the equity bonus program affordable; secondly, it ensures that donee States are still able to grow so no States grow less than 10 percent over their TEA–21 levels. Everyone is guaranteed an increase from their own levels, at least 10 percent.

There is a cap on equity bonus. No State may receive a portion more than a specific percentage of their average portion received under TEA–21. So you have two caps—a floor and a ceiling. That helps the formulas work.

There is a special rule to protect States with population densities less than 20 persons per square mile, a population of less than 1 million, a median household income of less than $35,000, or a State with a fatality rate during 2002 on the interstate highways greater than 1 fatality per 100 million vehicle miles traveled.

We said a lot in one paragraph. It shows the complications of a formula. First, we have to take care of the States that do not have a population. Look at Montana, Wyoming, some of the sparsely populated States. They still have to have roads. Second, we have said for the States that might have a lower per capita income, they can be considered poverty States, so there is a consideration. My State of Oklahoma is in a different situation than many other States and we would benefit from that. Or a State with a fatality rise during 2002. It is absolutely necessary to have part of the formula attributed to a consideration for money being made to States where the fatality rate is higher than average. That takes us through several of the sections.

At this point, if there are any Senators who would like to offer amendments, I encourage them to come to the Chamber and offer amendments, at the end of which time we will continue to go through the bill section by section.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

AMENDMENT NO. 572 TO AMENDMENT NO. 567

Mr. THUNE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Dakota [Mr. THUNE] proposes an amendment numbered 572.

Mr. THUNE. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To modify the section relating to National Scenic Byways to provide for the designation of Indian scenic byways)

Strike section 1602(a) and insert the following:

(a) IN GENERAL.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (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.'';

(B) in paragraph (3)—

(i) by striking ''To be considered'' and inserting the following:

''(A) IN GENERAL.—To be considered'';

(ii) in subparagraph (A) (as designated by clause (i))—

(I) by inserting '', an Indian tribe, '' after ''nominated by a State''; and

(II) by inserting '', an Indian scenic byway,'' after ''designated as a State scenic byway''; and

(iii) by adding at the end the following:

''(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a National Scenic Byway under subparagraph (A) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

''(i) jurisdiction over the road; or

''(ii) responsibility for managing the road.

''(C) SAFETY.—Indian tribes shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).''; and

(C) by adding at the end the following:

''(4) RECIPROCAL NOTIFICATION.—States, Federal land management agencies, and Indian tribes shall notify each other regarding nominations under this subsection for roads that—

''(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

''(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting ''and Indian tribes'' after ''provide technical assistance to States'';

(ii) in subparagraph (A), by striking ''designated as'' and all that follows and inserting ''designated as—

''(i) National Scenic Byways;

''(ii) All-American Roads;

''(iii) America's Byways;

''(iv) State scenic byways; or

''(v) Indian scenic byways; and''; and

(iii) in subparagraph (B), by inserting ''or Indian'' after ''State'';

(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'';

(ii) in subparagraph (B)—

(I) by striking ''State-designated'' and inserting ''State or Indian''; and

(II) 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

(iii) in subparagraph (C), by inserting ''or Indian'' after ''State'';

(3) in subsection (c)—

(A) in paragraph (1), by inserting ''or Indian'' after ''State'';

(B) in paragraph (3)—

(i) by inserting ''Indian scenic byway,'' after ''improvements to a State scenic byway,''; and

(ii) by inserting ''Indian scenic byway,'' after ''designation as a State scenic byway,''; and

(C) in paragraph (4), by striking ''passing lane,''; and

(4) in subsection (e), by inserting ''or Indian tribe'' after ''State''.

Mr. THUNE. Mr. President, I hope my amendment will be included as part of the final bill. I know the managers intend to offer a managers' amendment. I want my colleagues to know I have been working with the chairman, the Senator from Oklahoma, the ranking member, Senator JEFFORDS from Vermont, of the Committee on Environment and Public Works concerning this issue since we marked up the underlying bill in committee last month.

While Chairman INHOFE and Ranking Member JEFFORDS, Subcommittee Chair BOND, and Ranking Subcommittee Member BAUCUS initially had questions regarding my amendment in committee, I understand now

the staff has been able to work through all of those concerns.

Simply put, my amendment seeks to allow Native American tribes the ability to nominate roads to the Secretary of Transportation for designation as scenic byways, All-American Roads, or America's Byways.

Currently, Indian tribes are only allowed to nominate roads for designation under the Scenic Byways Program if they first go through their respective State Department of Transportation or Federal land management agencies such as the National Park Service or the Bureau of Indian Affairs. My amendment allows tribes to designate those roads over which they have jurisdiction or management responsibility as tribal scenic byways which then allows them to directly nominate the road for national designation with the Secretary of Transportation.

Additionally, my amendment calls on tribes to ensure the safety and quality of the roads that are designated as scenic byways similar to the requirements States currently have. In no way does this amendment impact the funding available for scenic byways. It simply grants Indian tribes the same ability States and Federal land management agencies currently have to nominate roads.

In closing, this is an issue of fairness and something I hope the managers of the bill will be able to accept. It does not impact current levels of funding. It simply allows for more flexibility for the Native American tribes in this country to designate roads that are under their jurisdiction and management.

I hope the managers will be able to accept the amendment. As I said earlier today, I hope we can proceed to get this bill through the process, through the Senate, into conference with the House, and on the President's desk because it is so important to this Nation's future, to my State of South Dakota, and to all those tribes, local governments, State highway departments, business groups, and those who are awaiting final action on the highway bill.

I yield back the remainder of my time and ask for favorable consideration of this amendment.

Mr. INHOFE. Mr. President, I thank the Senator for his amendment and for working with us on this committee. I am sure he is aware the amendment concerns a large number of tribal communities in Oklahoma, as well as those in South Dakota. I believe right now we have the largest percentage of Native Americans per capita of any of the States.

This amendment has been cleared on both sides. I ask the Senator from Vermont if it is the Senator's wish to go ahead and accept this now, if this has been cleared on the minority side.

Mr. JEFFORDS. I am very pleased to concur in the amendment. The Senator has made an excellent presentation. I appreciate the work of the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 572) was agreed to.

Mr. THUNE. Mr. President, I thank the distinguished chairman, Senator INHOFE, and Senator JEFFORDS for their help.

Mr. INHOFE. I move to reconsider the vote.

Mr. THUNE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THUNE. I thank the Senator from Oklahoma and the Senator from Vermont for their assistance and for their staffs' work. This will improve the way the roads are treated on the reservations and give our tribes more flexibility and discretion when it comes to how they treat the roads.

Mr. INHOFE. I appreciate the Senator from South Dakota coming down. He has submitted the first amendment to this bill, an amendment as meaningful to Oklahoma and other States as to South Dakota. We thank the Senator for his effort.

We invite other Members to offer their amendments. I am not implying they will all be that easy, but we invite our Senators to offer amendments.

I was going over section 1104, the most complicated section in the bill, the equity bonus section. We talked about the fact it does protect States that are of a lower income, densely populated States, States that have our donor status, States that are donee status. This is an important part of the bill.

The scope or percentage of funding included in the equity bonus and in the program remains the same, at 92.5 percent as TEA–21. This is significant. That means 92.5 percent of everything in this bill, whatever it ends up being, whether $284 billion or another amount, is done through this equitable manner. It minimizes what a lot of people would criticize as being pork for special projects.

In order to craft a successful formula, we have to balance the needs of donor and donee States. I will be the first to acknowledge this balance, as with any compromise, is not perfect. A few minutes ago we talked about compromises and they aren't perfect.

However, I can say with, I am sure, the agreement of the ranking minority member, there were many compromises made during the construction of this bill over the past 2½ years the Senator from Vermont disagreed with and with which I disagreed. But in the spirit of compromise we were able to get these things done.

My colleagues in representing donee and donor States that received lower rates of return or growth rates than they feel fair have made this fact very clear. I am sympathetic to the concerns of both donor and donees in this situation. They both have significant transportation needs that cannot be ignored. Addressing their concerns is more difficult in the last year due to the fact we have less money.

When we were dealing with the bill we passed out of the Senate and sent to conference last year, just at about this time, it was at a higher level, and that did guarantee every State would reach, at the end of the 6-year period, at least a 95-percent return. I know my people in the State of Oklahoma wanted a 95-percent return, and they were very disappointed when we were unable to get it out of conference, when I had every expectation we would get it out of conference.

So now, in order to get up to a higher amount, we have to be dealing with a different funding level. We have to wait and let the process take place and see what happens on that.

Section 1105 is the revenue aligned budget authority, the RABA. The huge 2003 negative adjustment in revenue aligned budget authority, or RABA, made it clear that some changes were needed to the RABA calculation in order to provide greater stability, more accurate predictions, and less fluctuation in coming years. As I have indicated before, I believe the underlying principle of RABA is an important fiscal policy and that highway expenditures should be tied to highway trust fund revenues.

This bill modifies the RABA calculation so that annual funding level adjustments are less dependent on future anticipated receipts and more dependent on actual receipts to the highway trust fund. If the RABA adjustment in a fiscal year is negative, the amount of contract authority apportioned to the States for that year will be reduced by an amount equal to the negative RABA.

Under TEA–21, negative adjustments were delayed until the succeeding fiscal year. Under the new method—the change we are making—no reduction to apportionments is made for RABA when the cash balance on the highway trust fund, other than the mass transit account, exceeds $6 billion.

Section 1201 is the Infrastructure Performance and Maintenance Program, the IPAM. The Infrastructure Performance and Maintenance Program is intended for ready-to-go projects that States can undertake and complete within a relatively short timeframe. This is very important because we are now—I anticipate we will pass this bill—into the construction season. Some of my friends from Northern States have much shorter construction seasons than some, such as the Presiding Officer. They have 12 months a year for construction. We are not quite that fortunate.

So this allows those projects that are ready to go, to go ahead—as soon as this bill is signed into law—and in a very short timeframe to be completed.

As a result, States are given 6 months to obligate IPAM funds. We designed this discretionary program to promote projects that result 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.

States may obligate funds for projects eligible under Interstate Maintenance; the National Highway System; the Surface Transportation Program; the Highway Safety Improvement Program; Congestion Mitigation and Air Quality Improvement, the CMAQ Program; and the Highway Bridge Program.

Eligible projects under the IPAM Program include the preservation, maintenance, and improvement of existing highway elements, including hurricane evacuation routes, operational improvements at points of recurring highway congestion, and systematic changes to manage or improve areas of congestion.

Section 1202 is the future of the surface transportation system. 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, first, the current condition and performance of the interstate system; next, the future of the interstate system in 15, 30, and 50 years; third, the expected demographics and business uses that impact the surface transportation system; fourth, the effect of changing vehicle types, modes of transportation, traffic volumes, and fleet size and weights; fifth, possible design changes; sixth, urban, rural, interregional and national needs; seventh, improvements in emergency preparedness; eighth, real-time performance data collection; and, ninth, future funding needs and potential approaches to collect those funds.

Now, that concludes section 1202.

Mr. President, it is my understanding that a Senator is here who wants the floor for a purpose other than the highway bill.

Mr. KENNEDY. Mr. President, I say to the Senator, I would like to make very brief comments on the Transportation bill, but I would also like to address the Senate on another subject matter. If there were Senators here who would like to talk on the highway bill, I would withhold. If there were not other Senators here on that legislation, I would hope to be able to address the Senate.

Mr. INHOFE. Mr. President, I would make the request of the Senator from Massachusetts to go ahead and proceed in terms of his comments on the highway bill. Then, since we do have others coming down, we have to get through this section by section. Can the Senator give us an idea about how much time he would like to have?

Mr. KENNEDY. Twenty minutes.

Mr. INHOFE. I would ask the Senator, if we were to go ahead and allow you 20 minutes on another subject, if someone came down, prior to that time being used, to offer an amendment, would you at that time yield the floor? It is highly unlikely that will happen, but we do want to stay on this bill.

Mr. KENNEDY. I would be glad to yield the floor for the purpose of a Senator offering an amendment, if I could retain the floor just to finish my remarks, but I would be glad to let the person offer their amendment.

Mr. INHOFE. Mr. President, I have no objection to the 20 minutes for that purpose.

The PRESIDING OFFICER (Mr. DEMINT). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator.

Mr. President, first of all, I think all of us understand this Transportation bill is the No. 1 jobs bill the Senate will debate this year. Mr. President, 47,000 jobs are created for every $1 billion in this legislation. This bill would create 140,000 jobs in my own State of Massachusetts. But this bill has $34 billion less than last year's Senate bill, and, incredibly, a $1.7 billion cut in public transit. So the Senate must find a way to restore these cuts.

In my own State, we have a crucial need for this kind of help and assistance in terms of our roads and our bridges and also in terms of mass transit. It is one of the most important pieces of legislation. It is fundamental in terms of our economy. We are very conscious that there are many growth areas across this country. Those growth areas require additional kinds of investment in terms of the highway system.

But there are also other older areas where the roads are heavily used, and used much more than just by the people who inhabit that particular State. Generally, consideration is not given as to the amount of usage of many of these roads. So in many of the older States, in New England, for example, and the eastern seaboard, many of these roads are heavily used not only by those who live in those particular States but others as well. There is a very important need to make sure those roads are going to be safe for those who travel on the roads and also be safe and secure in order to add an additional dimension to our national economy.

So I am going to support this legislation. I do hope we will be able to find additional resources. I know those resources can make a major difference and be put to work effectively, in terms of strengthening and improving not only our interstate system but also the transportation systems in our States. It is a very solid investment that is paid back many times over by the returns in our economy.

ANNIVERSARY OF THE ABU GHRAIB SCANDAL

Mr. President, the sad anniversary of the Abu Ghraib torture scandal is now upon us. It is an appropriate time to reflect on how well we have responded as a nation.

The images of cruelty and perversion are still difficult to look at a year later: an Iraqi prisoner in a dark hood and cape, standing on a cardboard box with electrodes attached to his body; naked men forced to simulate sex acts on each other; a corpse of a man who had been beaten to death lying in ice next to soldiers smiling and giving a thumbs-up sign; a pool of blood from the wounds of a naked, defenseless prisoner attacked by a military dog. These images are seared in our collective memory.

The reports of widespread abuse by U.S. personnel were initially met with disbelief and then incomprehension. They stand in sharp contrast to the values America has always stood for, our belief in the dignity and worth of all people, our unequivocal stance against torture and abuse, our commitment to the rule of law. The images horrified us and severely damaged our reputation in the Middle East and around the world.

On December 4, 2003, President Bush had proclaimed to the world the capture of Saddam Hussein brought further assurance that the torture chambers and the secret police are gone forever. The photos of Abu Ghraib made all too clear that torture continued in occupied Iraq. Where are we a year later? Has this problem been resolved? Has the moral authority of the United States been restored? Have we recovered from what is perhaps the steepest and deepest fall from grace in our history?

Sadly the answer is no. Because at every opportunity, the administration has tried to minimize the problem and avoid responsibility for it. The tone was set at the very start. Senior level military commanders knew about the problems much earlier. They knew about Abu Ghraib photos as early as January 2004. General Taguba submitted his scathing report on February 26. Yet rather than deal with the problem honestly, Pentagon officials persuaded CBS News to delay its report while they developed a damage control plan.

The plan included an effort to minimize the abuse as the work of a few bad apples, all conveniently lower rank soldiers, in a desperate effort to emphasize the role of senior military officials in exposing the scandal and insulate the civilian leadership from responsibility. It was clear from the start that further investigation of the abuse was needed. The American people deserved a thorough review of all detention and interrogation policies used by military and intelligence personnel abroad and a full accounting of all officials responsible for the policies that allowed the abuses to take place.

What we got instead were nine incomplete and self-serving internal investigations by the Pentagon. None of the assigned investigators were given the authority to challenge the conduct of the civilian command. For example, the Schlesinger panel's report found

that abuses were widespread and there was both institutional and personal responsibility at a higher level. But Secretary Rumsfeld did not authorize the panel to address matters of personal accountability.

The assigned investigators were also denied the cooperation of the CIA which had a central role in the torture scandal. General Fay found that CIA practices led to ''a loss of accountability, abuse'' and ''poisoned the atmosphere at Abu Ghraib.'' His efforts to fully uncover the agency's role, however, were stymied by their refusal to respond to his requests for information. Indeed, no investigation, congressional or otherwise, has gotten full cooperation from the CIA.

With respect to matters under the Defense Department's control, the answers we received have been inconsistent and incomplete. In May 2004, General Sanchez categorically denied to the Senate Armed Services Committee that he had approved the use of sleep deprivation, excessive noise, and intimidation by guard dogs as interrogation techniques in Iraq. A memorandum uncovered last month by the ACLU, however, showed he had, in fact, approved the use of these techniques.

Secretary Rumsfeld told the committee the military received its first indication of trouble at Abu Ghraib when a low-ranking soldier came forward in January 2004. Only later did we learn from press reports that throughout 2003, the Red Cross had provided the military with detailed reports about torture and other abuses at the prison and elsewhere in Iraq. The State Department and the Coalition Provisional Authority also appealed to top military officials to stop the abuse during 2003.

The Church report, released last month, rejected any connection between the official interrogation policies in Iraq and the abuses that occurred. The Fay report, by contrast, blamed the abuses at Abu Ghraib on a number of ''systemic problems'' that included ''inadequate interrogation doctrine and training'' and ''the lack of clear interrogation policy for the Iraq Campaign.''

Other parts of the Church report, including those on the role of general counsel William Haynes in adopting the radical legal reasoning of the Justice Department's Bybee memoranda over the vigorous objections of experienced JAG officers, have been wrongly classified. In fact, the Defense Department has repeatedly abused its classification procedures to hide critical information from Congress and the public.

Similarly, the Justice Department has gone to extremes to withhold from public scrutiny legal memos it considers too embarrassing to reveal. Even Congress has been remiss in its responsibilities to oversee the scandal. As Senator ROCKEFELLER, the vice chairman of the Senate Select Committee on Intelligence, said:

> More disturbingly, the Senate Intelligence Committee—the Committee charged with overseeing intelligence programs and the only one with the jurisdiction to investigate all aspects of this issue—is sitting on the sidelines and effectively abdicating its oversight responsibility to media investigative reporters.

A year after Abu Ghraib, new revelations about the abuse committed by United States personnel are still being reported frequently. The military has confirmed 28 acts of homicide committed against detainees in United States custody in Iraq and Afghanistan since 2002. Only one of these deaths took place at Abu Ghraib. The Red Cross has documented scores of abuses at United States facilities across Iraq, Afghanistan, and at the naval base at Guantanamo. FBI agents have reported ''torture techniques'' at Guantanamo, including techniques that senior Pentagon officials had specifically denied were being used.

Top officials in the administration have endorsed interrogation methods we have condemned in other countries, including binding prisoners in painful stress positions, threatening them with dogs, extended sleep deprivation, and simulated drownings. The administration has also increased the practice of rendering detainees to countries such as Syria, Egypt, and Jordan, countries the State Department condemned in its most recent human rights reports because of their use of torture. The practice of rendition—described by a former CIA official as ''finding someone else to do your dirty work''—is a clear violation of our treaty obligations under the Convention Against Torture.

We know many of these harsh techniques are no more effective at obtaining reliable information than traditional law enforcement techniques. After considerable debate with the FBI, the military acknowledged its methods were no more successful during interrogations at Guantanamo Bay than the FBI's methods. General Miller, former commander at Guantanamo, testified the Army Field Manual provided sufficient tools for intelligence gathering.

As Ambassador Negroponte, our Nation's new intelligence czar, said:

> Not only is torture illegal and reprehensible, but even if it were not so, I don't think it's an effective way of producing useful information.

Stripped to its essence, torturing prisoners is morally wrong and unproductive. Yet political leaders made a deliberate decision to throw out the well-established legal framework that has long made America the gold standard for human rights throughout the world. The administration left our soldiers, case officers, and intelligence agents in a fog of ambiguity. They were told to take the gloves off without knowing what the limits were.

In a series of secret memos and correspondence, some of which have still not been provided to Congress, top level lawyers engaged in a wholesale rewriting of human rights laws. In rewriting our human rights laws, the administration consistently overruled the objection of experienced military personnel and diplomats.

As Secretary of State Colin Powell warned the White House:

> It will reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our troops.

Senior Defense officials were warned that changing the rules could lead to so-called ''force drift,'' in which, without clearer guidance, the level of force applied to an uncooperative detainee might well result in torture.

When leaders didn't like what they heard, they cut off the criticism. When Secretary Powell raised concerns about the decision not to apply the Geneva Conventions to the conflict in Afghanistan, White House Counsel Gonzales cut him out of the process. When lawyers objected to the radical views in the Bybee Torture Memorandum, Defense Department General Counsel Haynes cut them out of the process and made the memo official policy for the entire military.

What happened here was not a reasoned response to 9/11—an objective reassessment of our rules and policies to account for the rise in terrorism. Instead, the leaders used 9/11 to undermine any constraints on the power of the President, and the country has been paying a high price for their arrogance ever since.

Dozens of administration memoranda involving post-9/11 detention and interrogation have come to light in the past year. Yet, in not one of these memos is there an appreciation of how well the existing rules served the Nation in past conflicts. Not one of them explains why the Army's interrogation manual, which discusses dozens of effective techniques that comply with domestic and international law, no longer serves America's interests. Not one of them comments on how compliance with the Geneva Conventions protects U.S. soldiers.

Clearly, the civilian lawyers in the Defense Department, the Justice Department, and the White House Counsel's office have been on an ideological mission. Their goal was not to reassess the current rules on detention and interrogation in light of the 9/11 attacks; their goal was to destroy them and, to a large extent, they succeeded.

The military was set adrift from its longstanding rules and traditions. The Bybee torture memorandum was eventually repudiated by the Justice Department, but the Pentagon's Working Group Report of April 2003, which incorporated the Bybee memorandum nearly verbatim, has still not been explicitly superseded, and no new guidance has gone to the field.

Our men and women in the military are still not clear whether and to what extent they should consider themselves bound by the Convention Against Torture, the Federal law prohibiting torture, or even the provisions of the Uniform Code of Military Justice that prohibit torture and cruel treatment. The

basic validity of the military's ''golden rule''—treat captured enemy forces as we would want our own prisoners of war to be treated—is in doubt.

The President has directed the military to treat detainees ''humanely,'' but this directive has not provided adequate guidance to our troops. General Counsel Haynes himself advised Secretary Rumsfeld that simulated drowning, forced nudity, the use of dogs to create stress, threats to kill a detainee's family, and other extreme tactics all qualified as ''humane.'' When the Pentagon's top civilian lawyer shows so little respect for human dignity, how can we expect more from our soldiers serving in the field?

As for the CIA, it was conspicuously excluded from the President's directive on humane treatment. More recently, we have learned that the administration does not believe that the prohibition against cruel, inhuman and degrading treatment applies to foreigners held by our government agencies abroad. The CIA concealed detainees from the Army and the Red Cross. It continues to send dozens of detainees to countries known to practice torture. It says it's conducting its own investigation into the abuses, but it refuses to provide a timetable or any preliminary findings. No agency should be above the law. The CIA must answer for its activities.

Accountability for the torture scandal continues to be lacking.

We know about the prosecutions of the low-level, ''bad apple'' soldiers involved in the abuse at Abu Ghraib. But prosecutions have been declined for other soldiers, including 17 implicated in the deaths of three prisoners in Iraq and Afghanistan. Not a single CIA official has been charged, although one private contractor is awaiting trial for the killing of a detainee in Afghanistan.

Even more disturbing, no action—criminal, administrative, or otherwise—has been taken against the high civilian officials responsible for the authorization of torture and mistreatment by U.S. officials in Iraq, Afghanistan, Guantanamo, and elsewhere. We know about the actions that have been taken against Charles Graner and Lynndie England. But what about William Haynes, Alberto Gonzales, Jay Bybee, John Yoo, David Addington, Douglas Feith?

These officials were warned of the consequences of undoing the rules before they changed them. They were informed of the objections to use of these harsh techniques. The FBI, the Naval Criminal Investigative Service, and the British all refused to participate in interrogations because they had such grave concerns about the brutal methods. Finally, one brave soldier, Joseph Darby, acknowledged that what was happening was wrong.

Far from being held accountable, some of these officials have been promoted. Bybee, who signed the notorious Justice Department memorandum redefining torture, was confirmed to a lifetime judgeship on a Federal appellate court. Haynes, the general counsel who made the Bybee memorandum official policy for the military, has been re-nominated for another appellate judgeship. Gonzales now serves as the Nation's Attorney General.

Last weekend, the Army's Inspector General revealed he had exonerated almost all of its top officers of any responsibility for abuse of detainees at Abu Ghraib, even though one of them, Lieutenant General Sanchez, explicitly approved the use of severe interrogation practices, and even though a review by former Secretary of Defense James Schlesinger found that General Sanchez and his deputy ''failed to ensure proper staff oversight of'' the operations at Abu Ghraib.

What signal does this pattern of prosecutions for low-ranking soldiers, exonerations for generals, and promotion for civilians send to our men and women in the Armed Services, and to our veterans?

The torture scandal is not going away on its own. Our Nation will continue to be harmed by the reports of abuse of detainees in U.S. custody, the failure by top officials to take action, and the abandonment of our basic rules and traditions on human rights.

The scandal directly endangers U.S. soldiers and U.S. civilians abroad. We no longer demand that those we capture in the war on terrorism be treated as we treat prisoners of other wars. What will we say to a country that justifies its torture of a U.S. soldier by citing our support for such treatment? How can we hold other nations accountable for their own human rights violations, when we continue to hold prisoners for years, without charging them or convicting them of anything?

The Nation's standing as a leader on human rights and respect for the rule of law has been severely undermined.

We cannot simply answer, as some have done, that the behavior is acceptable because terrorists do worse. By lowering our standards, we have reduced our moral authority in the world. The torture scandal has clearly set back our effort in the war on terrorism. It is fueling the current insurgency in Iraq. Even our closest allies, such as Great Britain, have raised objections to our treatment and rendition of detainees.

Al-Qaida is still the gravest threat we face. The widespread perception that the U.S. condones torture only strengthens the ability of al-Qaida and others to create a backlash of hatred against America around the world. If we do not act to locate official responsibility for Abu Ghraib, we will condone a new status quo in which our policy toward torture is technically one of zero tolerance, while de facto our officials tolerate and commit torture daily.

Many of us were struck by the rhetoric in President Bush's Inaugural Address. ''From the day of our founding,'' he said, ''we have proclaimed that every man and woman on this earth has rights, and dignity, and matchless value, because they bear the image of the Maker of Heaven and earth.'' Many of us would like to work with the President to develop a foreign policy that advances these important values. But rarely has the gulf between a President's rhetoric and his administration's actions been so wide. It is simply not possible to reconcile his claim that ''America's belief in human dignity will guide our policies'' with the barbaric acts that have been committed in America's name.

We must not allow inaction to undermine two bedrock principles of human rights law that we worked hard to establish at Nuremberg: that higher officials cannot escape command responsibility and lower officials cannot excuse their actions by claiming that they were ''just following orders.''

It is time to come to terms with the continuing costs of the torture scandal, and respond effectively. We need to fully restore the Nation's credibility and moral standing, so that we can more effectively pursue the Nation's interests in the future.

First, we must acknowledge that the rule of law is not a luxury to be abandoned in time of war, or bent or circumvented at the whim and convenience of the White House. It is a fundamental safeguard in our democracy and a continuing source of our country's strength throughout the world.

Sadly, a recent National Defense Strategy policy contained this remarkable statement: ''Our strength as a nation state will continue to be challenged by those who employ a strategy of the weak using international fora, judicial processes, and terrorism.'' Who could have imagined that our Government would ever describe ''judicial processes'' as a challenge to our national security—much less mention it in the same breath as terrorism? Such statements do not reflect traditional conservative values, and they are clearly inconsistent with the ideals that America has always stood for here and around the world.

Second, we must acknowledge and apply the broad consensus that exists against torture and inhumane treatment.

Never before has torture been a Republican versus Democrat issue. Instead, it's always been an issue of broad consensus and ideals, reflecting the fundamental values of the Nation, and the ideals of the world.

President Reagan signed the Convention Against Torture in 1988. The first President Bush and President Clinton supported its ratification. The Senate Foreign Relations Committee, led by Senator Jesse Helms, voted 10–0 in 1994 to recommend that the full Senate approve it. The Clinton administration adopted a ''zero tolerance'' policy on torture. Torture became something that Americans of all political affiliations agreed never to do.

And 9/11 didn't nullify this consensus. We did not resolve as a Nation to set aside our values and the Constitution after those vicious attacks. We did not decide as a Nation to stoop to the level of the terrorists, and those who did deserve to be held fully accountable.

Americans continue to be united in the belief that an essential part of winning the war on terrorism and protecting the country for the future is safeguarding the ideals and values that America stands for at home and around the world.

That includes the belief that torture is still beyond the pale. The vast majority of Americans strongly reject the cruel interrogation tactics used in Iraq, Afghanistan, and Guantanamo—including the use of painful stress positions, sexual humiliation, threatening prisoners with dogs, and shipping detainees to countries that practice torture. The American people hold fast to our most fundamental values. It is time for all branches of the Government to uphold those values as well. It is clear beyond a doubt that we cannot trust this Republican Congress or this Republican administration to conduct the full investigation that should have been conducted long before now. We have had enough whitewashes by the administration and Congressional committees.

Finally, to implement these values, we need a full and independent investigation of our current detention, rendition, and interrogation policies, including an honest assessment of what went wrong in Iraq, Afghanistan, and Guantanamo.

The investigation will require genuine candor and cooperation by all officials and agencies in the Bush administration, full accountability, a clear statement of respect for human rights, and a plan for protecting those rights throughout the Government. Only a truly independent and thorough investigation can restore America's reputation and put us back on the right path to the future.

The challenges we face in the post–9/11 world are obvious, and the stakes are very high. Working together, we have met such challenges before, and I am confident we can do so again. I urge all of my colleagues, on both sides of the aisle, to join to protect the rule of law, protect our soldiers serving abroad, and restore America's standing in the world.

Mr. President, this has never been a partisan issue. We have a number of conventions on torture and other commitments that this Nation has made under Republican Presidents and Republican leaders in the important committees of the Congress. We have had very clear leadership by Republicans and Democrats at other times in our history in terms of adhering to what they call the ''golden rule.'' The golden rule is based on a very fundamental and important concept, which is we do not want others to treat our soldiers harshly and, therefore, we will not treat other soldiers harshly. The principal point underneath that is, even if we treated people harshly and went through the process of torture, the information that you gain as a result of torture is rarely as good as what interrogators who are using and conforming to the Geneva Conventions get.

It is time for the United States to return to its better hours on this issue, and it is time that we not hold the privates and corporals accountable. But after 9 investigations by the Defense Department without a single prosecution, after we have more than 20 individuals who have actually been beaten or tortured to death and a determination by the administration that not a single person is going to face discipline, it is time that we take action.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, the regular order of business is the Transportation bill. We will proceed now. It is our desire to discourage people from coming down to the Senate floor until we have started receiving these amendments. There is no more important piece of legislation that we will consider this year than the Transportation bill. I am prepared to go through it section by section. I will certainly yield to the ranking minority member, Senator JEFFORDS.

Mr. JEFFORDS. I thank the Chairman. I have a brief statement I would like to put in.

Mr. JEFFORDS. Mr. President, when you live in Vermont, you must endure a long, hard winter.

To keep spirits up, a Vermonter will look for signs of spring, sometimes in the most unlikely places.

One leading indicator of brighter days ahead is a phenomenon known as the frost heave.

As temperatures rise, highways begin to buckle, producing humps in the road that rattle your teeth and mangle your shocks. Highway workers post bright orange signs to warn drivers of upcoming frost heaves. To a Vermonter, these signs are like the first flowers in bloom.

As the seasonal changes unfold, the frost heaves recede and the paved roads return to their more normal state. Unfortunately, that is often a state of disrepair. Bridges share this sorry condition, due to effects of weather, wear and tear.

The cure is major maintenance, reconstruction or replacement. But that costs money, a lot of money.

For more than the 3 years now, we have been working to reauthorize the highway program—because our transportation challenges are many.

The bill before us is a good one, it may not include all the funding it deserves, but it does move us forward. This bill addresses many very important issues facing our roads and highways. Safety is my highest priority.

Last year, Vermont experienced the highest number of fatalities on its highways since 1998. Ninety-seven people died in automobile crashes, up from 69 in 2003.

Nationally, we have made real progress on highway safety over the last 10 years.

According to the U.S. Department of Transportation, the rate of fatalities has declined from 1.9 to 1.5 deaths per million vehicle miles traveled. But the number of fatalities has held steady at roughly 42,000 per year. That number is unacceptable.

This bill is not only an investment in our highways, it is an investment in public safety.

And we know congestion in this country is bad and getting worse. Congestion costs Americans more than $69.5 billion annually in lost time and productivity; 5.7 billion gallons of fuel are wasted each year while motorists sit in traffic.

One way to reduce congestion. is to move goods by freight and we are moving more freight in this country than ever before.

The forecast for future demand is daunting, with U.S. DOT projecting that the volume of freight will increase 70 percent by 2020.

This bill will expand freight capacity through new partnerships, investments and market financing techniques.

The highway program expired nearly 2 years ago, and the States have been operating under series of short-term extensions.

This has disrupted construction programs, delayed safety improvements and interrupted funding to transit operators.

It is time to act on this bill. The next sign of spring in Vermont after the frost heave is something known as mud season. You can tell from the name that it's not a lot of fun.

Moving a highway bill over the coming weeks will feel at times like mud season but at the other end a brighter day.

Mr. President, I yield the floor.

Mr. INHOFE. Mr. President, I thank the Senator and certainly agree with his remarks.

Once again, the ranking member and I request anyone who has amendments to come down to the floor. We are open for amendments at this time on this very significant piece of legislation.

Let me go through section by section and explain what we have in the bill.

Section 1203 is freight transportation gateways, freight intermodal connections. I think it is important we realize—and we said this earlier this morning—back when the first legislation came to our attention—that was back during the Eisenhower administration—they were talking about roads and highways. Now this has become intermodal, to take care of all the needs in transporting people and goods around the country.

Freight movement in America is expected to grow dramatically in both volume and value over the coming decades. Throughout reauthorization, the

Environment and Public Works Committee heard concerns about inadequate freight facilities, insufficient capacity, and inefficient connections.

In December 2003, the GAO released a report on freight transportation that recommended 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 and freight specific chokepoints. Additionally, the GAO reported two main limitations that stakeholders encounter in addressing these challenges. They first related to the limited visibility that freight projects receive in the planning and prioritization process. SAFETEA 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. The bill also ensures that intermodal freight transportation needs are integrated into project development and planning processes.

The second limitation reported by the GAO 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. SAFETEA, or the bill we have before us today, addresses this problem by making intermodal freight projects eligible for STP and NHS funding.

The Freight Gateways Program under this bill promotes intermodal improvements for freight movement through significant trade gateways, ports, hubs, and intermodal connectors 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 Gateway Program is funded from a set-aside of 2 percent of each State's NHS proportions. However, in the spirit of State flexibility and ensuring that funds go to the areas of the greatest need, a State is not required to spend 2 percent of the NHS apportionment if they can certify to the Secretary that their intermodal connectors are adequate.

I think my colleagues see all throughout this bill that we are granting more latitude for the States to determine their fate. It is a recognition that the States know their needs better than we know them in most cases. Consequently, if they can do something better, why dictate something from the Federal Government when they are able to do a better job themselves.

Section 1204 is construction of ferry boats and ferry terminal facilities. TEA–21 established a discretionary program for the construction of ferry boats and ferry terminal facilities. This bill creates a new permanent section in title 23 for this TEA–21 program. The program is designed to provide for the important construction of ferry boats, ferry terminals, and approaches to facilities that are part of the Nation's highway system and constitute ''last mile'' connections for ferries.

Section 1205 is designation of interstate highways. As part of this bill, Interstate Highway 86 in the State of New York is specifically designated as the Daniel Patrick Moynihan Interstate Highway in memory of our late colleague and friend who was not only a transportation safety expert but served his country in the House and Senate for many years.

It is important at this time to recognize that Daniel Patrick Moynihan was also the chairman of this committee that accomplished so much in the earlier years. And unbeknownst to most people on the committee, Daniel Patrick Moynihan was from my city of Tulsa, OK. So I am very supportive of this portion of the bill to make this designation for him.

This section also designates a segment of Interstate Highway 86 near towns of Painted Post and Corning in New York State as the Amo Houghton Bypass in recognition of the former Congressman's work in making I–86 possible. It is interesting, we have a Democrat and Republican getting these designations. It happens that I was elected in 1986 with Amo Houghton. He has made great contributions, and I am sure this is a very appropriate tribute to make to former Congressman Amo Houghton.

Section 1301, the Federal share. SAFETEA continues the statutory provisions that lay out what the Federal share for a highway project will be for different States based on the amount of Federal land within the States. The Federal share provisions of the current law use a sliding scale which permits States with large portions of Federal land to match Federal funds with fewer State dollars. This is understandable because the Federal lands would consume a good portion of some States, States such as New Mexico. Due to the decreasing taxing ability of States with high percentages of Federal lands, these States are given access to a higher Federal contribution for highway projects within their States.

The bill before us today modifies this provision slightly to simplify the calculation used to determine the Federal share rates that apply to each individual State. I might add, in this respect, this is something we found agreement with from both the States with large amounts of Federal land and States, such as my State of Oklahoma, that has a very small amount.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. INHOFE. Mr. President, as we go through section by section, we talked about congestion, but we neglected to elaborate because this is one of the more serious problems we have now. According to the Department of Transportation, time spent in congestion increased from 31.7 percent in 1992 to 33.1 percent in 2000. Based on this rate, a typical rush hour in an urbanized area is 5.3 hours a day. The problem is not simply in urban areas. Cities with populations less than 500,000 have experienced the greatest growth in travel delays, according to the DOT.

Very often we do not talk enough about the cost. Right now we are sensitive to the cost of fuel. Yet we can see traffic stopped, with engines idling. This is another factor that has to be entered into the equation.

Increase in capital investment is one way to address congestion. We must also consider ways to better manage existing systems. This bill proposes a national goal of real-time traffic information available for the entire Nation. This goal, while ambitious, is important because we need to reorient our thinking to recognize the importance of allowing users of the system to utilize the system more efficiently, specifically by providing travelers with usable information that will enable them to select the right travel alternative plans.

The biggest and fasting growing cause of congestion in our urban centers is bottlenecks around port and intermodal facilities. Frankly, traffic is expected to grow dramatically in volume in the coming decades with increased international trade. Movement toward the just-in-time economy, freight shipping, will take on heightened importance.

Recently I visited with representatives of the Alameda Corridor Transportation Authority and they shared with me that more than 40 percent of all waterborne freight container traffic in the U.S. ports is handled by the Ports of Los Angeles and Long Beach. My first thought was, how does this trade through the Ports of Los Angeles and Long Beach affect my constituents in Oklahoma? The answer surprised me. It is estimated that over 100,000 jobs in Oklahoma are attributable to the trade from these ports. That is one example of two ports. I suspect if I had statistics from other ports, I would find that economic development in Oklahoma is tied as closely to them, as well.

We are part of a global economy. This illustrates more than anything, goods and services produced in Oklahoma are being shipped all over the world. Likewise, Oklahomans are purchasing goods and services from countries all over the world. The simple fact is that trade is the engine driving our economy. We cannot ignore the infrastructure needs.

It is worthwhile stating that one of the best kept secrets is we have actually a port that goes all the way to Oklahoma, the port of Catoosa in my hometown. I remember many years ago when I was serving in the State Senate when we were trying to get the message out that we actually are navigable, we have a port that comes all the way up. No one knows it. They do not think about that in Oklahoma. It goes up the Mississippi River from the gulf and comes across the Arkansas River and into Oklahoma. At that time we decided we wanted to let people know of our great port and the navigation that cost billions of dollars to reach all the way to Oklahoma, the most inland port, only to find the way to do this is to demonstrate it. I actually arranged to take over from the Navy a very large World War II surplus submarine called the USS Batfish.

All my political adversaries were saying, we will sink INHOFE with this Batfish. It will never make it all the way to Oklahoma. We were able to bring it all the way. Now proudly displayed in Muskogee, OK, is a World War II submarine that came all the way up the navigation route. So I think it is important. I thought I would throw that out in case somebody did not know it.

Section 1302 is the transfer of highway funds and transit funds. In an effort to provide flexible transportation funding, SAFETEA clarifies—by the way, SAFETEA is what we will refer to during the consideration of this bill. This name could be subject to change when we get to conference. But this bill clarifies that title 23 funds may be transferred by the Secretary to the Federal Transit Authority for all projects except transit capital projects. It also allows States to transfer their funds to another State or a Federal agency at their request, if the funds are used in the same manner and for the same purpose as they were originally authorized.

Section 1303 is the Transportation Infrastructure Finance and Innovation Act, or TIFIA. This is very significant. We talked about it a little bit earlier, that people come up with new ways of approaching the funding for transportation, and ways that are innovative, ways that are partnering with the private sector, that can be much better than the way we have been doing business for the last 40 years.

The Transportation Infrastructure Finance and Innovation Act, TIFIA, was established for the first time in TEA–21 to provide Federal credit assistance for major transportation investments. The TIFIA program has proven to be an innovative and successful addition to the conventional grant-reimbursable highway program. Following the success of the TIFIA program under TEA–21, and considering input from stakeholders and recommendations from the administration, the committee bill has made a few changes to the TIFIA program to expand its scope and increase its usability.

The amount of the Federal credit assistance cannot exceed 33 percent of the total project costs. TIFIA offers three types of financial assistance for these large projects: first, direct loans; second, loan guarantees; and, third, standby lines of credit. The bill also lowers the threshold cost for eligible projects from the TEA–21 level of $100 million to $50 million to make the TIFIA assistance accessible to a greater number of large highway projects.

Projects are also eligible for TIFIA assistance when costs are anticipated to equal or exceed 20 percent of the Federal highway funds apportioned to that particular State. With the increased emphasis this bill places on freight mobility, the definition of ''eligible freight-related projects'' is expanded to allow a group of freight-related projects to be eligible, each of which individually might not meet the threshold requirements for TIFIA credit assistance.

Section 1304 is facilitation of international registration plans and international fuel tax agreements. In response to issues surrounding commerce from Mexico, SAFETEA gives the Secretary of Transportation discretion to provide financial assistance to States participating in the International Registration Plan, the IRP, and the International Fuel Tax Agreement. These States incur certain administrative costs resulting from their service as a home jurisdiction for motor carriers from Mexico.

The International Fuel Tax Agreement and the International Regional Plan are agreements among various U.S. States and Canadian provinces that facilitate the efficient collection and distribution of fuel use taxes and apportioned registration fees among each member jurisdiction. Under both programs, each motor carrier designates its home State or province as the jurisdiction responsible for collecting fuel use taxes and fees.

Since the implementation of NAFTA, the Mexican Government imposes and collects fuel taxes and registration fees differently from the United States and Canada. The National Governors Association is currently evaluating Mexico and its participation in these two programs. In the interim, Mexican motor carriers may use individual U.S. States or Canadian provinces as their home jurisdiction.

Mr. President, I pause here to say to the majority leader and the minority leader, we appreciate very much our ability to go ahead and bring this bill to the floor. Again, we are asking Members, if they have amendments, bring them down. We are eventually going to run out of time, and we want to consider these amendments in a timely fashion. I think we are pressing it right now. We are going to try very hard to have this new bill passed before the expiration of the extension.

I might add, this is the sixth extension we have had, and it does expire on May 31. We want an opportunity to be able to handle this legislation so we will not have to ask for another extension.

It seems to me—and I have been asked a lot of questions as to what our timing looks like right now—we ought to be able to handle amendments through the remainder of the week. Then we will go into a 1-week recess. At the conclusion of that recess, on Monday, the 9th of May, we will continue to look at amendments. It would be my intention to file a cloture motion so we can get to a final vote. Certainly, we have had adequate time, and there does not seem to be that much interest right now in coming down to the floor and offering amendments. That would enable us to send this bill to conference sometime toward the end of that week of May 9. Then we would get to the conference.

It has been our experience in the past that if it is done properly, we ought to be able to get the conferees to agree to some compromises, if necessary, between the House bill and the Senate bill. They are quite different. We have explained the basic differences, and the philosophy of the House, the philosophy of the Senate. Ours, I believe, is a more responsible way of looking at it. Having served 8 years in the Transportation Committee over in the House, at that time that seemed to be something that was workable.

But we ultimately have to come to an agreement. We ultimately have to go to conference and iron out the differences. We have a lot to consider in conference. It is my expectation we will go to conference with an amount that will exceed the current limitation of the bill that is before us today, that amount being $284 billion over the remainder of the 6-year period. However, I do not know that to be the case. If it is the case, then we will have to handle that in conference and make that determination.

In conference, we are also going to have to be looking at the approach to a number of projects. You hear people talking quite often, saying this is a big highway bill, there is a lot of pork in it. I tell you, there is no pork in this bill. There are no projects in this bill. There are only two projects in the entire bill, which consists of hundreds and hundreds of pages. Consequently, it is done on formula. We have talked about the formula, all the considerations that are made by the formula: the donee status, the donor status, the growth factors that go into the various States, the densely populated States, the sparsely populated States. All make for a very equitable approach.

I believe we have a bill that will be able to be passed and sent to conference, and we will be able to come back from the conference and then have it signed into law by the of May 31. If we do not do that, and if we ask for another extension, we will be at the time of year for the peak construction season, which would merely mean we

would lose very valuable time. I am sure in the States of Oklahoma, South Carolina, and other States, that is a very important consideration.

With that, I anticipate there may be more Senators who wish to come down and offer amendments. I am hoping they will at this time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MORNING BUSINESS

Mr. INHOFE. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

TRIBUTE TO MR. PEYTON HEADY

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a fellow Kentuckian who has done the important work of keeping a piece of the Commonwealth's history alive by chronicling the events of the county he is proud to call home, Union County.

Mr. Peyton Heady has written and published 25 books that cover some aspect of the county's history. He has a particular interest in how people from Union County were involved in the Civil War. One such story involves Tom Henry, a Union County native who managed to stop the notorious outlaws, Frank and Jesse James from robbing a bank in Morganfield. Mr. Henry convinced the James brothers that he had friends who had money in the bank and they wouldn't want to lose it. This story could have been lost in the annals of history, but it won't be because of Peyton Heady's thorough research and documentation.

Another piece of Union County history that Mr. Heady has taken an interest in is that of Camp Breckinridge. As a former clerk in the civil engineering division at the camp during World War II, Mr. Heady has first-hand experiences to share and draw from. Later this week he will be honored by the Earle C. Clements Job Corps Center, located on Camp Breckinridge property, for keeping a record of the history of Camp Breckinridge. The Center will name one of the camp administration buildings the Peyton Heady Building.

I urge my colleagues to join me in giving Mr. Heady the thanks of a grateful Commonwealth and a grateful Nation. Thanks to his dedication, the history of Kentucky shall be preserved. I ask unanimous consent to have printed in the RECORD an article from The Henderson Gleaner ''Making History: Chronicler of Union County Events Honored for Keeping Memories Alive,'' about Mr. Heady's contributions to his community.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Henderson Gleaner, Mar. 13, 2005]

MAKING HISTORY: CHRONICLER OF UNION COUNTY EVENTS HONORED FOR KEEPING MEMORIES ALIVE

(By Judy Jenkins)

Tom Henry was one of those bigger than life characters who would, if he were alive today, be gracing the cover of ''People'' magazine and artfully answering questions lobbed at him by Larry King.

Tom was a handsome Union County native who served as a captain in the Confederate army and, legend has it, managed to earn the respect of those infamous outlaws Frank and Jesse James. The James brothers spent a considerable amount of time in Morganfield during the Civil War, and at one point Frank—the story goes—was planning to rob a bank there.

Our hero Tom learned of those plans and convinced Frank to forego the robbery by telling him that he had some good friends who had money in that bank and he'd sure hate for them to lose it.

On another, darker occasion, a Yankee colonel was captured and tied to a tree. Apparently a couple of the captors were planning a short future for the Northerner, but Tom informed them they'd have to walk over his own dead body to harm the colonel.

In a twist that Hollywood would love, Tom was captured and after the war was taken to Louisville to stand trial for his life. The Yankee colonel, by amazing coincidence, walked into the courtroom, recognized Tom as the captain who saved his life, and got the Union Countian released.

That's just one of the many accounts in Peyton Heady's 1985 ''Union County History in the Civil War.'' The 252-page book makes what could be dry, dusty descriptions of past events come alive for the reader.

Peyton, who wrote the history because he was concerned that little had been written about Union County's involvement in the Civil War, noted that about 60 percent of the county's population supported the Confederate cause and families were often divided.

There were, for instance, the Lambert brothers who fought in opposing armies, survived the war and never again spoke to each other—but are buried side by side in a Union County cemetery.

The book is one of 25 written and published by Peyton over the decades, and they all cover some aspect of Union County history. Some are genealogical volumes and some record the county's cemeteries, including obscure resting places. While surveying those cemeteries, the retired U.S. Postal Service employee found the graves of seven Revolutionary War soldiers with monuments intact.

Peyton, who was a clerk in the civil engineering division at Camp Breckinridge during World War II, also wrote the history of the sprawling camp that contained 36,000 acres, had housing for 30,000 troops and 10,000 additional personnel, boasted its own utility systems and airstrip, had 12 dispensaries and hospitals, nearly seven miles of railroad, a simulated ''Japanese training village,'' four movie theaters and much, much more.

Four divisions from that Army post fought in the Battle of the Bulge, and the camp contributed a number of major units that played a significant role in breaking down the Nazi fortress.

It was at the camp that Peyton watched a young African American soldier named Jackie Robinson play baseball, and it was there he supervised 150 German prisoners of war.

For the price of a box of Cuban cigars, one of those prisoners painted Peyton's portrait. The painting hangs in the Morganfield home of Peyton and Cecilia, his wife of 53 years and mother of their two children, James Heady and Rebecca Heady Gough.

On April 28, Peyton no doubt will feel he's come full circle in his life. On that day, one of the camp administration facilities will be named the Peyton Heady Building. The 11 a.m. dedication ceremony is part of the 40th anniversary celebration of the Earle C. Clements Job Corps Center, which is on the Camp Breckinridge property.

Peyton, 79, is being saluted largely for his determination to keep the history of Camp Breckinridge from passing into obscurity. He opted to undertake that history when he learned that government archives contained a one- page description of the giant complex that was last used as a military installation in 1963.

He is touched by the upcoming honor, but he'll have you know that the thousands of hours of patient research and writing his books weren't for praise or glory. ''I just think if you're going to live in a town and raise your children in a town you should do something to make it better,'' he says.

Things he's done include working with Morganfield's Little League program for more than two decades.

Peyton is on a walker now and doesn't often leave his home, but he isn't complaining. ''I'm a happy man,'' he says. ''I'm happy with my marriage (which naysayers said would never work because Cecilia's Catholic and he's Methodist), happy with my family and happy with my life.''

His histories have sold well and seven or eight have been reprinted, but Peyton hasn't gotten rich from the sales.

''I didn't write them for profit,'' he says. ''I wrote them for history.''

TRIBUTE TO LUTHER DEATON, JR.

Mr. MCCONNELL. Mr. President, I rise today to commend an accomplished Kentuckian and good friend,

Mr. Luther Deaton, Jr. A native of Breathitt County, KY, Mr. Deaton is an esteemed banker, revered community leader, inspiring mentor, and caring father.

Luther began his career in the banking industry as an assistant manager and teller with Central Bank & Trust Co. in Lexington in 1978. Little did he know that initial exposure would lead to a lifetime of professional achievements. Possessed with a resolute and unshakeable determination to advance his employer's cause, Luther rapidly rose through the company's ranks. In January 1996, the Board of Directors promoted Luther to president and CEO of Central Bank, and in March 2002, he was named chairman of the bank. He also serves as the chairman of Commerce Lexington, Inc., which seeks to expand and attract economic development in central Kentucky.

While Central Bank has flourished under Luther, it is his leadership presence in central Kentucky I admire most. His formidable array of accomplishments directly results from his passion to improve the quality of life for his fellow Kentuckians. In September 1997, the Lexington Theological Seminary named Luther as the second recipient of the John R. Wooden Award, an honor given to layman whose life shows commitment to, and active involvement in, a faith community and evidence of putting one's faith to work for the welfare of humankind. In 2001, he was the recipient of the Governor's Economic Development Leadership Award for the State of Kentucky. Additionally, the Junior Achievement of the Bluegrass inducted Luther into the 2004 Bluegrass Business Hall of Fame, due to his labor and vision to improve the quality of life in the Bluegrass area.

Later this month, Luther will be the honoree at the Volunteers of America Tribute Dinner in Lexington, KY. Here the community will have an opportunity to thank him for all of his contributions and honor his achievements.

Mr. President, today I ask my colleagues to join me in honoring and recognizing one of Kentucky's pre-eminent professionals, Mr. Luther Deaton, Jr.

ROSEMARY VITAVEC

Mr. REID. Mr. President, I rise today to congratulate Rosemary Vitavec, a third grade teacher at Walter Bracken Magnet School in Las Vegas, who was selected as one of 95 winners from across the Nation for the Presidential Award for Mathematics and Science Teaching for 2004.

The awards were created in 1983 and are administered by the White House and the National Science Foundation. Each year the program recognizes outstanding mathematics and science teachers from across the United States and four U.S. jurisdictions for their contributions in the classroom and to their profession.

This distinction highlights the fundamental importance of math and science education in preparing our Nation's students for the global economy. It also highlights the outstanding work done at Bracken Magnet School in emphasizing math and science learning with technology.

Mrs. Vitavec, a 23-year veteran, has taught in the Clark County School District for 12 years.

I salute Rosemary Vitavec for her service and dedication to the students of Clark County, and extend my best wishes for a successful future.

SCHOOL SAFETY PATROLLERS

Mr. REID. Mr. President, I rise today to recognize several young people who were recently selected by the American Automobile Association to receive special awards for their work as school safety patrollers.

More than 500,000 students in 50,000 schools across the country participate in AAA's School Safety Patrol program. These young people have taken on the important responsibility of making the streets around their schools safer for their classmates. Though their responsibilities are often routine, the patrollers on occasion must place themselves in harm's way in order to save lives. It is my honor today to recognize six students who were selected to receive the AAA Lifesaver Award for their selfless and heroic actions in fulfilling their duties as patrollers as well as the National Patroller of the Year.

The first AAA Lifesaver Award recipient is Jessica Zeiter, a 10-year-old student at Huron Park Elementary School in Roseville, MI. On February 9, 2004, Jessica was on a patrol when a pickup truck driver sped on icy snow in heavy traffic. The driver probably could not have stopped even if he had seen the small first grade student step into the street, but fortunately Jessica quickly grabbed the student by the coat and pulled her back to safety. Others who were at the crosswalk that day thought the child was going to be hit and were shocked that she was saved.

The second AAA Lifesaver Award recipient is Michelle Grimm, a 12-year-old student at Weems Elementary School in Manassas, VA. On March 5, 2004, a kindergarten student fell off of the sidewalk and was lying directly in the path of a school bus. The student was struggling to get up but could not regain his balance because of his heavy book bag. The bus driver did not see the child lying in the street, but Michelle ran to the student's aid, helping him out of the way of the approaching bus.

The third AAA Lifesaver Award recipient is Estefan Santos, a 10-year-old student at Jackson Road Elementary School in Silver Spring, MD. On September 10, 2004, a 6-year-old child broke free from his sister's care and ran to cross the street towards her father who was waiting in his car. Estefan realized that the 6-year-old was not going to stop at the corner and held him back from the approaching traffic. Though bitten and kicked while holding the 6-year-old back, Estefan undoubtedly saved the child's life that day.

The fourth AAA Lifesaver Award recipient is also from Maryland. Her name is Pytrce Avonnia Farmer, and she is a student at Eva Turner Elementary School in Waldorf. On October 4, 2004, a 6-year-old child was waiting on the street curb under Pytrce's direction. The child's mother, however, moved her car forward into the second lane of traffic, and the child stepped into the street without noticing another car approaching. Pytrce acted quickly and bravely to pull the child from the path of the car. The child's mother has said that her son would not be alive today if not for Pytrce.

The fifth AAA Lifesaver Award recipient is Jared Smith, an 11-year-old student at Combee Elementary School in Lakeland, FL. On January 7, 2005, a 7-year-old student dashed past the group of children who were waiting for a van to pick them up, darting out into the path of the van. Fortunately, Jared stopped her before she was hit, though the van was only a few feet away.

The sixth AAA Lifesaver Award recipient is Naomi Wall, an 11-year-old student at Dan Emmett Elementary School in Mount Vernon, OH. On March 19, 2004, a 5-year-old student named Braden walked into the road, obeying a walk sign though against his sister Naomi's patrol flag telling him to stop. At the same time, a car had run a red light and was headed right for a car going through the intersection. Had Naomi not held her brother back by the arm, he would have been in the middle of the crash.

In addition to honoring these six brave patrollers, AAA also recognizes one student as National Patroller of the Year for demonstrating leadership qualities, strong academic performance, and civic involvement. This year, the National Patroller of the Year is Deanna Constantino, a fifth grader at Cross Street School in Williston Park, NY. Deanna is a member of the student council, serves on the school newspaper, has been a Girl Scout for 4 years, and participates in charitable fundraising activities through her school. Deanna, like all the other safety patrollers recognized by AAA, is clearly an impressive young person with tremendous potential.

I also thank AAA for making the school safety program possible. The program has helped save many lives over the years and has made our schools safer for our students, though, as the stories of the Lifesaver Award recipients demonstrate, the streets around our schools are not safe enough. That is why I have worked for the last 2 years to create a national Safe Routes to School program. This program would fund safety improvements on roads near schools so that children

can safely walk or ride their bicycles to school. I hope Congress passes my program this year, but whether or not it does, I am comforted to know that 500,000 AAA patrollers across the Nation will be working hard to keep the streets around our schools safe.

TRIBUTE TO SENATOR JEFFORDS

Mr. LEAHY. Mr. President, I spoke on the floor last week to briefly recount some of the many reasons that Vermont and the Nation will miss the leadership, the independence and the decency of Senator JIM JEFFORDS when he chooses to retire from the Senate at the end of his current term.

Since then there have been many news articles and editorials that have also catalogued and described various aspects of JIM JEFFORDS' distinguished legacy. As is often the case when he writes about the events and issues of the day, Emerson Lynn, the publisher of the St. Albans Messenger in my home State of Vermont, did this particularly well. I would like to share his editorial with the members of the Senate.

I ask unanimous consent that Emerson Lynn's recent editorial about Senator JEFFORDS be printed in the RECORD

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the St. Albans Messenger, Apr. 21, 2005]

JEFFORDS LEAVES BEFORE HIS TIME, ACCOMPLISHES MUCH

Senator Jim Jeffords, who turned Washington's political world upside down 4 years ago with his defection from the Republican Party, Wednesday turned Vermont's political world upside down with his announcement not to seek reelection.

He said it was time to begin a new chapter in a life that for 38 years has been dominated by an election cycle that began as a state senator from Rutland in 1967, to Attorney General in 1969, to the U.S. House of Representatives in 1974 to the United States Senate in 1988. He has represented Vermont in one office or another for almost four decades. If that is a chapter, most our lives can be explained in a paragraph.

Wednesday's announcement was the sad affirmation of what many of those close to the Senator had feared: his health is less than optimum and his wife, Liz, is battling cancer and about to undergo a third round of chemotherapy. At some point the question is more akin to the clap of thunder to our better senses: is being senator worth one's health; is it worth not being able to pay the proper attention to one's wife who is battling cancer, and, is the twilight of one's life best spent with one's children, and an expected grandchild, or with the churlish likes of Tom DeLay and the hard right that have stolen a sense of civility and class from the Senate? For anyone not suffering from the hubris that often comes attached to the position, the choice is clear and Jim Jeffords made that choice with grace and perspective.

He also did the honorable thing politically. He announced his retirement with sufficient time for both parties to give thoughtful consideration as to how to approach the November 2006 race. He could have waited. He didn't, and in so doing reinforced the integrity that has characterized his career.

And his has been a remarkable career. The history books will undoubtedly begin their biographies noting the impact of his May, 2001 decision to bolt from a Republican party he said had left its moorings. But the senator's accomplishments extend far beyond one's party allegiance. As Vermont's attorney general he played a pivotal role in the implementation of Act 250, and the law to outlaw billboards. No Vermont politician has had a greater impact on dairy farming, nor does any politician have a better understanding of the industry and its needs. There isn't a single bit of legislation dealing with special education [or education in general] that doesn't have his fingerprints on it in one fashion or another. The same can be said of his years in the Senate when dealing with the environment. He was also a passionate defender of the arts. What he has accomplished will endure beyond fame's notoriously short life.

It's axiomatic that this was not the choreographed conclusion of his choosing. His desire was to win reelection as an independent, thereby vindicating a personally wrenching decision to leave the Republican Party. Life's bows cannot be so neatly tied and those who try find them but ropes of sand that disintegrate in the twisting.

Sadly, we are in an age that exploits one's natural fissures as though they were fatal flaws of one's character. One's vulnerabilities are extrapolated into insurmountable deficiencies, as if there were only sun and no shadows, all light, no darkness. The senator knows only too well how that game is played. The Yale/Harvard educated man will be known more for a twisted tongue than a clear mind, as if being articulate were a higher calling than being thoughtful.

In the end, it's not what others think of you but the joy you carry in your toil. And, in the end, it is Mr. Jeffords that wears the smile, not his accusers. He is like Sisyphus in Albert Camus' ''Myth of Sisyphus'', the character in Greek mythology who was condemned for eternity to roll a boulder up a hill, only to have it roll back down again. Camus made the convincing argument that Sisyphus' lot was not tragic, but uplifting. He could smile at the absurd because he understood it as such.

Camus concluded by writing: ''I leave Sisyphus at the foot of the mountain! One I always finds one's burden again. But Sisyphus teaches the higher fidelity that negates the gods and raises rocks. He too concludes that all is well. This universe henceforth without a master seems to him neither sterile nor futile. Each atom of that stone, each mineral flake of that night filled mountain, in itself forms a world. The struggle itself toward the heights is enough to fill a man's heart. One must imagine Sisyphus happy.''

We imagine Mr. Jeffords' heart is full and that he is happy. He should be remembered as such.

The clamor to claim his political perch has begun and din, at times, will overwhelm. What Vermonters can hope for is that all followers choose Mr. Jeffords' path of integrity and independence.

90TH ANNIVERSARY OF THE ARMENIAN GENOCIDE

Mrs. FEINSTEIN. Mr. President, I rise today to acknowledge and commemorate April 24, 2005, the 90th anniversary of the beginning of the Armenian Genocide and to urge all Americans to join together to ensure that these crimes never happen again.

On April 24, 1915, the Ottoman Empire began arresting hundreds of Armenian intellectuals, most of whom were subsequently executed. What soon followed can only be described as a tragedy that shocked the human conscience: by some estimates, over a million Armenians were killed, and another 500,000 were driven from their homes. These events marked the 20th century's first experience with such atrocities, and, sadly, they would not be the last.

Maya Angelou, the famous poet and civil rights activist once said:

History, despite its wrenching pain, cannot be unlived, but if faced with courage, need not be lived again.

Indeed it is our duty to remember this horrific tragedy, and face the crimes of humanity with unflinching determination, courage, and moral fortitude so that they never happen again.

As a country founded on the principles of justice, equality, and liberty, the United States must take a leadership role in preventing genocide.

I am proud that the Armenian American community in my home State of California—over 500,000 strong—has taken such a leadership role in ensuring that the U.S. lives up to its values by acknowledging the crimes of the past and taking action against the crimes of the present and future. Their determination and perseverance is a testament to the human spirit and the ability to overcome injustice and build a better tomorrow.

Today, we stand with the Armenian American community in commemorating the start of the Armenian Genocide, and together we stand with those around the world who face persecution and even death simply because of who they are. They must know they are not alone and those who commit these crimes must know we are watching.

We will never forget the Armenian Genocide as we look to the future with courage and determination.

FEDERAL REFUSAL CLAUSE

Mr. KENNEDY. Mr. President, I oppose the Federal refusal clause. The Republican leadership was wrong to include such a broad refusal clause in the fiscal year 2005 Omnibus Appropriations bill. The clause was never voted on by the Senate Appropriations Committee; it was inserted into the bill behind closed doors.

The clause would allow health care firms to refuse to comply with existing Federal, State, and local laws and regulations that pertain to abortion services, counseling, and referrals.

Supporters of the clause claim it simply clarifies existing law. But far from clarifying it, sweeping new changes would be enacted that would be devastating to women's health.

The reality is that no Federal law forces individuals to provide abortion care. The Church amendment, adopted in 1973, enacted a new refusal clause. It explicitly protects individuals who object to providing abortion because of their religious beliefs or moral convictions. Broader refusal clauses, such as

the Federal refusal clause, exempt a wide range of organizations, including health plans and hospitals, most of which not only have a secular purpose but also employ and serve individuals who do not share those organizations' religious beliefs.

The Federal refusal clause also discourages States from enforcing its own policies, laws and regulations to protect access to abortion services and information. Republicans continually attack Democrats as proponents of big government who undermine State rights. Yet that is exactly what the Federal refusal clause does.

Forty-six States, including Massachusetts, already have laws that permit certain medical personnel, health facilities, and institutions to refuse to participate in abortion because of their moral or religious beliefs.

We don't need the Federal refusal clause to protect individuals and health care organizations that oppose abortion, we already have that. It exists in both Federal and State laws. Proponents want the Federal refusal clause for one reason—to deny access and information to as many women as possible.

Health care corporations now have the right to gag their doctors and other health care providers. The clause defines ''discrimination'' as any requirement that a medical service provider inform a woman about her option to seek an abortion—or even refer her to another plan for that information. It's ridiculous to say that giving a woman full information about her medical options is discrimination.

The Federal refusal clause also restricts low-income women's access to abortion services, including information about abortion. It could prohibit the Federal Government from enforcing the requirement that Title X funded family planning clinics provide a woman facing an unintended pregnancy with an abortion referral when she requests one. We will be taking a giant step backward if we don't repeal this refusal clause.

In addition, under the ''Hyde Amendment,'' States are required to provide Medicaid coverage for abortions in cases of rape, incest, or where pregnancy endangers a women's life. The Federal refusal clause, however, could prevent states from requiring that Medicaid HMOs provide or pay for these abortions.

Current law states that low-income women should not be denied critical medical care. Why do we want to change that? What kind of signal are we sending? Women who have suffered through the trauma of rape or incest deserve our help, not an extra burden.

The Emergency Medical Treatment and Active Labor Act guarantees that a woman who needs an emergency abortion procedure to save her life won't be turned away. Yet the Federal refusal clause could allow hospitals to turn away women in these dire circumstances. For a woman in a rural area, with only one hospital, her life itself may be in danger if the hospital refuses to admit her.

It is wrong to deny women access to necessary and urgently needed medical procedures. The Federal refusal clause should never have been included in the fiscal year 2005 Omnibus Appropriations bill, and I commend Senator BOXER for speaking against this provision.

ADDITIONAL STATEMENTS

JUST BORN, INC.

• Mr. SANTORUM. Mr. President, today I would like to congratulate Just Born, Inc. in Bethlehem, PA, on an outstanding accomplishment, shipping Peanut Chews nationwide for the first time. Pennsylvanians should be honored to have a wonderful company such as Just Born in our State, and I join in congratulating Just Born on their recent accomplishment.

Until the Spring of 2003, Peanut Chews were produced by the Goldenberg Candy Company. The Goldenberg Candy Company was founded in Philadelphia in 1890 by David Goldenberg and called D. Goldenberg, Inc. Beginning as a retail confection business, which produced and sold fudge, marshmallow, lollipops, and chocolates, Goldenberg's also created a walnut molasses confection that later became the foundation for the Peanut Chews recipe.

As we all know, Peanut Chews offer a unique combination of a chewy peanut and molasses based center with a dark chocolate coating, making for a tasty candy. Just stop by my desk on the Senate floor to see for yourself.

Peanut Chews were developed during World War I and used by the U.S. military as a ration bar. The high energy, high protein recipe and unique taste made it popular with the troops. Following the war, Peanut Chews were first sold in the Philadelphia area of Pennsylvania. However, their popularity soon spread to New York, Baltimore, and Washington, DC.

In the 1930s, Peanut Chews were sold under the brand name Chew-ets and were often sold in movie theaters. The name stuck until 1999 when the Goldenberg's changed the packaging and the name of Chew-ets to Milk Chocolatey Peanut Chews.

Just Born purchased the Goldenberg Candy Company in 2003, adding the Goldenberg's 61 associates to the already growing Just Born family. Just Born produces two million Peanut Chews candy pieces every day.

This month, April 2005, Peanut Chews will be launched nationally, for the first time reaching beyond to the East Coast. This is quite an achievement, and I send Just Born my best wishes in the future as their company continues to expand.•

ONCOLOGY NURSING DAY AND MONTH

• Mr. BROWNBACK. Mr. President, I rise today to pay tribute to oncology nurses. May 1 marks the beginning of the 10th annual Oncology Nursing Day and Month and this year marks the 30th Anniversary of the Oncology Nursing Society.

As co-chair of the Senate Cancer Coalition, I know oncology nurses play an important and essential role in providing quality cancer care. These nurses are principally involved in the administration and monitoring of chemotherapy and the associated side effects patients experience. As anyone ever treated for cancer will tell you, oncology nurses are intelligent, well-trained, highly skilled, kind-hearted angels who provide quality clinical, psychosocial, and supportive care to patients and their families. In short, they are integral to our Nation's cancer care delivery system.

I congratulate the Oncology Nursing Society, ONS, on its 30th anniversary. ONS is the largest organization of oncology health professionals in the world, with more than 31,000 registered nurses and other health care professionals. Since 1975, ONS has been dedicated to excellence in patient care, teaching, research, administration, and education in the field of oncology. The society's mission is to promote excellence in oncology nursing and quality cancer care. To that end, ONS honors and maintains nursing's historical and essential commitment to advocate for the public good by providing nurses and health care professionals with access to the highest quality educational programs, cancer-care resources, research opportunities and networks for peer support. ONS has three chapters in my home State of Kansas, which help oncology nurses provide high-quality cancer care to patients and their families in our State.

Cancer is a complex, multifaceted, and chronic disease, and people with cancer are best served by a multidisciplinary health care team specialized in oncology care, including nurses who are certified in that specialty. Each year, in the United States, approximately 1.37 million people are diagnosed with cancer, another 570,000 lose their battles with this terrible disease, and more than 8 million Americans count themselves among a growing community known as cancer survivors. Every day, oncology nurses see the pain and suffering caused by cancer and understand the physical, emotional, and financial challenges that people with cancer face throughout their diagnosis and treatment.

Over the last 10 years, the setting where treatment for cancer is provided has changed dramatically. An estimated 80 percent of all cancer patients receive care in community settings, including cancer centers, physicians' offices, and hospital outpatient departments. Treatment regimens are as complex, if not more so, than regimens

given in the inpatient setting a few short years ago. Oncology nurses are involved in the care of a cancer patient from the beginning through the end of treatment, and they are the front line providers of care by administering chemotherapy, managing patient therapies and side effects, working with insurance companies to ensure that patients receive the appropriate treatment, provide counseling to patients and family members, in addition to many other daily acts on behalf of cancer patients.

I thank all oncology nurses for their dedication to our Nation's cancer patients, and commend the Oncology Nursing Society for all of its efforts and leadership over the last 30 years. They have contributed immensely to the quality and accessibility of care for all cancer patients and their families, and I urge my colleagues to support them in their important endeavors.●

HONORING DANVILLE HIGH SCHOOL

● Mr. PRYOR. Mr. President, it is with the greatest pleasure that I rise today to honor Danville High School which was recently selected to receive the 2005 GRAMMY Signature School Enterprise Award. The GRAMMY Signature School Program recognizes the top public high schools in the Nation that have made an outstanding commitment to music education during the school year. The GRAMMY Foundation will award Danville High School $20,000 to benefit its music program.

I commend the Danville Music Department personnel—Alana Smith, head band director and department head; Julianna Sommers, choir/elementary director; and Julie Rutherford, assistant band director, for their vision, but most of all for their commitment to provide such a quality music education to the young people of Danville.

I would also like to recognize the following students for their contributions to the Danville High School Music Program: Jessica Harris, Dana Mendoza, Jasimen Fedison, Jessica Bryant, Patrice Davis, Marlene Mendoza, Yvette Huerta, Daniel Melton, Aaron Sanders, Devon Essman, Nicholas Patterson, Joe Claudio, Baillie Villareal, Anna Garza, Jose Ojeda, Mayra Iracheta, Tiffaney Small, Ashley Hancock, Samantha Turner, Heather Gooch, Akoshua Davis, Janet Claudio, Jorge Mendoza, Vikki Xayadeth, and Margarita Dominguez.

I ask my colleagues to join me in congratulating Danville High School and these outstanding teachers and students on receiving this well-deserved honor.●

IN RECOGNITION OF RACHEL SIMON

● Mr. CARPER. Mr. President. I rise today in recognition of Rachel Simon and her extraordinary book, Riding the Bus with my Sister. The book chronicles the time her developmentally disabled sister Beth spends riding the bus. It brings to light the world of adults with developmental disabilities, finds unlikely heroes in everyday life, and discovers unrealized inner strength.

Rachel Simon was born in 1959 in Newark, NJ, the second of four children. Her family moved around New Jersey and Pennsylvania several times when she was a child, and Rachel, who was always a very social, creative person, wrote mountains of letters to keep up with all her distant friends. She also wrote short stories, novels, and plays, which she enjoyed sharing with others.

Rachel graduated from Solebury School, a boarding school in New Hope, PA, in 1977. She then went on to Bryn Mawr College in Pennsylvania. During her years in college, she discovered the secrets of discipline and time management. She was also captivated by her courses in anthropology and graduated in 1981.

After college, Rachel moved to Philadelphia, where she spent the next 5 years at a variety of jobs, including paralegal, administrative assistant, and research supervisor for a television study. At 26, she entered a graduate program in creative writing.

In the next several years, Rachel wrote the story collection Little Nightmares, Little Dreams and the novel The Magic Touch. From her house in Abington, PA, she began teaching private classes in creative writing. In 1995, Rachel took a job running events at the Barnes & Noble in Princeton, NJ, and eventually moving to that area.

Around that time, Rachel also began writing commentary for the Philadelphia Inquirer and teaching at Bryn Mawr College, in addition to continuing with her private classes. In 1997, she published The Writer's Survival Guide and then worked on some long pieces of fiction.

As readers of Riding the Bus with my Sister know, Rachel's life changed when she wrote an article about her sister Beth's unusual lifestyle of riding the buses in the city where she lives. Over the course of riding with Beth for the next year, Rachel came to leave most of her jobs behind, found her way back to her sister, and rediscovered her friendships.

In May 2005, Riding the Bus with my Sister will be televised as a Hallmark Hall of Fame movie on CBS. Rosie O'Donnell is starring as Beth, Andie MacDowell is starring as Rachel, and Anjelica Huston is directing.

Both Rachel and her sister Beth are amazing women, and I rise today to honor them.●

MESSAGE FROM THE HOUSE

At 10:25 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6. An act to ensure jobs for our future with secure, afordable, and reliable energy.

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–1932. A communication from the Assistant Attorney General, Department of Justice, transmitting, pursuant to law, the Bureau of Justice Assistance (BJA) Fiscal Year 2003 Annual Report in accordance with the Omnibus Crime Control and Safe Streets Act of 1968; to the Committee on the Judiciary.

EC–1933. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Appeals Settlement Guidelines: Domestic Abusive Trust Schemes'' (UIL: 671.00–00) received on April 22, 2005; to the Committee on Finance.

EC–1934. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled ''Children's Online Privacy Protection Rule'' (RIN3084–AB00) received on April 22, 2005; to the Committee on Commerce, Science, and Transportation.

EC–1935. A communication from the Director, Executive Secretariat, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Conforming Amendments to Implement the No Child Left Behind Act of 2001'' (RIN1076–AE54) received on April 22, 2005; to the Committee on Indian Affairs.

EC–1936. A communication from the Director, Executive Secretariat, Bureau of Indian Affairs, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Implementation of the No Child Left Behind Act'' (RIN1076–AE49) received on April 22, 2005; to the Committee on Indian Affairs.

EC–1937. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Postsecondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Final Regulations—34 CFR Parts 606, 607, 611, 637, 648, 656, 657, 658, 660, 661, 662, 663, 664, and 669'' received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1938. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Professional Development for Arts Educators Program—Notice of Final Priority, Requirements, and Definitions'' received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1939. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Arts in Education Model Development and Dissemination Program—Notice of Final Priority, Requirements, and Definitions'' received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1940. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Vocational and Adult Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Requirements and Selection Criteria—Tech-Prep Demonstration

Program'' received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1941. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Teaching American History—Notice of Final Selection Criteria and Other Application Requirements'' received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1942. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Innovation and Improvement, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Credit Enhancement for Charter School Facilities Program—Final Regulations'' received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1943. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Elementary and Secondary Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Priorities—Comprehensive School Reform Quality Initiative'' received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1944. A communication from the Assistant General Counsel, Division of Regulatory Service, Office of Vocational and Adult Education, Department of Education, transmitting, pursuant to law, the report of a rule entitled ''Notice of Final Priorities, Requirements, Definitions, and Selection Criteria—Smaller Learning Communities Programs—Special Competition'' received on April 22, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–1945. A communication from the Assistant Secretary, Land and Minerals Management, Bureau of Land Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Rights-of-Way Under the Federal Land Policy Management Act and Rights-of-Way Under the Mineral Leasing Act'' (RIN1004–AC74) received on April 22, 2005; to the Committee on Energy and Natural Resources.

EC–1946. A communication from the Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Establishment of an Additional Manatee Protection Area in Lee County, Florida'' (RIN1018–AT65) received on April 22, 2005; to the Committee on Environment and Public Works.

PETITIONS AND MEMORIALS

The following petition or memorial was laid before the Senate and was referred or ordered to lie on the table as indicated:

POM–56. A joint resolution adopted by the Legislature of the State of Maine relative to the Togus Veterans Affairs Medical Center; to the Committee on Veterans' Affairs.

JOINT RESOLUTION

Whereas the Veterans Affairs Medical Center in Togus, Maine, is the oldest facility operated by the United States Department of Veterans Affairs in the country, having been operated in 1866; and

Whereas the Togus Veterans Affairs Medical Center provides general medical, surgical and mental health services to our nation's veterans; and

Whereas the Togus Veterans Affairs Medical Center is the only United States Department of Veterans Affairs medical center in Maine, a large and rural state; and

Whereas the State of Maine has a large population of military veterans, with more returning from Iraq, Afghanistan and elsewhere around the globe every day; and

Whereas a cut in funding for the Togus Veterans Affairs Medical Center would be devastating to the medical center's ability to provide basic health care services to our nation's veterans: Now, therefore, be it

Resolved, That we, your memorialists, respectfully urge and request that the United States Congress support the Togus Veterans Affairs Medical Center as a vital resource in serving our nation's military veterans and providing veterans in Maine with much-needed and deserved health care services accessible from all points in the State; and be it further

Resolved, That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the Honorable George W. Bush, President of the United States, to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States and to each Member of the Maine Congressional Delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 728. A bill to provide for the consideration and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes (Rept. No. 109–61).

By Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 907. An original bill to amend chapter 53 of title 49, United States Code, to improve the Nation's public transportation and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GRASSLEY for the Committee on Finance.

*Robert J. Portman, of Ohio, to be United States Trade Representative, with rank of Ambassador.

By Mr. CRAIG for the Committee on Veterans' Affairs.

*Johnathan Brian Perlin, of Maryland, to be Under Secretary for Health of the Department of Veterans Affairs for a term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. MCCAIN (for himself, Mr. HARKIN, Mr. STEVENS, and Mr. SMITH):

S. 900. A bill to reinstate the Federal Communications Commission's rules for the description of video programming; to the Committee on Commerce, Science, and Transportation.

By Mr. ALLEN:

S. 901. A bill to provide States that meet certain requirements with waivers of the adequate yearly progress provisions of the Elementary and Secondary Education Act of 1965; to the Committee on Health, Education, Labor, and Pensions.

By Mr. MARTINEZ:

S. 902. A bill to amend the Longshore and Harbor Workers' Compensation Act to clarify the exemption for recreational vessel support employees, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. HUTCHISON:

S. 903. A bill to provide for the correction of a certain John H. Chafee Coastal Barrier Resources System map; to the Committee on Environment and Public Works.

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 904. A bill to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the ''Brian P. Parrello Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. HATCH:

S. 905. A bill for the relief of Heilit Martinez; to the Committee on the Judiciary.

By Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 906. A bill to promote wildland firefighter safety; to the Committee on Energy and Natural Resources.

By Mr. SHELBY:

S. 907. An original bill to amend chapter 53 of title 49, United States Code, to improve the Nation's public transportation and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. MCCONNELL:

S. 908. A bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity; to the Committee on the Judiciary.

By Mr. DODD:

S. 909. A bill to expand eligibility for governmental markers for marked graves of veterans at private cemeteries; to the Committee on Veterans' Affairs.

By Ms. SNOWE (for herself, Ms. LANDRIEU, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Mr. CORZINE, Mr. DURBIN, and Mr. COCHRAN):

S. 910. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LUGAR (for himself, Mr. HAGEL, and Ms. COLLINS):

S.J. Res. 17. A joint resolution honoring the life and legacy of Frederick William Augustus von Steuben and recognizing his contributions on the 275th anniversary of his birth; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HATCH (for himself, Mr. CORNYN, Mr. GRASSLEY, Mrs.

HUTCHISON, Mr. MARTINEZ, and Ms. MURKOWSKI):

S. Res. 123. A resolution designating April 30, 2005, as ''Dia de los Niños: Celebrating Young Americans'', and for other purposes; to the Committee on the Judiciary.

By Mr. HAGEL (for himself, Mr. FEINGOLD, and Ms. STABENOW):

S. Res. 124. A resolution recognizing the importance of increasing awareness of autism spectrum disorders, supporting programs for increased research and improved treatment of autism, and improving training and support for individuals with autism and those who care for individuals with autism; to the Committee on Health, Education, Labor, and Pensions.

By Mr. COLEMAN (for himself and Mr. DAYTON):

S. Res. 125. A resolution commending the University of Minnesota Golden Gophers women's ice hockey team for winning the 2004–2005 National Collegiate Athletic Association Division I Women's Hockey Championship; considered and agreed to.

By Mr. LUGAR (for himself, Mr. BAUCUS, Mr. ALLEN, Mr. HATCH, Mr. DEWINE, Mr. NELSON of Florida, Mr. COLEMAN, Mr. LEAHY, and Mr. CHAFEE):

S. Con. Res. 28. A concurrent resolution expressing the sense of the Congress on World Intellectual Property Day regarding the importance of protecting intellectual property rights globally; considered and agreed to.

ADDITIONAL COSPONSORS

S. 211

At the request of Mrs. CLINTON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 313

At the request of Mr. LUGAR, the names of the Senator from Tennessee (Mr. ALEXANDER), the Senator from Virginia (Mr. ALLEN) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of S. 313, a bill to improve authorities to address urgent nonproliferation crises and United States nonproliferation operations.

S. 337

At the request of Mr. GRAHAM, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 337, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for nonregular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

S. 382

At the request of Mr. ENSIGN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 382, a bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes.

S. 394

At the request of Mr. CORNYN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 394, a bill to promote accessibility, accountability, and openness in Government by strengthening section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), and for other purposes.

S. 433

At the request of Mr. ALLEN, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 433, a bill to require the Secretary of Homeland Security to develop and implement standards for the operation of non-scheduled, commercial air carrier (air charter) and general aviation operations at Ronald Reagan Washington National Airport.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 495

At the request of Mr. CORZINE, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 495, a bill to impose sanctions against perpetrators of crimes against humanity in Darfur, Sudan, and for other purposes.

S. 544

At the request of Mr. JEFFORDS, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 544, a bill to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely effect patient safety.

S. 548

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 576

At the request of Mr. BYRD, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 576, a bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros.

S. 582

At the request of Mr. PRYOR, the names of the Senator from Nebraska (Mr. NELSON), the Senator from South Carolina (Mr. DEMINT), the Senator from Iowa (Mr. HARKIN), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Delaware (Mr. BIDEN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 582, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the desegregation of the Little Rock Central High School in Little Rock, Arkansas, and for other purposes.

S. 589

At the request of Mr. CORNYN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 589, a bill to establish the Commission on Freedom of Information Act Processing Delays.

S. 594

At the request of Mr. SPECTER, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 594, a bill to amend section 1114 of title 11, United States Code, to preserve the health benefits of certain retired miners.

S. 633

At the request of Mr. JOHNSON, the names of the Senator from Wyoming (Mr. ENZI) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 658

At the request of Mr. BROWNBACK, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 658, a bill to amend the Public Health Service Act to prohibit human cloning.

S. 659

At the request of Mr. BROWNBACK, the names of the Senator from Nevada (Mr. ENSIGN) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. 659, a bill to amend title 18, United States Code, to prohibit human chimeras.

S. 666

At the request of Mr. DEWINE, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 666, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 728

At the request of Mr. BOND, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 728, a bill to provide for the consideration and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

S. 765

At the request of Mr. WARNER, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 765, a bill to preserve mathematics- and science-based industries in the United States.

S. 852

At the request of Mr. SPECTER, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 852, a bill to

create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

S. 881

At the request of Ms. CANTWELL, the names of the Senator from Arizona (Mr. MCCAIN) and the Senator from North Dakota (Mr. DORGAN) were withdrawn as cosponsors of S. 881, a bill to provide for equitable compensation to the Spokane Tribe of Indians of the Spokane Reservation for the use of tribal land for the production of hydropower by the Grand Coulee Dam, and for other purposes.

S. RES. 117

At the request of Mrs. FEINSTEIN, the names of the Senator from Pennsylvania (Mr. SPECTER), the Senator from Michigan (Ms. STABENOW) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. Res. 117, a resolution designating the week of May 9, 2005, as ''National Hepatits B Awareness Week''.

AMENDMENT NO. 517

At the request of Mr. CORZINE, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Florida (Mr. NELSON), the Senator from Maryland (Ms. MIKULSKI), the Senator from Massachusetts (Mr. KERRY), the Senator from South Dakota (Mr. JOHNSON), the Senator from New Mexico (Mr. BINGAMAN), the Senator from New York (Mr. SCHUMER), the Senator from Minnesota (Mr. COLEMAN), the Senator from Vermont (Mr. LEAHY), the Senator from Oregon (Mr. WYDEN), the Senator from California (Mrs. FEINSTEIN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Washington (Mrs. MURRAY), the Senator from Vermont (Mr. JEFFORDS), the Senator from Illinois (Mr. OBAMA), the Senator from Nebraska (Mr. NELSON), the Senator from California (Mrs. BOXER), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Wisconsin (Mr. KOHL), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Indiana (Mr. BAYH), the Senator from Michigan (Mr. LEVIN), the Senator from Illinois (Mr. DURBIN), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from New York (Mrs. CLINTON), the Senator from Colorado (Mr. SALAZAR) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of amendment No. 517 proposed to H.R. 1268, an act making Emergency Supplemental Appropriations for Defense, the Global War on Terror, and Tsunami Relief, for the fiscal year ending September 30, 2005, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself, Mr. HARKIN, Mr. STEVENS, and Mr. SMITH):

S. 900. A bill to reinstate the Federal Communications Commission's rules for the description of video programming; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, today I am introducing the Television Information-Enhancement for the Visually Impaired (TIVI) Act of 2005. This bill would require television broadcasters, during at least 50 hours of their prime time or children's programming every quarter, to insert verbal descriptions of actions or settings not contained in the normal audio track of a program. This can be accomplished through technology commonly referred to as ''video description services,'' which allows television programming to be more accessible and enjoyable for the visually impaired.

This bill is necessary due to a 2002 decision by District of Columbia Circuit Court of Appeals. In 2000, the Federal Communications Commission (''FCC'' or ''Commission''), recognizing the need to make television programming accessible to the visually impaired, promulgated rules that mandated television broadcast stations and their affiliates, which met certain market requirements, provide 50 hours of video descriptions during prime time or children's programming every calendar quarter. Television programmers challenged the Commission's authority to promulgate such rules. The Circuit Court held that the Commission did not have authority to issue the regulations.

This bill would provide the Commission the authority to promulgate such regulations and reinstate the FCC's video description rules issued in 2000. Additionally, the bill would require the FCC to consider whether it is economically and technically feasible and consistent with the public interest to include ''accessible information'' in its video description rules, which may include written information displayed on a screen, hazardous warnings and other emergency information, and local and national news bulletins.

Since the spectrum that television broadcasters utilize is a public asset, one would expect that programming over the public airwaves is accessible to all Americans. Unfortunately, that is not the case today and that is why we must pass the TIVI Act. I sincerely hope that television broadcasters will work with us to provide video descriptions for individuals with visual disabilities.

By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 904. A bill to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the ''Brian P. Parrello Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to and remember Lance Cpl Brian P. Parrello, a resident of West Milford, NJ, who died January 1, 2005, while serving with the U.S. Marines in Iraq. I was privileged to attend this brave young man's funeral in West Milford on January 8, 2005, and I was moved by the outpouring of grief for LCpl Parrello.

In honor of this young Marine's life, I have introduced a bill to rename the facility at 1560 Union Valley Road in West Milford, NJ as the ''Brian P. Parrello Post Office Building.'' Senator CORZINE is a cosponsor of this legislation.

I would like to note that the renaming of this postal facility as the ''Brian P. Parrello Post Office Building'' was initiated by the West Milford Township Council, who wished to honor LCpl Parrello in this way. This is especially fitting since LCpl Parrello's father, Nino Parrello, is a letter carrier in West Milford. I am proud to be able to assist in the commemoration of his life by helping with the renaming process.

LCpl Parrello served in the Small Craft Company of the 2nd Marine Division's II Marine Expeditionary Force, which was based at Camp Lejeune, NC. During his service in Iraq, he was attached to a Marine Swift Boat unit that patrolled the Tigris and Euphrates rivers. He was killed New Year's Day as a result of hostile action in Hadithah, northwest of Baghdad.

During his too-short life, LCpl Parrello made a lasting impression on those around him. A graduate of West Milford High School in 2003, he was an athlete who played hockey and football, and he was voted to have ''Most School Spirit'' by his classmates. As those who knew him have attested, LCpl Parrello was a history buff who dreamed of becoming a history teacher.

LCpl Parrello's route to military service is the result of an admirable choice. He felt such a sense of duty after the September 11 attacks that he delayed going to college, and instead he enlisted in the Marines before his graduation from West Milford High School.

Tragically, LCpl Parrello died just a few days before his 19th birthday. We can commemorate the life of this extraordinary young man by quickly passing this bill to rename the postal facility in his hometown after him.

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. 904

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BRIAN P. PARRELLO POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, shall be known and designated as the ''Brian P. Parrello Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Brian P. Parrello Post Office Building''.

By Mr. HATCH:

S. 905. A bill for the relief of Heilit Martinez; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce a private relief bill for Miss Heilit Martinez. As my colleagues know, private relief is available in rare instances. I believe that the circumstances surrounding Miss Martinez's case are extraordinary and merit the introduction of private legislation. Therefore, I am pleased to introduce this legislation today.

Miss Martinez was brought into the U.S. with her parents when she was about two years of age and has lived in Utah since that time. It is important to note that Miss Martinez did not make the decision to enter this country as a young child nor did she decide to overstay a visa, and she was led to believe that she had legal status. Miss Martinez was raised and educated in the United States and is currently a straight A student at Utah State University.

Last year, Miss Martinez and a group of her college friends traveled into Mexico for a short day of sightseeing. When questioned at the port of entry, Miss Martinez declared that she had not been born in the United States but had legal immigration status. However, when she could not produce legal documentation, it was discovered that Miss Martinez was undocumented. She was detained for some days prior to her release.

For all intents and purposes, Miss Martinez does not have a country to which to return. The United States is her home. Therefore, I urge my colleagues to support the passage of this legislation to help Miss Martinez on the path of becoming a lawful, permanent resident.

Ms. CANTWELL (for herself and Mrs. MURRAY):

S. 906. A bill to promote wildland firefighter safety; to the Committee on Energy and Natural Resources.

Ms. CANTWELL. Mr. President, Governor Gregoire has already declared a drought in Washington State and I know my colleagues and I remain very concerned about what appears to be yet another year of devastating drought throughout the West, and the hazards this could pose in terms of increased fire risk and threats to public safety.

But today, I want to focus the majority of my comments on a topic that I have focused on and hope my colleagues will pay close attention to as the 2005 fire season approaches. That's the issue of wildland firefighter safety.

Many of my colleagues are probably aware of the fact that every summer, we send thousands of our constituents—many of them brave young men and women, college students on summer break—into harm's way to protect our Nation's rural communities and public lands. These men and women serve our Nation bravely.

Since 1910, more than 900 wildland firefighters have lost their lives in the line of duty. These firefighters represented a mix of Federal and State employees, volunteers and independent contractors. And they lost their lives for an array of reasons. We all realize that fighting fires on our Nation's public lands is an inherently dangerous business. But what we cannot and must not abide are the preventable deaths—losing firefighters because rules were broken, policies ignored and no one was held accountable.

A number of my colleagues will recall that, in 2001, this issue was pushed to the fore in the State of Washington, because of a horrible tragedy. On July 10, 2001, near Winthrop in Okanogan County, in the midst of the second worst drought in the history of our State, the Thirtymile fire burned out of control.

Four courageous young firefighters were killed. Their names: Tom Craven, 30 years old; Karen FitzPatrick, 18; Jessica Johnson, 19; and Devin Weaver, 21.

Sadly, as subsequent investigations revealed, these young men and women did not have to die. In the words of the Forest Service's own report on the Thirtymile fire, the tragedy ''could have been prevented.'' At that time, I said that I believe we in Congress and management within the firefighting agencies have a responsibility to ensure that no preventable tragedy like Thirtymile fire ever happened again.

I would like to thank my colleague Senator BINGAMAN, the distinguished Ranking Member of the Senate Energy Committee, as well as Senator WYDEN, who was then chair of the Subcommittee on Public Lands and Forests. In the wake of the Thirtymile fire, they agreed to convene hearings on precisely what went wrong that tragic day. We heard from the grief-stricken families.

In particular, the powerful testimony of Ken Weaver—the father of one of the lost firefighters—put into focus precisely what's at stake when we send these men and women into harm's way.

I can think of no worse tragedy than a parent confronting the loss of a child, especially when that loss could have been prevented by better practices on the part of federal agencies.

At the Senate Energy Committee hearing, we also discussed with experts and the Forest Service itself ways in which we could improve the agency's safety performance. And almost a year to the day after those young people lost their lives, we passed a bill—ensuring an independent review of tragic incidents such as Thirtymile that lead to unnecessary fatalities.

Based on subsequent briefings by the Forest Service, revisions to the agency's training and safety protocols, and what I've heard when I have visited with firefighters over the past 2 years, I do believe the courage of the Thirtymile families to stand up and demand change has had a positive impact on the safety of the young men and women who are preparing to battle blazes as wildland firefighters.

Yet, I'm deeply saddened by the fact that it's clear we haven't done nearly enough. In July 2003—2 years after Thirtymile—two more firefighters perished, this time at the Cramer fire within Idaho's Salmon-Challis National Forest. Jeff Allen and Shane Heath were killed when the fire burned over an area where they were attempting to construct a landing spot for firefighting helicopters.

After the Thirtymile fire, however, I told the Weavers and the Cravens, the families of Karen FitzPatrick and Jessica Johnson that I believed we owed it to their children to identify the causes and learn from the mistakes that were made in the Okanogan, to make wildland firefighting safer for those who would follow. That is why the findings associated with the Cramer fire simply boggle my mind.

We learned at Thirtymile that all ten of the agencies' Standing Fire Orders and many of the 18 Watch Out Situations—the most basic safety rules—were violated or disregarded. The same thing happened at Cramer, where Heath and Allen lost their lives 2 years later.

After the Thirtymile Fire, the Occupational Safety and Health Administration (OSHA) conducted an investigation and levied against the Forest Service five citations for Serious and Willful violations of safety rules. It was eerie, then, when just in March 2004 OSHA concluded its investigation of Cramer. The result: another five OSHA citations, for Serious, Willful and Repeat violations.

Reading through the list of causal and contributing factors for Cramer and putting them next to those associated with the Thirtymile fire, my colleagues would be struck by the many disturbing similarities. Even more haunting are the parallels between these lists and the factors cited in the investigation of 1994's South Canyon Fire on Storm King Mountain in Colorado.

It's been more than a decade since those 14 firefighters lost their lives on Storm King Mountain—and yet, the same mistakes are being made over and over again.

These facts have also been documented by an audit and memorandum issued last September by the Department of Agriculture's Inspector General. The IG found that ''accidents on the South Canyon, Thirtymile, and Cramer Fires, all of which involved fatalities, could have been avoided if certain individuals had followed standard safety practices and procedures in place at the time.''

The IG also noted that the Forest Service ''has not timely implemented actions to improve its safety programs.'' Some 27 of 81 action items identified as a result of the Storm King and Thirtymile Fires—or roughly a third—had not been fully implemented years later. While I know that the IG is monitoring implementation of some of these items, the stark similarities between Storm King, Thirtymile, and

Cramer make it seem positively astounding that the Forest Service still finds my bill ''not necessary.''

I don't believe that's acceptable. The firefighters we send into harm's way this year—and the ones we've already lost—deserve better.

Training, leadership and management problems have been cited in all of the incidents I've discussed. Frankly, I have believed since the Thirtymile tragedy that the Forest Service has on its hands a cultural problem. What can we do, from the legislative branch, to provide this agency with enough motivation to change? I believe the first step we can take is to equip ourselves with improved oversight tools, so these agencies know that Congress is paying attention. Today I'm re-introducing legislation—the Wildland Firefighter Safety Act of 2005—that would do just that.

I believe this is a modest yet important proposal. It was already passed once by the Senate, as an amendment to the 2003 Healthy Forests legislation. However, I was disappointed that it was not included in the conference version of the bill. But it is absolutely clear to me—particularly in light of OSHA's review of the Cramer Fire—that these provisions are needed now more than ever.

First, the Wildland Firefighter Safety Act of 2005 will require the Secretaries of Agriculture and Interior to track the funds the agencies expend for firefighter safety and training.

Today, these sums are lumped into the agencies' ''wildfire preparedness'' account. But as I have discussed with various officials in hearings before the Senate Energy and Natural Resources Committee, it is difficult for Congress to play its rightful oversight role—ensuring that these programs are funded in times of wildfire emergency, and measuring the agencies' commitment to these programs over time—without a separate break-down of these funds.

Second, it will require the Secretaries to report to Congress annually on the implementation and effectiveness of its safety and training programs.

Congress has the responsibility to ensure needed reforms are implemented. As such, I believe that Congress and the agencies alike would benefit from an annual check-in on these programs. I would also hope that this would serve as a vehicle for an ongoing and healthy dialogue between the Senate and agencies on these issues.

Third, my bill would stipulate that federal contracts with private firefighting crews require training consistent with the training of federal wildland firefighters. It would also direct those agencies to monitor compliance with this requirement.

This is important not just for the private contractor employees' themselves—but for the Federal, State and tribal employees who stand shoulder-to-shoulder with them on the fire line.

The Wildland Firefighter Safety Act of 2005 is a modest beginning in addressing the challenges posed by integrating private and federal contract crews—and doing it in a manner that maximizes everyone's safety on the fire line.

I hope my colleagues will support this simple legislation. Ultimately, the safety of our Federal firefighters is a critical component of how well prepared our agencies are to deal with the threat of catastrophic wildfire.

Congress owes it to the families of those brave firefighters we send into harm's way to provide oversight of these safety and training programs.

We owe it to our Federal wildland firefighters, their families and their State partners—and to future wildland firefighters.

My bill will provide this body with the additional tools it needs to do the job.

By Mr. McCONNELL:

S. 908. A bill to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity; to the Committee on the Judiciary.

Mr. McCONNELL. 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. 908

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Commonsense Consumption Act of 2005''.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the food and beverage industries are a significant part of our national economy;

(2) the activities of manufacturers and sellers of foods and beverages substantially affect interstate and foreign commerce;

(3) a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity is based on a multitude of factors, including genetic factors and the lifestyle and physical fitness decisions of individuals, such that a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity cannot be attributed solely to the consumption of any specific food or beverage; and

(4) because fostering a culture of acceptance of personal responsibility is one of the most important ways to promote a healthier society, lawsuits seeking to blame individual food and beverage providers for a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity are not only legally frivolous and economically damaging, but also harmful to a healthy America.

(b) PURPOSE.—The purpose of this Act is to allow Congress, State legislatures, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

SEC. 3. PRESERVATION OF SEPARATION OF POWERS.

(a) IN GENERAL.—A qualified civil liability action may not be brought in any Federal or State court.

(b) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of the enactment of this Act shall be dismissed immediately by the court in which the action was brought or is currently pending.

(c) DISCOVERY.—

(1) STAY.—In any action that is allegedly of the type described in section 4(5)(B) seeking to impose liability of any kind based on accumulative acts of consumption of a qualified product, the obligation of any party or non-party to make disclosures of any kind under any applicable rule or order, or to respond to discovery requests of any kind, as well as all proceedings unrelated to a motion to dismiss, shall be stayed prior to the time for filing a motion to dismiss and during the pendency of any such motion, unless the court finds upon motion of any party that a response to a particularized discovery request is necessary to preserve evidence or to prevent undue prejudice to that party.

(2) RESPONSIBILITY OF PARTIES.—During the pendency of any stay of discovery under paragraph (1), the responsibilities of the parties with regard to the treatment of all documents, data compilations (including electronically recorded or stored data), and tangible objects shall be governed by applicable Federal or State rules of civil procedure. A party aggrieved by the failure of an opposing party to comply with this paragraph shall have the applicable remedies made available by such applicable rules, provided that no remedy shall be afforded that conflicts with the terms of paragraph (1).

(d) PLEADINGS.—In any action that is allegedly of the type described in section 4(5)(B) seeking to impose liability of any kind based on accumulative acts of consumption of a qualified product, the complaint initiating such action shall state with particularity—

(1) each element of the cause of action;

(2) the Federal and State statutes or other laws that were allegedly violated;

(3) the specific facts alleged to constitute the claimed violation of law; and

(4) the specific facts alleged to have caused the claimed injury.

(e) RULE OF CONSTRUCTION.—No provision of this Act shall be construed to create a public or private cause of action or remedy.

SEC. 4. DEFINITIONS.

In this Act:

(1) ENGAGED IN THE BUSINESS.—The term ''engaged in the business'' means a person who manufactures, markets, distributes, advertises, or sells a qualified product in the person's regular course of trade or business.

(2) MANUFACTURER.—The term ''manufacturer'' means, with respect to a qualified product, a person who is lawfully engaged in the business of manufacturing the product.

(3) PERSON.—The term ''person'' means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) QUALIFIED PRODUCT.—The term ''qualified product'' means a food (as defined in section 201(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(f))).

(5) QUALIFIED CIVIL LIABILITY ACTION.—

(A) IN GENERAL.—Subject to subparagraph (B), the term ''qualified civil liability action'' means a civil action brought by any person against a manufacturer, marketer, distributor, advertiser, or seller of a qualified product, or a trade association, for damages, penalties, declaratory judgment, injunctive or declaratory relief, restitution, or

other relief arising out of, or related to a person's accumulated acts of consumption of a qualified product and weight gain, obesity, or a health condition that is associated with a person's weight gain or obesity, including an action brought by a person other than the person on whose weight gain, obesity, or health condition the action is based, and any derivative action brought by or on behalf of any person or any representative, spouse, parent, child, or other relative of that person.

(B) EXCEPTION.—A qualified civil liability action shall not include—

(i) an action based on allegations of breach of express contract or express warranty, provided that the grounds for recovery being alleged in such action are unrelated to a person's weight gain, obesity, or a health condition associated with a person's weight gain or obesity;

(ii) an action based on allegations that—

(I) a manufacturer or seller of a qualified product knowingly violated a Federal or State statute applicable to the marketing, advertisement, or labeling of the qualified product with intent for a person to rely on that violation;

(II) such person individually and justifiably relied on that violation; and

(III) such reliance was the proximate cause of injury related to that person's weight gain, obesity, or a health condition associated with that person's weight gain or obesity; or

(iii) an action brought by the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or by the Federal Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

(6) SELLER.—The term ''seller'' means, with respect to a qualified product, a person lawfully engaged in the business of marketing, distributing, advertising, or selling a qualified product.

(7) STATE.—The term ''State'' includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) TRADE ASSOCIATION.—The term ''trade association'' means any association or business organization (whether or not incorporated under Federal or State law) that is not operated for profit, and 2 or more members of which are manufacturers, marketers, distributors, advertisers, or sellers of a qualified product.

By Mr. DODD:

S. 909. A bill to expand eligibility for governmental markers for marked graves of veterans at private cemeteries; to the Committee on Veterans' Affairs.

Mr. DODD. Mr. President, I rise today to introduce a bill that will restore the rights of all veterans and their families to receive an official grave marker of the Department of Veterans Affairs. This legislation addresses an unfortunate inequity that exists for veterans who passed away during the period between November 1, 1990 and September 11, 2001.

It may come as a shock to my colleagues to learn that while all other veterans are entitled to the VA's official grave markers, current law forbids veterans who passed away during this eleven year period from being so honored.

This situation is unacceptable and must be remedied.

Nearly one year ago today, the National World War II Memorial was unveiled to the public. Countless Americans who have passed its 50 stone pillars since that time have been reminded of the courage and sacrifice of the men and women who served our country. at its time of greatest need.

But as Senator Bob Dole stated at its dedication ceremony, the World War II Memorial is not a tribute to war and conflict. Rather, he said, ''it's a tribute to the physical and moral courage that makes heroes out of farm and city boys and that inspires Americans in every generation to lay down their lives for people they will never meet, for ideals that make life itself worth living.''

Indeed, monuments like the World War II Memorial serve as a reminder of the service, sacrifice and dedication of our veterans. The 4,000 stars resting on the Wall of Freedom remind us that too many paid the ultimate price.

Many Americans have a similar experience when they visit the grave of a former veteran—often a friend or relative. Most of these grave sites have markers paying tribute to the veteran's service. We place flags by their side on Memorial Day. Until 1990, moreover, the family of a deceased Veteran could receive reimbursement for a VA headstone, a VA marker, or a private headstone. However, in the name of cost-cutting, measures were taken to prevent the VA from providing markers to those families that had purchased gravestones out of their own pockets.

In my view, this measure was a serious injustice. Nearly all families today provide for some gravestone or other privately purchased marker following the death of a relative. Yet most were unaware of the new VA regulation. Many veterans were buried without any official recognition of their service to our country. As of 2001, the VA estimated that it was forced to deny nearly 20,000 requests for such markers every year.

This body first endorsed a provision restoring the right of every veteran to receive a grave marker as early as June 7, 2000 as part of the fiscal year 2001 Defense Authorization Bill. This body approved this language again on December 8, 2001. But it was not until December 6, 2002 that legislation was signed into law as part of the Veterans Improvement Act allowing VA markers to be provided to deceased veterans retroactively. Unfortunately, however, when the bill went to a conference with the House of Representatives, this benefit was only applied retroactively to September 11, 2001 rather than to November 1, 1990, the date at which the new VA regulation came into effect. Veterans who passed away between those two dates were cut out.

That decision has never satisfied me or many veterans and their families. Why should one veteran receive recognition, while the family of another is told that there is nothing our government can do simply because of the date of their passing?

My legislation will correct this inequity. This bill is simple. It ensures that all veterans who have passed away since 1990 are able to receive a VA grave marker.

It is inexpensive. In 2001, the Congressional Budget Office estimated that providing such a benefit to all veterans would cost no more than $3 million per year for the first 5 years. Since most of the families of veterans who passed away between 1990 and 2001 have already completed their burial plans, it is safe to assume that a substantially smaller number of individuals would require this benefit.

Today is the seventh anniversary of the passing of Agostino Guzzo, a Connecticut resident who bravely served in the United States Armed Forces in the Philippines during World War II. His family interred his body in a mausoleum at the Cedar Hill Cemetery in Hartford, Connecticut. The family was not aware of the VA's restrictions on grave markers, and was told by the VA that there was no way to receive an official recognition.

Agostino's son, Thomas Guzzo, brought the matter to my attention, and, along with Representative NANCY JOHNSON, we were able pass to legislation granting Agostino the memorial he deserves. But too many families are still denied such markers. This legislation honors the memory of Agostino Guzzo and all of the veterans who have served their country in war and in peace. Thomas Guzzo's commitment to this issue has not ended. The commitment of this Congress to the issue should continue as well.

I hope our colleagues will give this important legislation their favorable consideration.

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. 909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROVISION OF GOVERNMENT MARKERS FOR MARKED GRAVES OF VETERANS AT PRIVATE CEMETERIES.

(a) IN GENERAL.—Section 502(d) of the Veterans Education and Benefits Expansion Act of 2001 (38 U.S.C. 2306 note) is amended by striking ''September 11, 2001'' and inserting ''November 1, 1990''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 502 of the Veterans Education and Benefits Expansion Act of 2001.

By Ms. SNOWE (for herself, Ms. LANDRIEU, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Mr. CORZINE, Mr. DURBIN, and Mr. COCHRAN):

S. 910. A bill to require that health plans provide coverage for a minimum hospital stay for mastectomies, lumpectomies, and lymph node dissection for the treatment of breast cancer and coverage for secondary consultations; to the Committee on Health, Education, Labor, and Pensions.

Ms. SNOWE. Mr. President, I rise today to introduce the Breast Cancer Patient Protection Act of 2005. I am pleased to be joined today by Senator LANDRIEU in introducing this legislation to assure women of a higher standard of breast cancer treatment. We are joined today by colleagues who have supported our efforts in the past—Senator FEINSTEIN, Senator BOXER, Senator MURRAY, Senator CORZINE, and Senator DURBIN. Today in the House, Representatives KELLY and DELAURO are introducing identical legislation. Working together in this bipartisan, bicameral effort—supported by so many breast cancer advocates—we should at last achieve for American women the protections they so deserve.

A woman in the United States has a 1 in 7 chance of developing breast cancer in her lifetime. This year over 216,000 women will receive a life-altering diagnosis of invasive breast cancer. At some point in their lives, nearly every American will have a family member or friend who must battle breast cancer. Yet current standards of health care coverage have created a situation in which thousands of women each year undergo mastectomies needlessly, and women have even undergone breast cancer surgery as an outpatient—the ''drive through mastectomy'' as it has been called—being sent home without critical support for their recovery.

Our legislation empowers women and their doctors to make treatment decisions based on what is medically prudent, not simply what will achieve short-term savings. The stress of a cancer diagnosis is debilitating. To compound that stress, to leave a woman with the knowledge that she must undergo a disfiguring procedure due only to her financial position, or to undergo surgery without proper hospitalization, is absolutely unconscionable.

This bill achieves three important objectives. First, it assures a patient of a second opinion for any cancer diagnosis. A cancer diagnosis simply must be reliable.

Second, this legislation assures a patient of a reasonable minimum length of hospital stay for invasive treatment of breast cancer. Many of us have heard of women receiving outpatient mastectomies, being sent home without the necessary support. Such treatment is unconscionable. This legislation establishes a 48 hour minimum stay assurance for mastectomy and lumpectomy. I must point out that this assurance does not require a woman remain hospitalized that long if she and her doctor concur that she goes home earlier—nor does it prevent a longer hospitalization if her medical condition warrants it.

However, this provision will protect women from that small fraction of insurance plans which will not allow such reasonable treatment. This assurance is offered regardless of whether the patient's plan is regulated by ERISA or State regulations.

Finally, this legislation does more than simply ensure a patient of reasonable hospitalization. It assures her of support in making the best choices about her treatment.

It is not hard to understand why the words ''you have breast cancer'' are some of the most frightening in the English language. For the woman who hears them, everything changes from that moment forward. No wonder, then, that it is a diagnosis not only accompanied by fear, but also by uncertainty. What will become of me? What will they have to do to me? What will I have to endure? What's the next step?

For many women, the answer to that last question is a mastectomy or lumpectomy. But despite the fact that studies are demonstrating that lumpectomy often is just as effective as mastectomy for treating breast cancer, an insurance coverage bias causes too many to unnecessarily undergo mastectomy. By ensuring a reasonable hospital stay, as well as coverage for radiation therapy, this legislation removes much of the financial incentive that has caused women to receive a mastectomy when a lumpectomy would have been just as effective.

In fact, when the pain, trauma, and cost of breast reconstruction is considered, together with the frequent need for follow-up surgeries, and when we consider the additional health risks which implants may pose, it is clear that mastectomy can entail greater health and economic costs. Decisions about treatment simply must be based on sound science and a long term view, not what is most financially expedient at that very moment. A woman must have the ability to make a choice with their physician which considers what is in her best long term interest. This legislation ensures that choice is not influenced by a short term outlook.

I urge my colleagues to join me in supporting this bill and work towards passing it this year.

Ms. LANDRIEU. Mr. President, approximately 211,300 women will be diagnosed with breast cancer this year. No doubt, you know one of these women. In fact, they may be your sister, mother, aunt, cousin or dear friend. In most cases, the doctor will prescribe immediate and often times aggressive treatment in the hopes of stalling further progression of the disease. The quality of care that breast cancer patients receive is critically important to their survival. Despite the urgent need for Federal protections to ensure that breast cancer sufferers receive appropriate treatment, very few exist.

It may shock you to learn that women who have undergone surgical treatments such as breast removal mastectomy—or lymph node dissections are being sent home within hours of having surgery because insurance companies are unwilling to reimburse recovery time in hospitals, a practice referred to as ''Drive-Through Mastectomies.'' These women have reported being sent home still drowsy from anesthesia, weakened from hours of surgery, and with drainage tubes attached to their bodies, while simultaneously experiencing the immense emotional trauma associated with the removal of a breast or lymph nodes.

To this end, I am pleased to have worked with Senator SNOWE to introduce the Breast Cancer Patient Protection Act of 2005. This legislation will prevent insurance companies from restricting hospital stays resulting from mastectomies to less than 48 hours and hospital stays resulting from lymph node dissections to less than 24 hours. This bill does not prevent a doctor from discharging a woman prior to these minimum requirements, if he/she determines, in consultation with the patient, that this is the best treatment option. The Breast Cancer Patient Protection Act simply ensures that these types of medical decisions are made by doctors, not insurance companies. The legislation also prohibits insurance companies from circumventing the legislation through practices such as providing incentives to doctors or patients to reduce length of stays associated with mastectomies or lymph node dissections.

To be fair, we must acknowledge that this legislation will not change the nature of mastectomies and lymph node dissections for the majority of women. Over 19 States have already put State laws in place that work to the same end as the Breast Cancer Patient Protection Act, and the vast majority of insurance companies have already responded on their own to this problem. However, this is a case in which the injustice, while small in number of women it affects, is clear. And just as the injustice is apparent, the solution is simple. It is high time that the Federal Government took action. Yes, many states have already done so, and yes, many insurance companies have, too, but if even one woman is forced to go home too soon after such an invasive surgery, that is one woman too many. It is not the fact that this is happening to many women, it is the fact that it is happening to any women. For all of our sisters, mothers, daughters, aunts, friends, and loved ones, it is time for us to provide the needed protections. I ask for your support of the Breast Cancer Patient Protection Act of 2005.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 123—DESIGNATING APRIL 30, 2005, AS ''DIA DE LOS NINOS: CELEBRATING YOUNG AMERICANS,'' AND FOR OTHER PURPOSES

Mr. HATCH (for himself, Mr. CORNYN, Mr. GRASSLEY, Mrs. HUTCHISON, Mr. MARTINEZ, and Ms. MURKOWSKI) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 123

Whereas many nations throughout the world, and especially within the Western hemisphere, celebrate ''Día de los Niños'', or ''Day of the Children'' on the 30th of April, in recognition and celebration of their country's future—their children;

Whereas children represent the hopes and dreams of the people of the United States;

Whereas children are the center of American families;

Whereas children should be nurtured and invested in to preserve and enhance economic prosperity, democracy, and the American spirit;

Whereas Hispanics in the United States, the youngest and fastest growing ethnic community in the Nation, continue the tradition of honoring their children on this day, and wish to share this custom with the rest of the Nation;

Whereas 1 in 4 Americans is projected to be of Hispanic descent by the year 2050, and as of 2003, approximately 12,300,000 Hispanic children live in the United States;

Whereas traditional Hispanic family life centers largely on children;

Whereas the primary teachers of family values, morality, and culture are parents and family members, and we rely on children to pass on these family values, morals, and culture to future generations;

Whereas more than 500,000 children drop out of school each year, and Hispanic dropout rates are unacceptably high;

Whereas the importance of literacy and education are most often communicated to children through family members;

Whereas families should be encouraged to engage in family and community activities that include extended and elderly family members and encourage children to explore, develop confidence, and pursue their dreams;

Whereas the designation of a day to honor the children of the United States will help affirm for the people of the United States the significance of family, education, and community;

Whereas the designation of a day of special recognition for the children of the United States will provide an opportunity for children to reflect on their future, to articulate their dreams and aspirations, and to find comfort and security in the support of their family members and communities;

Whereas the National Latino Children's Institute, serving as a voice for children, has worked with cities throughout the country to declare April 30 as ''Día de los Niños: Celebrating Young Americans''—a day to bring together Hispanics and other communities nationwide to celebrate and uplift children; and

Whereas the children of a nation are the responsibility of all its people, and people should be encouraged to celebrate the gifts of children to society—their curiosity, laughter, faith, energy, spirit, hopes, and dreams: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 30, 2005, as ''Día de los Niños: Celebrating Young Americans''; and

(2) calls on the people of the United States to join with all children, families, organizations, communities, churches, cities, and States across the United States to observe the day with appropriate ceremonies, including activities that—

(A) center around children, and are free or minimal in cost so as to encourage and facilitate the participation of all our people;

(B) are positive and uplifting and that help children express their hopes and dreams;

(C) provide opportunities for children of all backgrounds to learn about one another's cultures and to share ideas;

(D) include all members of the family, and especially extended and elderly family members, so as to promote greater communication among the generations within a family, enabling children to appreciate and benefit from the experiences and wisdom of their elderly family members;

(E) provide opportunities for families within a community to get acquainted; and

(F) provide children with the support they need to develop skills and confidence, and to find the inner strength—the will and fire of the human spirit—to make their dreams come true.

Mr. HATCH. Mr. President, I rise today to submit an important resolution designating the 30th day of April 2005 as ''Día de los Niños: Celebrating Young Americans.''

Nations throughout the world, and especially within Latin America, celebrate Día de los Niños on the 30th of April, in recognition and celebration of their country's future—their children. Many American Hispanic families continue the tradition of honoring their children on this day by celebrating Día de los Niños in their homes.

The designation of a day to honor the children of the Nation will help affirm for the people of the United States the significance of family, education, and community. This special recognition of children will provide us with an opportunity to reflect on their future, articulate their dreams and aspirations, and find comfort and security in the support of their family members and communities. This resolution calls on the American people to join with all children, families, organizations, communities, churches, cities, and states across the Nation to observe the day with appropriate ceremonies and activities.

Joining me as original co-sponsors to this Resolution are JOHN CORNYN, CHARLES E. GRASSLEY, KAY BAILEY HUTCHISON, MEL MARTINEZ, and LISA MURKOWSKI.

I strongly urge my colleagues to join us in promptly passing this Resolution designating April 30, 2005 Día de los Niños: Celebrating Young Americans.

SENATE RESOLUTION 124—RECOGNIZING THE IMPORTANCE OF INCREASING AWARENESS OF AUTISM SPECTRUM DISORDERS, SUPPORTING PROGRAMS FOR INCREASED RESEARCH AND IMPROVED TREATMENT OF AUTISM, AND IMPROVING TRAINING AND SUPPORT FOR INDIVIDUALS WITH AUTISM AND THOSE WHO CARE FOR INDIVIDUALS WITH AUTISM

Mr. HAGEL (for himself, Mr. FEINGOLD, and Ms. STABENOW) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 124

Whereas the Autism Society of America, Cure Autism Now, the National Alliance for Autism Research, The Dan Marino Foundation, and numerous other organizations commemorate April as National Autism Awareness Month;

Whereas autism is a developmental disorder that is typically diagnosed during the first 3 years of life, robbing individuals of their ability to communicate and interact with others;

Whereas autism affects an estimated 1 in every 166 children in America;

Whereas autism is 4 times more likely in boys than in girls, and can affect anyone, regardless of race, ethnicity, or other factors;

Whereas the cost of specialized treatment in a developmental center for people with autism is approximately $80,000 per individual per year;

Whereas the cost of special education programs for school-aged children with autism is often more than $30,000 per individual per year;

Whereas the cost nationally of caring for persons affected by autism is estimated at upwards of $90,000,000,000 per year; and

Whereas despite the fact that autism is one of the most common developmental disorders, many professionals in the medical and educational fields are still unaware of the best methods to diagnose and treat the disorder: Now, therefore, be it

Resolved, That the Senate—

(1) supports the establishment of April as National Autism Awareness Month;

(2) recognizes and commends the parents and relatives of children with autism for their sacrifice and dedication in providing for the special needs of children with autism and for absorbing significant financial costs for specialized education and support services;

(3) supports the goal of increasing Federal funding for aggressive research to learn the root causes of autism, identify the best methods of early intervention and treatment, expand programs for individuals with autism across their lifespan, and promote understanding of the special needs of people with autism;

(4) commends the Department of Health and Human Services for the swift implementation of the Children's Health Act of 2000, particularly for establishing 4 ''Centers of Excellence'' at the Centers for Disease Control and Prevention to study the epidemiology of autism and related disorders and the proposed ''Centers of Excellence'' at the National Institutes of Health for autism research;

(5) stresses the need to begin early intervention services soon after a child has been diagnosed with autism, noting that early intervention strategies are the primary therapeutic options for young people with autism, and early intervention significantly

improves outcomes for people with autism and can reduce the level of funding and services needed later in life;

(6) supports the Federal Government's nearly 30-year-old commitment to provide States with 40 percent of the costs needed to educate children with disabilities under part B of the Individuals with Disabilities Education Act (IDEA);

(7) recognizes the shortage of appropriately trained teachers who have the skills and support necessary to teach, assist, and respond to special needs students, including those with autism, in our school systems; and

(8) recognizes the importance of worker training programs that are tailored to the needs of developmentally disabled persons, including those with autism, and notes that people with autism can be, and are, productive members of the workforce if they are given appropriate support, training, and early intervention services.

SENATE RESOLUTION 125—COMMENDING THE UNIVERSITY OF MINNESOTA GOLDEN GOPHERS WOMEN'S ICE HOCKEY TEAM FOR WINNING THE 2004–2005 NATIONAL COLLEGIATE ATHLETIC ASSOCIATION DIVISION I WOMEN'S HOCKEY CHAMPIONSHIP

Mr. COLEMAN (for himself and Mr. DAYTON) submitted the following resolution; which was considered and agreed to:

S. RES. 125

Whereas, on Sunday, March 27, 2005, the University of Minnesota Golden Gophers won the National Collegiate Athletic Association (NCAA) Division I Women's Hockey Championship for the second straight year;

Whereas the University of Minnesota Golden Gophers defeated Harvard University in the championship game by a score of 4 to 3, and defeated Dartmouth College by a score of 7 to 2 in the semifinals;

Whereas, during the 2004–2005 season, the Golden Gophers won an outstanding 36 out of 40 games;

Whereas Ms. Krissy Wendell was honored with the prestigious Patty Kazmaier Award, which is presented annually to the Nation's most outstanding women's collegiate hockey player;

Whereas Ms. Natalie Darwitz, Ms. Lyndsay Wall, and Ms. Krissy Wendell were selected for the 2004–2005 NCAA All-Tournament Team, and Ms. Darwitz was named the tournament's Most Valuable Player;

Whereas Ms. Lyndsay Wall, Ms. Krissy Wendell, and Ms. Natalie Darwitz were named to the CCM Women's University Division I Ice Hockey All-American First Team, and Ms. Jody Horak was named to the CCM Women's University Division I Ice Hockey All-American Second Team;

Whereas the team's seniors—Ms. Jody Horak, Ms. Brenda Reinen, Ms. Kelly Stephens, Ms. Noelle Sutton, and Ms. Stacy Troumbly—made tremendous contributions to the University of Minnesota Golden Gophers women's ice hockey program throughout their collegiate careers;

Whereas Ms. Ashley Albrecht, Ms. Chelsey Brodt, Ms. Natalie Darwitz, Ms. Whitney Graft, Ms. Jody Horak, Ms. Krista Johnson, Ms. Natalie Lammé, Ms. Erica McKenzie, Ms. Anya Miller, Ms. Andrea Nichols, Ms. Liz Palkie, Ms. Jenelle Philipczyk, Ms. Brenda Reinen, Ms. Bobbi Ross, Ms. Allie Sanchez, Ms. Maggie Souba, Ms. Kelly Stephens, Ms. Noelle Sutton, Ms. Stacy Troumbly, Ms. Becky Wacker, Ms. Lyndsay Wall, and Ms. Krissy Wendell demonstrated exceptional teamwork, selfless team spirit, and admirable sportswomanship throughout the season;

Whereas the University of Minnesota Golden Gophers women's ice hockey team Head Coach Laura Halldorson and Assistant Coaches Brad Frost, Charlie Burggraf, and Jeff Moen provided outstanding leadership and coaching to mold all of the talented young women into a championship team: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota Golden Gophers women's ice hockey team for winning the 2004–2005 National Collegiate Athletic Association's Division I Women's Ice Hockey Championship;

(2) recognizes the outstanding achievements of the team's players, coaches, and support staff; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the president of the University of Minnesota.

SENATE CONCURRENT RESOLUTION 28—EXPRESSING THE SENSE OF THE CONGRESS ON WORLD INTELLECTUAL PROPERTY DAY REGARDING THE IMPORTANCE OF PROTECTING INTELLECTUAL PROPERTY RIGHTS GLOBALLY

Mr. LUGAR (for himself, Mr. BAUCUS, Mr. ALLEN, Mr. HATCH, Mr. DEWINE, Mr. NELSON of Florida, Mr. COLEMAN, Mr. LEAHY, and Mr. CHAFEE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 28

Whereas protection of intellectual property is critical to our nation's economic competitiveness, cultural diversity, health and scientific development;

Whereas the United States economy depends increasingly on the work of authors, artists, inventors, programmers, and many others who create intellectual products of high value;

Whereas theft of intellectual property results in competitive disadvantages to United States industries and job losses for American workers, and for the United States economy as a whole;

Whereas the copyright industries employ approximately 11,500,000 workers or 8.41 percent of total employment in the United States, a number that approaches the levels of employment in the health care and social assistance sector (15,300,000 employees) and the entire manufacturing sector (14,500,000 workers in 21 manufacturing industries);

Whereas there is great concern about the failure of many of our trading partners to live up to their international obligations in the area of intellectual property protection;

Whereas counterfeiting of copyrighted products in digital and other formats, as well as counterfeiting of all types of trademarked products, has grown to an enormous scale;

Whereas many of our trading partners, in particular Russia and China, have laws in place to prevent piracy and counterfeiting, but are failing to enforce the laws;

Whereas Russia and China alone are responsible for over $4,000,000,000 in losses a year to United States industries due to piracy;

Whereas piracy in Russia and China is open, notorious, and permitted to operate without meaningful hindrance from the governments of those countries;

Whereas China should be encouraged to meet its intellectual property protection obligations as a member of the World Trade Organization (WTO);

Whereas Russia should be encouraged to explore means to provide effective piracy protection enabling compliance with the rules set forth by the WTO;

Whereas the United States Government must convey to these countries that failure to act will have political and economic consequences for relationships with the United States; and

Whereas Congress has enacted legislation regarding the protection of intellectual property, including measures which direct the Administration to censure countries that fail to provide adequate and effective protection for intellectual property: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Administration should utilize effective remedies and solutions in addressing the lack of intellectual property protection in China and Russia, using all available tools provided by Congress;

(2) the Administration should ensure that any country that enjoys benefits under the Generalized System of Preferences (GSP) program, such as Russia, lives up to its obligations to provide adequate and effective protection for intellectual property rights, or lose its eligibility to participate in trade preference programs;

(3) the Administration should ensure that action is taken against any country with which the United States shares mutual commitments under the WTO, such as China, when the country fails to live up to its WTO commitments;

(4) the Administration should urge Russia to promote measures to enforce intellectual property protection which will enable compliance with the intellectual property commitments required by the WTO; and

(5) the President should take any additional action the President considers appropriate to protect the intellectual property rights of United States businesses.

AMENDMENTS SUBMITTED AND PROPOSED

SA 567. Mr. INHOFE proposed an amendment to the bill H.R. 3, a bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes; which was ordered to lie on the table.

SA 568. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 569. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 570. Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 571. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 572. Mr. THUNE proposed an amendment to amendment SA 567 proposed by Mr. INHOFE to the bill H.R. 3, supra.

SA 573. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 574. Mrs. DOLE (for herself and Mr. BURR) submitted an amendment intended to be proposed by her to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 575. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 576. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 577. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 578. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 579. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 580. Mr. VOINOVICH (for himself, Mr. DEWINE, Mr. COLEMAN, Mr. DURBIN, Mr. OBAMA, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

SA 581. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 3, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 567. Mr. INHOFE proposed an amendment to the bill H.R. 3, Reserved; as follows:

Strike all after the enacting clause and insert the following:

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 2005''.

(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. Equity bonus programs.
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 and maintenance facilities; coordination of ferry construction and maintenance.
Sec. 1205. Designation of Interstate Highways.
Sec. 1206. State-by-State comparison of highway construction costs.

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.
Sec. 1307. Public-private partnerships pilot program.
Sec. 1308. Wagering.

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.
Sec. 1409. Identity authentication standards.
Sec. 1410. Open container requirements.

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. Parks, recreation areas, wildlife and waterfowl refuges, and historic sites.
Sec. 1515. Regulations.

CHAPTER 3—MISCELLANEOUS

Sec. 1521. Critical real property acquisition.
Sec. 1522. Planning capacity building initiative.
Sec. 1523. Intermodal passenger facilities.

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.
Sec. 1621. Exemption from certain hazardous materials transportation requirements.
Sec. 1622. Funds for rebuilding fish stocks.

Subtitle G—Operations

Sec. 1701. Transportation systems management and operations.
Sec. 1702. Real-time system management information program.
Sec. 1703. Contracting for engineering and design services.
Sec. 1704. Off-duty time for drivers of commercial vehicles.
Sec. 1705. Designation of transportation management areas.

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. Highway bridge program.
Sec. 1808. Appalachian development highway system.
Sec. 1809. Multistate corridor program.
Sec. 1810. Border planning, operations, technology, and capacity program.
Sec. 1811. Puerto Rico highway program.
Sec. 1812. National historic covered bridge preservation.
Sec. 1813. Transportation and community and system preservation program.
Sec. 1814. Parking pilot programs.
Sec. 1815. Interstate oasis program.
Sec. 1816. Tribal-State road maintenance agreements.
Sec. 1817. National forest system roads.
Sec. 1818. Territorial highway program.
Sec. 1819. Magnetic levitation transportation technology deployment program.
Sec. 1820. Donations and credits.
Sec. 1821. Disadvantaged business enterprises.
Sec. 1822. [Reserved].
Sec. 1823. Priority for pedestrian and bicycle facility enhancement projects.
Sec. 1824. The Delta Regional Authority.
Sec. 1825. Multistate international corridor development program.
Sec. 1826. Authorization of contract authority for States with Indian Reservations.

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.
Sec. 2104. Motorcycle crash causation study grants.
Sec. 2105. Transportation technology innovation and demonstration program

Subtitle C—Intelligent Transportation System Research

Sec. 2201. Intelligent transportation system research and technical assistance program.

TITLE III—RECREATIONAL BOATING SAFETY PROGRAMS

Sec. 3001. Short title.

Sec. 3002. Amendment of Federal aid in Fish Restoration Act.
Sec. 3003. Authorization of appropriations.
Sec. 3004. Division of annual appropriations.
Sec. 3005. Maintenance of projects.
Sec. 3006. Boating infrastructure.
Sec. 3007. Requirements and restrictions concerning use of amounts for expenses for administration.
Sec. 3008. Payments of funds to and cooperation with Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands.
Sec. 3009. Multistate conservation grant program.

TITLE IV—SOLID WASTE DISPOSAL

Sec. 4001. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.
Sec. 4002. Use of granular mine tailings.

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 2005.

''(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 improvements; 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; 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 recipient of funds under this title.

''(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) 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) $5,799,188,140 for fiscal year 2005;

(B) $6,032,059,334 for fiscal year 2006;

(C) $6,049,378,729 for fiscal year 2007;

(D) $6,351,069,528 for fiscal year 2008; and

(E) $6,443,591,248 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of that title—

(A) $7,054,146,316 for fiscal year 2005;

(B) $7,333,629,462 for fiscal year 2006;

(C) $7,354,650,712 for fiscal year 2007;

(D) $7,720,825,041 for fiscal year 2008; and
(E) $7,833,068,496 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of that title—
(A) $4,970,732,691 for fiscal year 2005;
(B) $5,157,180,500 for fiscal year 2006;
(C) $5,141,987,920 for fiscal year 2007;
(D) $5,429,922,039 for fiscal year 2008; and
(E) $5,509,052,458 for fiscal year 2009.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title—
(A) $7,318,023,129 for fiscal year 2005;
(B) $7,597,631,986 for fiscal year 2006;
(C) $7,619,446,491 for fiscal year 2007;
(D) $7,999,438,719 for fiscal year 2008; and
(E) $8,116,064,782 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) $1,979,088,016 for fiscal year 2005;
(B) $2,049,058,323 for fiscal year 2006;
(C) $2,054,941,629 for fiscal year 2007;
(D) $2,157,424,382 for fiscal year 2008; and
(E) $2,188,954,810 for fiscal year 2009.

(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of that title—
(A) $1,196,657,870 for fiscal year 2005;
(C) $1,234,248,870 for fiscal year 2006;
(D) $1,246,818,516 for fiscal year 2007;
(E) $1,308,999,063 for fiscal year 2008; and
(F) $1,328,233,842 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under section 170 of that title, $532,518,499 for each of fiscal years 2005 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of that title, $54,154,424 for each of fiscal years 2005 through 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—
(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title—
(i) $290,251,572 for fiscal year 2005;
(ii) $312,578,616 for fiscal year 2006;
(iii) $334,905,660 for fiscal year 2007;
(iv) $357,232,704 for fiscal year 2008; and
(v) $379,559,748 for fiscal year 2009.
(B) RECREATION ROADS.—For recreation roads under section 204 of that title, $44,654,088 for each of fiscal years 2005 through 2009.
(C) PARK ROADS AND PARKWAYS.—For park roads and parkways under section 204 of that title—
(i) $276,855,346 for fiscal year 2005; and
(ii) $285,786,164 for each of fiscal years 2006 through 2009.
(D) REFUGE ROADS.—For refuge roads under section 204 of that title, $26,792,453 for each of fiscal years 2005 through 2009.
(E) PUBLIC LANDS HIGHWAYS.—For Federal lands highways under section 204 of that title, $267,924,258 for each of fiscal years 2005 through 2009.
(F) SAFETY.—For safety under section 204 of that title, $35,723,270 for each of fiscal years 2005 through 2009.

(10) MULTISTATE CORRIDOR PROGRAM.—For the multistate corridor program under section 171 of that title—
(A) $120,566,038 for fiscal year 2005;
(B) $140,660,377 for fiscal year 2006;
(C) $160,754,717 for fiscal year 2007;
(D) $180,849,057 for fiscal year 2008; and
(E) $200,943,396 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) $120,566,038 for fiscal year 2005;
(B) $140,660,377 for fiscal year 2006;
(C) $160,754,717 for fiscal year 2007;
(D) $180,849,057 for fiscal year 2008; and
(E) $200,943,396 for fiscal year 2009.

(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of that title—
(A) $31,257,862 for fiscal year 2005;
(B) $32,150,943 for fiscal year 2006;
(C) $33,044,025 for fiscal year 2007; and
(D) $34,830,189 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 $0 for fiscal year 2004.

(14) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of that title, $54,154,424 for each of fiscal years 2005 through 2009.

(15) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—For the Commonwealth of Puerto Rico highway program under section 173 of that title—
(A) $129,496,855 for fiscal year 2005;
(B) $133,069,182 for fiscal year 2006;
(C) $137,534,591 for fiscal year 2007;
(D) $142,893,082 for fiscal year 2008; and
(E) $145,572,327 for fiscal year 2009.

(16) PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.—For the public-private partnerships pilot program under section 109(c)(3) of that title, $8,930,818 for each of fiscal years 2005 through 2009.

(17) DENALI ACCESS SYSTEM.—For the Denali Access System under section 309 of the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277), $26,792,453 for each of fiscal years 2005 through 2009.

(18) DELTA REGION TRANPORTATION DEVELOPMENT PROGRAM.—For planning and construction activities authorized under the Delta Regional Authority, $71,446,541 for each of fiscal years 2005 through 2009.

(19) INTERMODAL PASSENGER FACILITIES.—For intermodal passenger facilities under subchapter III of chapter 55 of title 49, United States Code, $8,930,818 for each of fiscal years 2005 through 2009.

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) $34,425,380,000 for fiscal year 2005;
(2) $37,154,999,523 for fiscal year 2006;
(3) $37,450,167,691 for fiscal year 2007;
(4) $38,816,364,417 for fiscal year 2008; and
(5) $40,321,257,845 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 2005 through 2009, only in an amount equal to $639,000,000 per fiscal year).

(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2005 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 2005 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 2005 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)(1)(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) $415,283,019 for fiscal year 2005;

(2) $428,679,245 for fiscal year 2006;

(3) $442,075,472 for fiscal year 2007;

(4) $455,471,698 for fiscal year 2008; and

(5) $468,867,925 for fiscal year 2009.

(j) NATIONAL HIGHWAY SYSTEM COMPONENT.—Section 104(b)(1) of title 23, United States Code, is amended by striking ''$36,400,000'' and insert ''$44,654,088''.

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—

''(1) $415,283,019 for fiscal year 2005;

''(2) $428,679,245 for fiscal year 2006;

''(3) $442,075,472 for fiscal year 2007;

''(4) $455,471,698 for fiscal year 2008; and

''(5) $468,867,925 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 the Interstate maintenance, national highway system, surface transportation, congestion mitigation and air quality improvement, highway safety improvement, and highway bridge 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 ''2005 through 2009''.

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 2005 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) 92 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, a median household income of less than $35,000, as reported in that decennial census, or a State with a fatality rate during 2002 on Interstate highways that is greater than 1 fatality for each 100,000,000 vehicle miles traveled on Interstate highways, 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 2005)—

''(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) for fiscal year 2005, 119 percent;

''(B) for fiscal year 2006, 122 percent;

''(C) for fiscal year 2007, 123 percent;

''(D) for fiscal year 2008, 128 percent; and

''(E) for 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 2005 through 2009.''.

(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 105 and inserting the following:

''105. Equity bonus program.''

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'' 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.'';

(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 2005; 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.—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 program under section 144, and the congestion mitigation and air quality improvement program under section 149 that will—

''(1) preserve, maintain, or otherwise extend, in a cost-effective manner, the useful life of existing highway infrastructure elements and hurricane evacuation routes on the Federal-aid system; or

''(2) provide operational improvements (including traffic management and intelligent transportation system strategies and limited capacity enhancements) at points of recurring highway congestion or through transportation systemic changes to manage or ameliorate congestion.

''(c) PERIOD OF AVAILABILITY.—

''(1) OBLIGATION WITHIN 180 DAYS.—

''(A) IN GENERAL.—Funds allocated to a State under this section shall be obligated by the State not later than 180 days after the date of apportionment.

''(B) UNOBLIGATED FUNDS.—Any amounts that remain unobligated at the end of that period shall be allocated in accordance with subsection (d).

''(2) OBLIGATION BY END OF FISCAL YEAR.—

''(A) IN GENERAL.—All funds allocated or reallocated under this section shall remain available for obligation until the last day of the fiscal year for which the funds are apportioned.

''(B) UNOBLIGATED FUNDS.—Any amounts allocated that remain unobligated at the end of the fiscal year shall lapse.

''(d) REDISTRIBUTION OF ALLOCATED FUNDS AND OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—On the date that is 180 days after the date of allocation, or as soon thereafter as practicable, for each fiscal year, the Secretary shall—

''(A) withdraw—

''(i) any funds allocated to a State under this section that remain unobligated; and

''(ii) an equal amount of obligation authority provided for the use of the funds in accordance with section 1101(13) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005; 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 associated with the future development of the surface transportation system;

(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 transportation systems 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), except as otherwise provided in section 120, 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 those qualifying 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 AND MAINTENANCE FACILITIES; COORDINATION OF FERRY CONSTRUCTION AND MAINTENANCE.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

''§ 147. Construction of ferry boats and ferry terminal and maintenance facilities; coordination of ferry construction and maintenance

''(a) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

''(1) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

''(2) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats and ferry terminals and maintenance facilities under this subsection shall be 80 percent.

''(3) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this subsection to those ferry systems, and public entities responsible for developing ferries, that—

''(A) carry the greatest number of passengers and vehicles;

''(B) carry the greatest number of passengers in passenger-only service; or

''(C) provide critical access to areas that are not well-served by other modes of surface transportation.

''(b) NON-CONTRACT AUTHORITY AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $54,154,424 for each fiscal year to carry out this section.

''(2) AVAILABILITY.—Notwithstanding section 118(a), funds made available under paragraph (1) shall be available in advance of an annual appropriation.''.

(b) CONFORMING AMENDMENTS.—

(1) The analysis for subchapter I of chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147 and inserting the following:

''147. Construction of ferry boats and ferry terminal and maintenance facilities.''.

(2) Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

SEC. 1205. DESIGNATION OF INTERSTATE HIGHWAYS.

(a) DESIGNATION OF DANIEL PATRICK MOYNIHAN INTERSTATE HIGHWAY.—

(1) DESIGNATION.—Interstate Route 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''.

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in paragraph (1) shall be deemed to be a reference to the Daniel Patrick Moynihan Interstate Highway.

(b) DESIGNATION OF AMO HOUGHTON BYPASS.—

(1) DESIGNATION.—The 3-mile segment of Interstate Route 86 between the interchange of Interstate Route 86 with New York State Route 15 in the vicinity of Painted Post, New York, and the interchange of Interstate Route 86 with New York State Route 352 in the vicinity of Corning, New York, shall be known and designated as the ''Amo Houghton Bypass''.

(2) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway referred to in paragraph (1) shall be deemed to be a reference to the Amo Houghton Bypass.

SEC. 1206. STATE-BY-STATE COMPARISON OF HIGHWAY CONSTRUCTION COSTS.

(a) COLLECTION OF DATA.—

(1) IN GENERAL.—The Administrator of the Federal Highway Administration (referred to in this section as the ''Administrator'') shall collect from States any bid price data that is necessary to make State-by-State comparisons of highway construction costs.

(2) DATA REQUIRED.—In determining which data to collect and the procedures for collecting data, the Administrator shall take into account the data collection deficiencies identified in the report prepared by the General Accounting Office numbered GAO–04–113R.

(b) REPORT.—

(1) IN GENERAL.—The Administrator shall submit to Congress an annual report on the bid price data collected under subsection (a).

(2) INCLUSIONS.—The report shall include—

(A) State-by-State comparisons of highway construction costs for the previous fiscal year (including the cost to construct a 1-mile road segment of a standard design, as determined by the Administrator); and

(B) a description of the competitive bidding procedures used in each State; and

(C) a determination by Administrator as to whether the competitive bidding procedures described under subparagraph (B) are effective.

(c) INNOVATIVE AND COST-EFFECTIVE MATERIALS.—The Secretary shall encourage and provide incentives to States to make maximum use of innovative and cost-effective materials and products in highway construction.

Subtitle C—Finance

SEC. 1301. FEDERAL SHARE.

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

(1) in subsection (a), by striking paragraph (1) and inserting the following:

''(1) IN GENERAL.—Except as otherwise provided in this chapter, the Federal share payable on account of any project on the Interstate System (including a project to add high occupancy vehicle lanes and a project to add auxiliary lanes but excluding a project to add any other lanes) shall be 90 percent of the total cost of the project.'';

(2) in subsection (b)—

(A) by striking ''Except as otherwise'' and inserting the following:

''(1) IN GENERAL.—Except as otherwise'';

(B) by striking ''shall be—'' and all that follows and inserting ''shall be 80 percent of the cost of the project.''; and

(C) by adding at the end the following:

''(2) STATE-DETERMINED LOWER FEDERAL SHARE.—In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under paragraph (1).'';

(3) 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 or 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.''.

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 $116,100,629 for each of fiscal years 2005 through 2009.

''(2) ADMINISTRATIVE COSTS.—Of amounts made available under paragraph (1), the Secretary may use for the administration of this subchapter not more than $1,786,164 for each of fiscal years 2005 through 2009.

''(3) COLLECTED FEES AND SERVICES.—In addition to funds provided under paragraph (2)—

''(A) all fees collected under this subchapter shall be made available without further appropriation to the Secretary until expended, for use in administering this subchapter; and

''(B) the Secretary may accept and use payment or services provided by transaction participants, or third parties that are paid by participants from transaction proceeds, for due diligence, legal, financial, or technical services.

''(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 $2,679,245 for fiscal year 2005.

(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 Archivist of the United States 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''.

SEC. 1307. PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.

Section 109(c) of title 23, United States Code, is amended by adding at the end the following:

''(3) PUBLIC-PRIVATE PARTNERSHIPS PILOT PROGRAM.—

''(A) IN GENERAL.—The Secretary may undertake a pilot program to demonstrate the advantages of public-private partnerships for critical capital development projects, including highway, bridge, and freight intermodal connector projects authorized under this title.

''(B) PROJECTS.—In carrying out the program, the Secretary shall—

''(i) select not less than 10 qualified public-private partnership projects that are authorized under applicable State and local laws; and

''(ii) use funds made available to carry out the program to provide to sponsors of the projects assistance for development phase activities described in section 181(1)(A), to enhance project delivery and reduce overall costs.''.

SEC. 1308. WAGERING.

(a) IN GENERAL.—Chapter 35 of the Internal Revenue Code of 1986 is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Section 4901 of the Internal Revenue Code is amended to read as follows:

''SEC. 4901. PAYMENT OF TAX.

''All special taxes shall be imposed as of on the first day of July in each year, or on commencing any trade or business on which such tax is imposed. In the former case the tax shall be reckoned for 1 year, and in the latter case it shall be reckoned proportionately, from the first day of the month in which the liability to a special tax commenced, to and including the 30th day of June following.''.

(2) Section 4903 of such Code is amended by striking '', other than the tax imposed by section 4411,''.

(3) Section 4905 of such Code is amended to read as follows:

''SEC. 4905. LIABILITY IN CASE OF DEATH OR CHANGE OF LOCATION.

''When any person who has paid the special tax for any trade or business dies, his spouse or child, or executors or administrators or other legal representatives, may occupy the house or premises, and in like manner carry on, for the residue of the term for which the tax is paid, the same trade or business as the deceased before carried on, in the same house and upon the same premises, without the payment of any additional tax. When any person removes from the house or premises for which any trade or business was taxed to any other place, he may carry on the trade or business specified in the register kept in the office of the official in charge of the internal revenue district at the place to which he removes, without the payment of any additional tax: *Provided*, That all cases of death, change, or removal, as aforesaid, with the name of the successor to any person deceased, or of the person making such change or removal, shall be registered with the Secretary, under regulations to be prescribed by the Secretary.''.

(4) Section 4907 of such Code is amended by striking '', except the tax imposed by section 4411,''.

(5) Section 6103(i)(8)(A) of such Code is amended—

(A) by striking '', except to the extent authorized by subsection (f) or (p)(6), disclose to any person, other than another officer or employee of such office whose official duties require such disclosure, any return or return information described in section 4424(a) in a form which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer, nor shall such officer or employee disclose any other'' and inserting ''disclose any'', and

(B) by striking ''such other officer'' and inserting ''such officer''.

(6) Section 6103(o) of such Code is amended to read as follows:

''(o) DISCLOSURE OF RETURNS AND RETURN INFORMATION WITH RESPECT TO TAXES IMPOSED BY SUBTITLE E.—Returns and return information with respect to taxes imposed by subtitle E (relating to taxes on alcohol, tobacco, and firearms) shall be open to inspection by or disclosure to officers and employees of a Federal agency whose official duties require such inspection or disclosure.''.

(7)(A) Subchapter B of chapter 65 of such Code is amended by striking section 6419 (relating to excise tax on wagering).

(B) The table of section of subchapter B of chapter 65 of such Code is amended by striking the item relating to section 6419.

(8) Section 6806 of such Code is amended by striking ''under subchapter B of chapter 35, under subchapter B of chapter 36,'' and inserting ''under subchapter B of chapter 36''.

(9) Section 7012 of such Code is amended by striking paragraph (2) and by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(10)(A) Subchapter B of chapter 75 of such Code is amended by striking section 7262 (relating to violation of occupational tax laws relating to wagering-failure to pay special tax).

(B) The table of sections of subchapter B of chapter 75 of such Code is amended by striking the item relating to section 7262.

(11) Section 7272 of such Code, as amended by section 5244 of this Act, is amended to read as follows:

''SEC. 7272. PENALTY FOR FAILURE TO REGISTER.

''Any person (other than persons required to register under subtitle E, or persons engaging in a trade or business on which a special tax is imposed by such subtitle) who fails to register with the Secretary as required by this title or by regulations issued thereunder shall be liable to a penalty of $50 ($10,000 in the case of a failure to register under section 4101).''.

(12) Section 7613(a) is amended by striking ''or other data in the case of'' and all that follows and inserting ''or other data in the case of alcohol, tobacco, and firearms taxes, see subtitle E.''.

(13) The table of chapters of subtitle D of such Code is amended by striking the item relating to chapter 35.

(c) EFFECTIVE DATE.—

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

(2) SPECIAL TAXES.—In the case of amendments made by this section relating to special taxes imposed by subchapter B of chapter 35, the amendments made by this section shall take effect on July 1, 2005.

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, integrated, interoperable emergency communications, 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 and metropolitan planning organizations, if any;

''(iii) representatives of major modes of transportation;

''(iv) State and local traffic enforcement officials;

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

''(vi) representatives conducting Operation Lifesaver;

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

''(viii) motor vehicle administration agencies; and

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

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

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

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

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

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

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

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

''(b) PROGRAM.—

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

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

''(c) ELIGIBILITY.—

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

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

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

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

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

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

''(ii) contains an assessment of—

''(I) potential remedies to hazardous locations identified;

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

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

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

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

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

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

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

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

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

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

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

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

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

''(ii) includes all public roads;

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

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

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

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

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

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

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

''(d) ELIGIBLE PROJECTS.—

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

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

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

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

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

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

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

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

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

''(f) REPORTS.—

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

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

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

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

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

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

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

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

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

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

''(3) TRANSPARENCY.—The Secretary shall make reports under subsection (c)(1)(D) available to the public through—

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

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

''(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.

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

''(h) FUNDS FOR BICYCLE AND PEDESTRIAN SAFETY.—A State shall allocate for bicycle and pedestrian improvements in the State a percentage of the funds remaining after implementation of sections 130(e) and 150, in an amount that is equal to or greater than the percentage of all fatal crashes in the States involving bicyclists and pedestrians.

''(i) ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.—For each of fiscal years 2005 through 2009, $22,327,044 is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for projects in all States to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled 'Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)' and dated October 2001.''.

(2) 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) in subparagraph (B), by striking ''tobe'' and inserting ''to be'';

(iii) by striking subparagraph (C);

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

(v) in subparagraph (C) (as redesignated by clause (iv)), 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) ADMINISTRATION.—Section 133(e) of title 23, United States Code, is amended in each of paragraphs (3)(B)(i), (5)(A), and (5)(B) of subsection (e), by striking ''(d)(2)'' each place it appears and inserting ''(d)(1)''.

(4) 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) Section 104(g) of title 23, United States Code, is amended in the first sentence by striking ''sections 130, 144, and 152 of this title'' and inserting ''sections 130 and 144''.

(C) Section 126 of title 23, United States Code, is amended—

(i) in subsection (a), by inserting ''under'' after ''State's apportionment''; and

(ii) in subsection (b)—

(I) in the first sentence, by striking ''the last sentence of section 133(d)(1) or to section 104(f) or to section 133(d)(3)'' and inserting ''section 104(f) or 133(d)(2)''; and

(II) in the second sentence, by striking ''or 133(d)(2)''.

(D) 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 RAILWAY-HIGHWAY CROSSINGS.—

(1) FUNDS FOR RAILWAY-HIGHWAY CROSSINGS.—Section 130(e) of title 23, United States Code, is amended by inserting before ''At least'' the following: ''For each fiscal year, at least $178,616,352 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.''.

(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.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

''(k) EXPENDITURE OF FUNDS.—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), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)) to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required under section 148(c) of that title.

(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 certifies to 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)(3) 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 ''$535,849''.

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 $62,515,723 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.—Except as provided in sections 120 and 130, 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 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.

''(10) Ensuring that any recommendation made under any of paragraphs (7) through (9) provides for an exemption for applicability to a State, with respect to a project or class of projects, to the extent that a State notifies the Secretary in writing that safety is not expected to be adversely affected by non-application of the requirement to the project or class of projects.''.

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.

SEC. 1409. IDENTITY AUTHENTICATION STANDARDS.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1824(a)), is amended by adding at the end the following:

''§ 179. Identity authentication standards

''(a) DEFINITION OF INFORMATION-BASED IDENTITY AUTHENTICATION.—In this section, the term 'information-based identity authentication' means the determination of the identity of an individual, through the comparison of information provided by a person, with other information pertaining to that individual with a system using scoring models and algorithms.

''(b) STANDARDS.—Not later than 180 days after the date of enactment of this section, the Secretary, in consultation with the Secretary of Homeland Security and the Federal Motor Carrier Safety Administration, shall promulgate regulations establishing minimum standards for State departments of motor vehicles regarding the use of information-based identity authentication to determine the identity of an applicant for a commercial driver's license, or the renewal, transfer or upgrading, of a commercial driver's license.

''(c) MINIMUM STANDARDS.—The regulations shall, at a minimum, require State departments of motor vehicles to implement, and applicants for commercial driver's licenses, (or the renewal, transfer, or upgrading of commercial driver's licenses), to comply with, reasonable procedures for operating an information-based identity authentication program before issuing, renewing, transferring, or upgrading a commercial driver's license.

''(d) KEY FACTORS.—In promulgating regulations under this section, the Secretary shall require that an information-based identity authentication program carried out under this section establish processes that—

''(1) use multiple sources of matching information;

''(2) enable the measurement of the accuracy of the determination of an applicant's identity;

''(3) support continuous auditing of compliance with applicable laws, policies, and practices governing the collection, use, and distribution of information in the operation of the program; and

''(4) incorporate industry best practices to protect significant privacy interests in the information used in the program and the appropriate safeguarding of the storage of the information.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1824(b)), is amended by adding at the end the following:

''179. Identity authentication standards.''.

SEC. 1410. OPEN CONTAINER REQUIREMENTS.

Section 154 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) TRANSFER OF FUNDS.—

''(1) IN GENERAL.—The Secretary shall withhold the applicable percentage for the fiscal year of the amount required to be apportioned for Federal-aid highways to any State under each of paragraphs (1), (3), and (4) of section 104(b), if a State has not enacted or is not enforcing a provision described in subsection (b), as follows:

''For:	**The applicable percentage is:**
Fiscal year 2008	2 percent.
Fiscal year 2009	2 percent.
Fiscal year 2010	2 percent.
Fiscal year 2011 and each subsequent fiscal year	82 percent.

''(2) RESTORATION.—If (during the 4-year period beginning on the date the apportionment for any State is reduced in accordance with this subsection) the Secretary determines that the State has enacted and is enforcing a provision described in subsection (b), the apportionment of the State shall be increased by an amount equal to the amount of the reduction made during the 4-year period.''.

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 or transit 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)).

''(3) MITIGATION IN CLOSED BASINS.—

''(A) IN GENERAL.—A State may use amounts deposited in the State fund for projects to protect existing roadways from anticipated flooding of a closed basin lake, including—

''(i) construction—

''(I) necessary for the continuation of roadway services and the impoundment of water, as the State determines to be appropriate; or

''(II) for a grade raise to permanently restore a roadway the use of which is lost or reduced, or could be lost or reduced, as a result of an actual or predicted water level that is within 3 feet of causing inundation of the roadway in a closed lake basin;

''(ii) monitoring, studies, evaluations, design, or preliminary engineering relating to construction; and

''(iii) monitoring and evaluations relating to proposed construction.

''(B) REIMBURSEMENT.—The Secretary may permit a State that expends funds under subparagraph (A) to be reimbursed for the expenditures through the use of amounts made available under section 125(c)(1).

''(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 federally recognized 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 made available under this title for a highway project, or made available under chapter 53 of title 49 for a mass transit project, to agencies participating in the coordinated environmental review process established under this section in order 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.

''(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

''(1) JUDICIAL REVIEW.—Nothing in this section shall affect the reviewability of any final Federal agency action in any United States district court or State court.

''(2) SAVINGS CLAUSE.—Nothing in this section shall affect—

''(A) the applicability of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other Federal environmental statute; or

''(B) the responsibility of any Federal officer to comply with or enforce such a statute.''.

(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 repealed.

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. PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

(a) PROGRAMS AND PROJECTS WITH DE MINIMIS IMPACTS.—

(1) TITLE 23.—Section 138 of title 23, United States Code, is amended—

(A) in the first sentence, by striking ''It is hereby'' and inserting the following:

''(a) DECLARATION OF POLICY.—It is''; and

(B) by adding at the end the following:

''(b) DE MINIMIS IMPACTS.—

''(1) REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

''(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

''(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

''(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

''(i) the transportation program or project will have no adverse effect on the historic site; or

''(ii) there will be no historic properties affected by the transportation program or project;

''(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

''(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

''(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

''(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

''(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.''.

(2) TITLE 49.—Section 303 of title 49, United States Code, is amended—

(A) by striking ''(c) The Secretary'' and inserting the following:

''(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsection (d), the Secretary''; and

(B) by adding at the end the following:

''(d) DE MINIMIS IMPACTS.—

''(1) REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) or (3) if the Secretary determines, in accordance with this subsection,

that a transportation program or project will have a de minimis impact on the area.

''(B) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

''(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

''(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

''(i) the transportation program or project will have no adverse effect on the historic site; or

''(ii) there will be no historic properties affected by the transportation program or project;

''(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation, if participating in the consultation); and

''(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

''(3) PARKS, RECREATION AREAS, AND WILDLIFE AND WATERFOWL REFUGES.—With respect to parks, recreation areas, and wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

''(A) the Secretary has determined, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) (including public notice and opportunity for public review and comment), that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

''(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.''.

(b) CLARIFICATION OF EXISTING STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall (in consultation with affected agencies and interested parties) promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

(2) REQUIREMENTS.—The regulations—

(A) shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case; and

(B) may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers.

(c) IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Secretary and the Transportation Research Board of the National Academy of Sciences shall jointly conduct a study on the implementation of this section and the amendments made by this section.

(2) COMPONENTS.—In conducting the study, the Secretary and the Transportation Research Board shall evaluate—

(A) the processes developed under this section and the amendments made by this section and the efficiencies that may result;

(B) the post-construction effectiveness of impact mitigation and avoidance commitments adopted as part of projects conducted under this section and the amendments made by this section; and

(C) the quantity of projects with impacts that are considered de minimis under this section and the amendments made by this section, including information on the location, size, and cost of the projects.

(3) REPORT REQUIREMENT.—The Secretary and the Transportation Research Board shall prepare—

(A) not earlier than the date that is 4 years after the date of enactment of this Act, a report on the results of the study conducted under this subsection; and

(B) not later than September 30, 2009, an update on the report required under subparagraph (A).

(4) REPORT RECIPIENTS.—The Secretary and the Transportation Research Board shall—

(A) submit the report and update required under paragraph (3) to—

(i) the appropriate committees of Congress;

(ii) the Secretary of the Interior; and

(iii) the Advisory Council on Historic Preservation; and

(B) make the report and update available to the public.

SEC. 1515. 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—

''(A) the Secretary determines that the property is offered for sale on the open market;

''(B) the Secretary determines that 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) the State determines that 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 all 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 $3,572,327 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.''.

SEC. 1523. INTERMODAL PASSENGER FACILITIES.

(a) IN GENERAL.—Chapter 55 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

§ 5571. Policy and purposes

''(a) DEVELOPMENT AND ENHANCEMENT OF INTERMODAL PASSENGER FACILITIES.—It is in the economic interest of the United States to improve the efficiency of public surface transportation modes by ensuring their connection with and access to intermodal passenger terminals, thereby streamlining the transfer of passengers among modes, enhancing travel options, and increasing passenger transportation operating efficiencies.

''(b) GENERAL PURPOSES.—The purposes of this subchapter are to accelerate intermodal integration among North America's passenger transportation modes through—

''(1) ensuring intercity public transportation access to intermodal passenger facilities;

''(2) encouraging the development of an integrated system of public transportation information; and

''(3) providing intercity bus intermodal passenger facility grants.

§ 5572. Definitions

''In this subchapter—

''(1) 'capital project' means a project for—

''(A) acquiring, constructing, improving, or renovating an intermodal facility that is related physically and functionally to intercity bus service and establishes or enhances coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, seaports, and the National Highway System, such as physical infrastructure associated with private bus operations at existing and new intermodal facilities, including special lanes, curb cuts, ticket kiosks and counters, baggage and package express storage, employee parking, office space, security, and signage; and

''(B) establishing or enhancing coordination between intercity bus service and transportation, including aviation, commuter rail, intercity rail, public transportation, and the National Highway System through an integrated system of public transportation information.

''(2) 'commuter service' means service designed primarily to provide daily work trips within the local commuting area.

''(3) 'intercity bus service' means regularly scheduled bus service for the general public which operates with limited stops over fixed routes connecting two or more urban areas not in close proximity, which has the capacity for transporting baggage carried by passengers, and which makes meaningful connections with scheduled intercity bus service to more distant points, if such service is available and may include package express service, if incidental to passenger transportation, but does not include air, commuter, water or rail service.

''(4) 'intermodal passenger facility' means passenger terminal that does, or can be modified to, accommodate several modes of transportation and related facilities, including some or all of the following: intercity rail, intercity bus, commuter rail, intracity rail transit and bus transportation, airport limousine service and airline ticket offices, rent-a-car facilities, taxis, private parking, and other transportation services.

''(5) 'local governmental authority' includes—

''(A) a political subdivision of a State;

''(B) an authority of at least one State or political subdivision of a State;

''(C) an Indian tribe; and

''(D) a public corporation, board, or commission established under the laws of the State.

''(6) 'owner or operator of a public transportation facility' means an owner or operator of intercity-rail, intercity-bus, commuter-rail, commuter-bus, rail-transit, bus-transit, or ferry services.

''(7) 'recipient' means a State or local governmental authority or a nonprofit organization that receives a grant to carry out this section directly from the Federal government.

''(8) 'Secretary' means the Secretary of Transportation.

''(9) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, and the Virgin Islands.

''(10) 'urban area' means an area that includes a municipality or other built-up place that the Secretary, after considering local patterns and trends of urban growth, decides is appropriate for a local public transportation system to serve individuals in the locality.

''§ 5573. Assurance of access to intermodal passenger facilities

''Intercity buses and other modes of transportation shall, to the maximum extent practicable, have access to publicly funded intermodal passenger facilities, including those passenger facilities seeking funding under section 5574.

''§ 5574. Intercity bus intermodal passenger facility grants

''(a) GENERAL AUTHORITY.—The Secretary of Transportation may make grants under this section to recipients in financing a capital project only if the Secretary finds that the proposed project is justified and has adequate financial commitment.

''(b) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under this section. Grantees shall be selected on a competitive basis.

''(c) SHARE OF NET PROJECT COSTS.—A grant shall not exceed 50 percent of the net project cost, as determined by the Secretary.

''(d) REGULATIONS.—The Secretary may promulgate such regulations as are necessary to carry out this section.

''§ 5575. Funding

''(a) HIGHWAY ACCOUNT.—

''(1) There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $8,930,818 for each of fiscal years 2005 through 2009.

''(2) The funding made available under paragraph (1) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23 and shall be subject to any obligation limitation imposed on funds for Federal-aid highways and highway safety construction programs.

''(b) PERIOD OF AVAILABILITY.—Amounts made available under subsection (a) shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 55 of title 49, United States Code, is amended by adding at the end the following:

''SUBCHAPTER III—INTERMODAL PASSENGER FACILITIES

Sec.
''5571. Policy and Purposes.
''5572. Definitions.
''5573. Assurance of access to intermodal facilities.
''5574. Intercity bus intermodal facility grants.
''5575. Funding.''.

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;

if such efforts are related to transportation projects funded under this title.

''(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;

''(D) elimination of invasive species to create fuel breaks for the prevention and control of wildfires; and

''(E) 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 $1,786,164 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, 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 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 (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.'';

(2) 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 ''be determined in accordance with section 120'';

(B) in paragraph (2)—

(i) in subparagraph (A), by striking ''80 percent of'' and inserting ''the amount determined in accordance with section 120 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''; and

(3) 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;

''(ii) a local agency in a State that is responsible for transportation matters; and

''(iii) a public authority, or a public or private entity designated by a State, to collect a toll from motor vehicles at an eligible toll facility.

''(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 (k);

(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 set aside 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.''; and

(6) in subsection (k) (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 1522), is amended by adding at the end the following:

''(n) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—On October 1 of each of fiscal years 2005 through 2009, the Secretary, after making the deductions authorized by subsections (a) and (f), shall set aside $446,541 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, so long as those idling reduction measures do not—

''(i) reduce the existing number of designated truck parking spaces at any given rest or recreation area; or

''(ii) preclude the use of those spaces by trucks employing alternative idle reduction technologies; and

''(B) charge a fee, or permit the charging of a fee, for the use of those parking spaces actively providing power to a truck to reduce idling.

''(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 reduce idling of a truck while parked in the rest or recreation area; and

''(B) to use installed or other equipment specifically designed to reduce idling of a truck, or provide alternative power for supporting driver comfort, while parked.''.

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 (2), by inserting after the first sentence the following: ''One such facility shall be located in Virginia.'';

(C) 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

(D) 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) FAST AND SENSIBLE TOLL (FAST) LANES 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) FAST AND SENSIBLE TOLL (FAST) LANES 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 vehicles;

''(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); and

''(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.

''(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 shall 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;

''(B) to reduce emissions in a nonattainment area or maintenance area; or

''(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing 1 or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.

''(3) LIMITATION ON USE OF REVENUES.—

''(A) USE.—

''(i) IN GENERAL.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—

''(I) debt service for debt incurred on 1 or more highway or transit projects carried out under this title or title 49;

''(II) a reasonable return on investment of any private financing;

''(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or

''(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under this title or title 49.

''(B) REQUIREMENTS.—

''(i) VARIABLE PRICE REQUIREMENT.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

''(ii) HOV VARIABLE PRICING REQUIREMENT.—The Secretary shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.

''(iii) 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, public authority, or private entity designated by a State 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, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.

''(iii) DEBT.—

''(I) IN GENERAL.—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.

''(II) NOTICE.—On retirement of the debt of a tolled facility, the applicable State, public authority, or private entity designated by a State shall provide notice to the public of that retirement.

''(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, public authority, or private entity designated by a State 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.

''(5) AUTOMATION.—Fees collected from motorists using a FAST lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.

''(6) INTEROPERABILITY.—

''(A) RULE.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.

''(ii) 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 noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology 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.

''(B) FUTURE MODIFICATIONS.—As the state of technology progresses, the Secretary shall modify the rule promulgated under subparagraph (A), as appropriate.

''(7) REPORTING.—

''(A) IN GENERAL.—The Secretary, in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—

''(i) develop and publish performance goals for each FAST lane project;

''(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—

''(I) effects on travel, traffic, and air quality;

''(II) distribution of benefits and burdens;

''(III) use of alternative transportation modes; and

''(IV) use of revenues to meet transportation or impact mitigation needs.

''(B) REPORTS TO CONGRESS.—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) not later than 1 year after the date of enactment of this subsection, and annually thereafter, a report that describes in detail the uses of funds under this subsection in accordance with paragraph (8)(D); and

''(ii) not later than 3 years after the date of enactment of this subsection, and every 3 years thereafter, a report that describes any success of the program under this subsection in meeting congestion reduction and other performance goals established for FAST lane programs.

''(8) FUNDING.—

''(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out pre-implementation studies and post-implementation evaluations of projects planned or implemented under this subsection $9,823,899 for each of fiscal years 2005 through 2009.

''(B) AVAILABILITY.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds were authorized.

''(C) CONTRACT AUTHORITY.—Funds authorized to be appropriated under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter, except that the Federal share of the cost of any project carried out under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.

''(D) PROGRAM PROMOTION.—Notwithstanding any other provision of this section, the Secretary shall use an amount not to exceed 2 percent of the funds made available under subparagraph (A)—

''(i) to make grants to promote the purposes of the program under this subsection;

''(ii) to provide technical support to State and local governments or other public or private entities involved in implementing or considering FAST lane programs; and

''(iii) to conduct research on variable pricing that will support State or local efforts to initiate those pricing requirements.

''(E) EFFECT ON OTHER APPORTIONMENTS AND ALLOCATIONS.—Revenues collected from tolls established under this subsection shall not be taken into account in determining the apportionments and allocations that any State or transportation district within a State shall be entitled to receive under or in accordance with this chapter.

''(9) COMPLIANCE.—The Secretary shall ensure that any project or activity carried out under this section complies with requirements under section 106 of this title and section 307 of title 49.

''(10) VOLUNTARY USE.—Nothing in this subsection requires any highway user to use a FAST lane.

''(11) ENVIRONMENTAL REQUIREMENTS.—Nothing in this subsection affects any environmental requirement applicable to the construction or operation of an eligible toll facility under this title or any other provision of law.''.

(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 2005, 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)—

(i) 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''; and

(ii) by striking the period at the end and inserting a semicolon;

(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; 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.'';

(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 a semicolon; and

(3) by adding at the end the following:

''(6) if the project or program is for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel; or

''(7) if the project or program involves the purchase of integrated, interoperable emergency communications equipment.''.

(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.''.

(c) RESPONSIBILITY OF STATES.—

(1) IN GENERAL.—Each State shall be responsible for ensuring that subrecipients of Federal funds within the State under section 149 of title 23, United States Code, have emission reduction strategies for fleets that are—

(A) used in construction projects located in nonattainment and maintenance areas; and

(B) funded under title 23, United States Code.

(2) EMISSION REDUCTION STRATEGIES.—The Administrator of the Environmental Protection Agency, in consultation with the Secretary, shall develop a nonbinding list of emission reduction strategies and supporting technical information for each strategy, including—

(A) contract preferences;

(B) requirements for the use of anti-idling equipment;

(C) diesel retrofits; and

(D) such other matters as the Administrator of the Environmental Protection Agency, in consultation with the Secretary, determine to be appropriate.

(3) USE OF CMAQ FUNDS.—A State may use funds made available under this title and title 23, United States Code, for the congestion mitigation and air quality program under section 149 of title 23, United States Code, to ensure the deployment of the emission reduction strategies described in paragraph (1).

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 (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) 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 (or more frequently, in a case in which the metropolitan planning organization elects to update a transportation plan more frequently) 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 2005, 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.''; and

(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.''.

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, in accordance with clauses (i) and (ii) and 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 transportation project taken as a whole during the environmental review phase of transportation 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 adopted by the State pursuant to subparagraph (B).

''(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 2005, 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.''.

SEC. 1621. EXEMPTION FROM CERTAIN HAZARDOUS MATERIALS TRANSPORTATION REQUIREMENTS.

(a) DEFINITION OF ELIGIBLE PERSON.—In this section, the term ''eligible person'' means an agricultural producer that has gross agricultural commodity sales that do not exceed $446,541.

(b) EXEMPTION.—Subject to subsection (c), part 172 of title 49, Code of Federal Regulations, shall not apply to an eligible person that transports a fertilizer, pesticide, propane, gasoline, or diesel fuel for agricultural purposes, to the extent determined by the Secretary.

(c) APPLICABILITY.—Subsection (b) applies to security plan requirements under subpart I of part 172 of title 49, Code of Federal Regulations (or a successor regulation).

SEC. 1622. FUNDS FOR REBUILDING FISH STOCKS.

Section 105 of the Miscellaneous Appropriations and Offsets Act, 2004 (Division H of the Consolidated Appropriations Act, 2004 (Public Law 108–199)) is repealed.

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 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 management and operation of transportation systems 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 transportation systems in a coordinated manner to preserve the capacity and maximize the performance of transportation 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 available 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.''.

SEC. 1703. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (A), by striking ''title 40'' and all that follows through the period and inserting ''title 40.'';

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) through (F) as subparagraphs (B) through (E), respectively; and

(4) by striking subparagraph (G).

SEC. 1704. OFF-DUTY TIME FOR DRIVERS OF COMMERCIAL VEHICLES.

Section 345(a)(2) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613) is amended by adding at the end the following: ''No additional off-duty time for a driver of such a vehicle shall be required in order for the driver to operate the vehicle.''.

SEC. 1705. DESIGNATION OF TRANSPORTATION MANAGEMENT AREAS.

(a) FUNDING.—Section 134(d)(3)(C)(ii) of title 23, United States Code, is amended by striking subclause (II) and inserting the following:

''(II) FUNDING.—In addition to funds made available to the metropolitan planning organization for the Lake Tahoe Region under this title and chapter 53 of title 49, 1 percent of all funds distributed under section 202 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.''.

(b) SPECIAL DESIGNATION.—Section 134(i)(1) of title 23, United States Code, is amended by adding at the end the following:

''(C) SPECIAL DESIGNATION.—

''(i) IN GENERAL.—The urbanized areas of Oklahoma City, Oklahoma, and Norman, Oklahoma, shall be designated as a single transportation management area.

''(ii) ALLOCATION.—The allocation of funds to the Oklahoma City-Norman Transportation Management Area designated under clause (i) shall be based on the aggregate population of the 2 urbanized areas referred to in that clause, as determined by the Bureau of the Census.''.

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 ''20''; 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 20-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 concept and design phases, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—

''(i) providing the needed functions safely, reliably, and at the lowest overall cost;

''(ii) improving the value and quality of the project; and

''(iii) reducing the time to complete 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 costly parts of the original proposed 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 ''$89,308,176 for each of fiscal years 2005 through 2009''; and

(2) by striking ''Transportation Equity Act for the 21st Century'' and inserting ''Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005''.

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 grasslands.

''(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) FOREST HIGHWAYS.—

''(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 ''2005''; 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.

''(iii) USE OF FUNDS.—Notwithstanding any other provision of this section, funds available to Indian tribes for Indian reservation roads shall be expended on projects identified in a transportation improvement program approved by the Secretary.'';

(C) in paragraph (3)—

(i) in subparagraph (A), by striking ''under this title'' and inserting ''under this chapter and section 125(e)''; and

(ii) by adding at the end the following:

''(C) FEDERAL LANDS HIGHWAY PROGRAM DEMONSTRATION PROJECT.—

''(i) IN GENERAL.—The Secretary shall establish a demonstration project under which all funds made available under this chapter for Indian reservation roads and for highway bridges located on Indian reservation roads as provided for in subparagraph (A) shall be made available, on the request of an affected Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), contracts and agreements for the planning, research, engineering, and construction described in that subparagraph.

''(ii) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (B), all funds for Indian reservation roads and for highway bridges located on Indian reservation roads to which clause (i) applies shall be paid without regard to the organizational level at which the Federal lands highway program has previously carried out the programs, functions, services, or activities involved.

''(iii) SELECTION OF PARTICIPATING TRIBES.—

''(I) PARTICIPANTS.—

''(aa) IN GENERAL.—In addition to Indian tribes or tribal organizations that, as of the date of enactment of this subparagraph, are contracting or compacting for any Indian reservation road function or program, for each fiscal year, the Secretary may select up to 15 Indian tribes from the applicant pool described in subclause (II) to participate in the demonstration project carried out under clause (i).

''(bb) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or activity to which this title applies may form a consortium to be considered as a single Indian tribe for the purpose of becoming part of the applicant pool under subclause (II).

''(cc) FUNDING.—An Indian tribe participating in the pilot program under this subparagraph shall receive funding in an amount equal to the sum of the funding that the Indian tribe would otherwise receive in accordance with the funding formula established under the other provisions of this subsection, and an additional percentage of that amount equal to the percentage of funds withheld during the applicable fiscal year for the road program management costs of the Bureau of Indian Affairs under subsection (f)(1).

''(II) APPLICANT POOL.—The applicant pool described in this subclause shall consist of each Indian tribe (or consortium) that—

''(aa) has successfully completed the planning phase described in subclause (IV);

''(bb) has requested participation in the demonstration project under this subparagraph through the adoption of a resolution or other official action by the tribal governing body; and

''(cc) has demonstrated financial stability and financial management capability in accordance with subclause (III) during the 3-fiscal-year period immediately preceding the fiscal year for which participation under this subparagraph is being requested.

''(III) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPACITY.—For the purpose of subclause (II), evidence that, during the 3-year period referred to in subclause (II)(cc), an Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements with any Federal agency shall be conclusive evidence of the required stability and capability.

''(IV) PLANNING PHASE.—

''(aa) IN GENERAL.—An Indian tribe (or consortium) requesting participation in the demonstration project under this subparagraph shall complete a planning phase that shall include legal and budgetary research and internal tribal government and organization preparation.

''(bb) ELIGIBILITY.—An Indian tribe (or consortium) described in item (aa) shall be eligible to receive a grant under this subclause to plan and negotiate participation in a project described in that item.

''(V) REPORT TO CONGRESS.—Not later than September 30, 2006, the Secretary shall submit to Congress a report describing the implementation of the demonstration project and any recommendations for improving the project.''; and

(D) in paragraph (4)—

(i) in subparagraph (B)—

(I) by striking ''(B) RESERVATION.—Of the amounts'' and all that follows through ''to replace,'' and inserting the following:

''(B) FUNDING.—

''(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $13,396,226 for each of fiscal years 2005 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,''; and

(II) by adding at the end the following:

''(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.''; and

(ii) by striking subparagraph (D) and inserting the following:

''(D) APPROVAL REQUIREMENT.—

''(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.

''(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering only after approval by the Secretary of applicable plans, specifications, and estimates.''; and

(5) by adding at the end the following:

''(f) ADMINISTRATION OF INDIAN RESERVATION ROADS.—

''(1) CONTRACT AUTHORITY.—Notwithstanding any other provision of law, for any fiscal year, not more than 6 percent of the contract authority amounts made available from the Highway Trust Fund to the Bureau of Indian Affairs under this title shall be used to pay the expenses incurred by the Bureau in administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program).

''(2) HEALTH AND SAFETY ASSURANCES.—Notwithstanding any other provision of law, an Indian tribe or tribal organization may commence road and bridge construction under the Transportation Equity Act for the 21st Century (Public Law 105-178) or the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 that is funded through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribe or tribal organization—

''(A) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;

''(B) obtains the advance review of the plans and specifications from a licensed professional that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and

''(C) provides a copy of the certification under subparagraph (B) to the Assistant Secretary for Indian Affairs.''.

(d) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) in subsection (a)(1), by inserting ''refuge roads, recreation roads,'' after ''parkways,'';

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

''(b) USE OF FUNDS.—

''(1) IN GENERAL.—Funds available for public lands highways, recreation roads, park roads and parkways, forest highways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of transportation planning, research, engineering, operation and maintenance of transit facilities, and construction of the highways, roads, parkways, forest highways, and transit facilities located on public land, national parks, and Indian reservations.

''(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a construction contract or other appropriate agreement with—

''(A) a State (including a political subdivision of a State); or

''(B) an Indian tribe.

''(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—

''(A) Indian labor may be used, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and

''(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).

''(4) FEDERAL EMPLOYMENT.—No maximum on Federal employment shall be applicable to construction or improvement of Indian reservation roads.

''(5) AVAILABILITY OF FUNDS.—Funds available under this section for each class of Federal lands highway shall be available for any kind of transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highway.

''(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation road program to finance the Indian technical centers authorized under section 504(b).''; and

(3) in subsection (k)(1)—

(A) in subparagraph (B)—

(i) by striking ''(2), (5),'' and inserting ''(2), (3), (5),''; and

(ii) by striking ''and'' after the semicolon;

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

(C) by adding at the end the following:

''(D) maintenance of public roads in national fish hatcheries under the jurisdiction of the United States Fish and Wildlife Service;

''(E) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and

''(F) maintenance and improvement of recreational trails (except that expenditures on trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year).''.

(e) MAINTENANCE OF INDIAN RESERVATION ROADS.—Section 204(c) of title 23, United States Code, is amended by striking the second and third sentences and inserting the following: ''Notwithstanding any other provision of this title, of the amount of funds apportioned for Indian reservation roads from the Highway Trust Fund, an Indian tribe may expend for the purpose of maintenance not more than the greater of $250,000 or 25 percent of the apportioned amount. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.''.

(f) 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.''.

(g) 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 (f)(1)), is amended by adding at the end the following:

''(h) RECREATION ROADS.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), on October 1 of each fiscal year, the Secretary, after completing the transfer under subsection 204(i), shall allocate the sums authorized to be appropriated for the fiscal year for recreation roads as follows:

''(A) 8 percent to the Bureau of Reclamation.

''(B) 9 percent to the Corps of Engineers.

''(C) 13 percent to the Bureau of Land Management.

''(D) 70 percent to the Forest Service.

''(2) ALLOCATION WITHIN AGENCIES.—Recreation road funds allocated to a Federal agency under paragraph (1) shall be allocated for projects and activities of the Federal agency according to the relative needs of each area served by recreation roads under the jurisdiction of the Federal agency, as indicated in the approved transportation improvement program for each Federal agency.''.

(3) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended—

(A) in the first sentence, by inserting ''recreation roads,'' after ''Indian reservation roads,''; and

(B) in the fourth sentence, by inserting '', recreation roads,'' after ''Indian roads''.

(4) USE OF FUNDING.—Section 204 of title 23, United States Code (as amended by subsection (e)(3)), is amended by adding at the end the following:

''(m) RECREATION ROADS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title, funds made available for recreation roads under this title shall be used by the Secretary and the Secretary of the appropriate Federal land management agency only to pay the cost of—

''(A) maintenance or improvements of existing recreation roads;

''(B) maintenance and improvements of eligible projects described in paragraph (1), (2), (3), (5), or (6) of subsection (h) that are located in or adjacent to Federal land under the jurisdiction of—

''(i) the Department of Agriculture; or

''(ii) the Department of the Interior;

''(C) transportation planning and administrative activities associated with those maintenance and improvements; and

''(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within Federal land described in subparagraph (B).

''(2) CONTRACTS.—In carrying out paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into contracts or agreements with—

''(A) a State;

''(B) a political subdivision of a State; or

''(C) an Indian tribe.

''(3) NEW ROADS.—No funds made available under this section shall be used to pay the cost of the design or construction of new recreation roads.

''(4) COMPLIANCE WITH OTHER ENVIRONMENTAL LAWS.—A maintenance or improvement project that is funded under this subsection, and that is consistent with or has been identified in a land use plan for an area under the jurisdiction of a Federal agency,

shall not require any additional environmental reviews or assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

''(A) the Federal agency that promulgated the land use plan analyzed the specific proposal for the maintenance or improvement project under that Act; and

''(B) as of the date on which the funds are to be expended, there are—

''(i) no significant changes to the proposal bearing on environmental concerns; and

''(ii) no significant new information.

''(5) EXCEPTION.—The cost sharing requirements under the Federal Water Project Recreation Act (16 U.S.C. 460l–12 et seq.) shall not apply to funds made available to the Bureau of Reclamation under this subsection.''.

(h) 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. 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 2005 through 2009, all but $133,962,264 shall be apportioned as provided in subsection (e).

''(B) AVAILABILITY.—The $133,962,264 referred to in subparagraph (A) shall be available at the discretion of the Secretary, except that not to exceed $22,327,044 of that amount shall be available only for projects for the seismic retrofit of bridges.

''(C) SET ASIDES.—For fiscal year 2005, the Secretary shall provide—

''(i) $44,654,088 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) $44,654,088 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 2005 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, or to complete the Warwick Intermodal Station (including the construction of a people mover between the Station and the T.F. Green Airport).

''(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) CONTINUATION OF ANNUAL MATERIALS REPORT ON NEW BRIDGE CONSTRUCTION AND BRIDGE REHABILITATION.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish in the Federal Register a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

''(r) 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. 1808. 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(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for fiscal years 2005 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(7) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 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. 1809. MULTISTATE CORRIDOR PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by 1808(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.—Except as provided in section 120, 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 2005 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 1809(b)) is amended by adding at the end the following:

''171. Multistate corridor program.''.

SEC. 1810. 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 1809(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 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.—A border State may obligate funds apportioned to the border State under this section for—

''(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.

''(d) 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.

''(e) PROGRAM PRIORITIES.—Border States 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.

''(f) MANDATORY PROGRAM.—

''(1) IN GENERAL.—For each fiscal year, the Secretary shall allocate among border States, in accordance with the formula described in paragraph (2), funds to be used in accordance with subsection (d).

''(2) FORMULA.—Subject to paragraph (3), the amount allocated to a border State under this paragraph shall be determined by the Secretary, as follows:

''(A) 25 percent in the ratio that—

''(i) the average annual weight of all cargo entering the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

''(ii) the average annual weight of all cargo entering all border States by commercial vehicle across the international borders with Canada and Mexico.

''(B) 25 percent in the ratio that—

''(i) the average trade value of all cargo imported into the border State and all cargo exported from the border State by commercial vehicle across the international border with Canada or Mexico, as the case may be; bears to

''(ii) the average trade value of all cargo imported into all border States and all cargo exported from all border States by commercial vehicle across the international borders with Canada and Mexico.

''(C) 25 percent in the ratio that—

''(i) the number of commercial vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

''(ii) the number of all commercial vehicles annually entering all border States across the international borders with Canada and Mexico.

''(D) 25 percent in the ratio that—

''(i) the number of passenger vehicles annually entering the border State across the international border with Canada or Mexico, as the case may be; bears to

''(ii) the number of all passenger vehicles annually entering all border States across the international borders with Canada and Mexico.

''(3) DATA SOURCE.—

''(A) IN GENERAL.—The data used by the Secretary in making allocations under this subsection shall be based on the Bureau of Transportation Statistics Transborder Surface Freight Dataset (or other similar database).

''(B) BASIS OF CALCULATION.—All formula calculations shall be made using the average values for the most recent 5-year period for which data are available.

''(4) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), for each fiscal year, each border State shall receive at least ½ of

1 percent of the funds made available for allocation under this paragraph for the fiscal year.

''(g) FEDERAL SHARE.—Except as provided in section 120, the Federal share of the cost of a project carried out under the program shall be 80 percent.

''(h) OBLIGATION.—Funds made available under section 1101(11) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 to carry out the program shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

''(i) 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.

''(j) 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.

''(k) 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 (f).

''(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).''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of title 23, United States Code (as amended by section 1809(b)), is amended by adding at the end the following:

''172. Border planning, operations, and technology program.''.

SEC. 1811. PUERTO RICO HIGHWAY 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:

''§ 173. Puerto Rico highway program

''(a) IN GENERAL.—The Secretary shall allocate funds authorized by section 1101(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for each of fiscal years 2005 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(15) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 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 the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144, 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 1997; bears to

''(ii) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.

''(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 1810(b)), is amended by adding at the end the following:

''173. Puerto Rico highway program.''.

SEC. 1812. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

(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:

''§ 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.—Except as provided in section 120, 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 $12,503,145 for each of fiscal years 2005 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 1811(b)), is amended by adding at the end the following:

''174. National historic covered bridge preservation.''.

SEC. 1813. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PROGRAM.

(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:

"§ 175. Transportation and community and system preservation 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 to—

''(1) improve the efficiency of the transportation system in the United States;

''(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; and

''(5) 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 $44,654,088 for each of fiscal years 2005 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 1812(b)), is amended by adding at the end the following:

''175. Transportation and community and system preservation pilot program.''.

SEC. 1814. PARKING PILOT PROGRAMS.

(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:

"§ 176. Parking pilot programs

''(a) COMMERCIAL TRUCK PARKING PILOT PROGRAM.—

''(1) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for drivers of commercial motor vehicles on the National Highway System.

''(2) ALLOCATION OF FUNDS.—

''(A) IN GENERAL.—The Secretary shall allocate funds made available under this subsection to States, metropolitan planning organizations, and local governments.

''(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to an applicant that—

''(i) demonstrates a severe shortage of commercial vehicle parking capacity on the corridor to be addressed;

''(ii) consults with affected State and local governments, community groups, private providers of commercial vehicle parking, and motorist and trucking organizations; and

''(iii) demonstrates that the project proposed by the applicant is likely to have a positive effect on highway safety, traffic congestion, or air quality.

''(3) USE OF ALLOCATED FUNDS.—

''(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

''(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the National Highway System, including—

''(i) construction of safety rest areas that include parking for commercial motor vehicles;

''(ii) construction of commercial motor vehicle parking facilities that are adjacent to commercial truck stops and travel plazas;

''(iii) costs associated with the opening of facilities (including inspection and weigh stations and park-and-ride facilities) to provide commercial motor vehicle parking;

''(iv) projects that promote awareness of the availability of public or private commercial motor vehicle parking on the National Highway System, including parking in connection with intelligent transportation systems and other systems;

''(v) construction of turnouts along the National Highway System for commercial motor vehicles;

''(vi) capital improvements to public commercial motor vehicle truck parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

''(vii) improvements to the geometric design at interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

''(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

''(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

''(6) FUNDING.—

''(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,930,818 for each of fiscal years 2005 through 2009.

''(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under this chapter.

''(b) CORRIDOR AND FRINGE PARKING PILOT PROGRAM.—

''(1) ESTABLISHMENT.—

''(A) IN GENERAL.—In cooperation with appropriate State, regional, and local governments, the Secretary shall carry out a pilot program to provide corridor and fringe parking facilities.

''(B) PRIMARY FUNCTION.—The primary function of a corridor and fringe parking facility funded under this subsection shall be to provide parking capacity to support car pooling, van pooling, ride sharing, commuting, and high occupancy vehicle travel.

''(C) OVERNIGHT PARKING.—A State may permit a facility described in subparagraph (B) to be used for the overnight parking of commercial vehicles if the use does not foreclose or unduly limit the primary function of the facility described in subparagraph (B).

''(2) ALLOCATION OF FUNDS.—

''(A) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States.

''(B) CRITERIA.—In allocating funds under this subsection, the Secretary shall give priority to a State that—

''(i) demonstrates demand for corridor and fringe parking on the corridor to be addressed;

''(ii) consults with affected metropolitan planning organizations, local governments, community groups, and providers of corridor and fringe parking; and

''(iii) demonstrates that the project proposed by the State is likely to have a positive effect on ride sharing, traffic congestion, or air quality.

''(3) USE OF ALLOCATED FUNDS.—

''(A) IN GENERAL.—A recipient of funds allocated under this subsection shall use the funds to carry out the project proposed in the application submitted by the recipient to the Secretary.

''(B) TYPES OF PROJECTS.—Funds under this subsection shall be available for obligation for projects that serve the Federal-aid system, including—

''(i) construction of corridor and fringe parking facilities;

''(ii) costs associated with the opening of facilities;

''(iii) projects that promote awareness of the availability of corridor and fringe parking through the use of signage and other means;

''(iv) capital improvements to corridor and fringe parking facilities closed on a seasonal basis in order to allow the facilities to remain open year-around; and

''(v) improvements to the geometric design on adjoining roadways to facilitate access to, and egress from, corridor and fringe parking facilities.

''(4) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this subsection.

''(5) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be consistent with section 120.

''(6) FUNDING.—

''(A) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,930,818 for each of fiscal years 2005 through 2009.

''(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph 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 I of title 23, United States Code (as amended by section 1813(c)), is amended by adding at the end the following:

''176. Parking pilot programs.''.

SEC. 1815. INTERSTATE OASIS PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

''§ 177. Interstate oasis program

''(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, in consultation with the States and other interested parties, the Secretary shall—

''(1) establish an Interstate oasis program; and

''(2) develop standards for designating, as an Interstate oasis, a facility that—

''(A) offers—

''(i) products and services to the public;

''(ii) 24-hour access to restrooms; and

''(iii) parking for automobiles and heavy trucks; and

''(B) meets other standards established by the Secretary.

''(b) STANDARDS FOR DESIGNATION.—The standards for designation under subsection (a) shall include standards relating to—

''(1) the appearance of a facility; and

''(2) the proximity of the facility to the Interstate System.

''(c) ELIGIBILITY FOR DESIGNATION.—If a State elects to participate in the interstate oasis program, any facility meeting the standards established by the Secretary shall be eligible for designation under this section.

''(d) LOGO.—The Secretary shall design a logo to be displayed by a facility designated under this section.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter I of title 23, United States Code (as amended by section 1814(b)), is amended by adding at the end the following:

''177. Interstate oasis program.''.

SEC. 1816. 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 2005, 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. 1817. NATIONAL FOREST SYSTEM ROADS.

Section 205 of title 23, United States Code, is amended by adding at the end the following:

''(e) PASSAGES FOR AQUATIC SPECIES.—Of the amounts made available for National Forest System roads, $13,396,226 for each fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the passage of aquatic species beneath roads in the National Forest System, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate.''.

SEC. 1818. 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 SHARE.—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 2005),

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 2005—

''(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. 1819. 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)(1)—

(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 $13,396,226 for each of fiscal years 2005 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) $357,232,704 for fiscal year 2005;

''(II) $370,628,931 for fiscal year 2006;

''(III) $379,559,748 for fiscal year 2007;

''(IV) $388,490,566 for fiscal year 2008; and

''(V) $401,886,792 for fiscal year 2009.''; and

(4) by striking subsection (i).

SEC. 1820. 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. 1821. 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, II, and VI 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 section. 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.

SEC. 1822. [RESERVED.]

SEC. 1823. PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.

Section 133(e)(5) of title 23, United States Code, is amended by adding at the end the following:

''(D) PRIORITY FOR PEDESTRIAN AND BICYCLE FACILITY ENHANCEMENT PROJECTS.—The Secretary shall encourage States to give priority to pedestrian and bicycle facility enhancement projects that include a coordinated physical activity or healthy lifestyles program.''.

SEC. 1824. THE DELTA REGIONAL AUTHORITY.

(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1814(a)), is amended by adding at the end the following:

''§ 178. Delta Region transportation development program

''(a) IN GENERAL.—The Secretary shall carry out a program to—

''(1) support and encourage multistate transportation planning and corridor development;

''(2) provide for transportation project development;

''(3) facilitate transportation decision-making; and

''(4) support transportation construction.

''(b) ELIGIBLE RECIPIENTS.—A State transportation department or metropolitan planning organization may receive and administer funds provided under the program.

''(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway and transit planning, development, and construction projects.

''(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive

planning processes required by section 134 and 135.

''(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—

''(1) whether the project is located—

''(A) in an area that is part of the Delta Regional Authority; and

''(B) on the Federal-aid system;

''(2) endorsement of the project by the State department of transportation; and

''(3) evidence of the ability to complete the project.

''(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

''(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

''(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—

''(A) increase the mobility of people and goods;

''(B) improve the safety of the transportation system with respect to catastrophic—

''(i) natural disasters; or

''(ii) disasters caused by human activity; and

''(C) contribute to the economic vitality of the area in which the project is being carried out.

''(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this section shall be applied to the non-Federal share required by section 120.

''(h) AVAILABILITY OF FUNDS.—Amounts made available to carry out this section shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1814(b)), is amended by adding at the end the following:

''178. Delta Region transportation development program.''.

SEC. 1825. MULTISTATE INTERNATIONAL CORRIDOR DEVELOPMENT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish a program to develop international trade corridors to facilitate the movement of freight from international ports of entry and inland ports through and to the interior of the United States.

(b) ELIGIBLE RECIPIENTS.—State transportation departments and metropolitan planning organizations shall be eligible to receive and administer funds provided under the program.

(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under this program for any activity eligible for funding under title 23, United States Code, including multistate highway and multistate multimodal planning and project construction.

(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.

(e) SELECTION CRITERIA.—The Secretary shall only select projects for corridors—

(1) that have significant levels or increases in truck and traffic volume relating to international freight movement;

(2) connect to at least 1 international terminus or inland port;

(3) traverse at least 3 States; and

(4) are identified by section 1105(c) of the Intermodal Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2032).

(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—

(1) encourage and enable States and other jurisdictions to work together to develop plans for multimodal and multijurisdictional transportation decisionmaking; and

(2) give priority to studies that emphasize multimodal planning, including planning for operational improvements that increase mobility, freight productivity, access to marine ports, safety, and security while enhancing the environment.

(g) FEDERAL SHARE.—The Federal share required for any study carried out under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter I of title 23, United States Code.

SEC. 1826. AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking ''$1,500,000 for each of fiscal years 1998 through 2003'' and inserting ''$1,607,547 for each of fiscal years 2005 through 2009''.

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) $188,440,252 for fiscal year 2005;

(ii) $192,012,579 for fiscal year 2006;

(iii) $194,691,824 for fiscal year 2007;

(iv) $196,477,987 for fiscal year 2008; and

(v) $199,157,233 for fiscal year 2009.

(B) SURFACE TRANSPORTATION-ENVIRONMENTAL COOPERATIVE RESEARCH PROGRAM.—For each of fiscal years 2005 through 2009, the Secretary shall set aside $17,861,635 of the funds authorized under subparagraph (A) to carry out the surface transportation-environmental cooperative research program under section 507 of title 23, United States Code.

(2) TRAINING AND EDUCATION.—For carrying out section 504 of title 23, United States Code—

(A) $25,006,289 for fiscal year 2005;

(B) $25,899,371 for fiscal year 2006;

(C) $26,792,453 for fiscal year 2007;

(D) $27,685,535 for fiscal year 2008; and

(E) $28,578,616 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, $25,006,289 for each of fiscal years 2005 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) $109,849,057 for fiscal year 2005;

(B) $112,528,302 for fiscal year 2006;

(C) $115,207,547 for fiscal year 2007;

(D) $117,886,792 for fiscal year 2008; and

(E) $120,566,038 for fiscal year 2009.

(5) UNIVERSITY TRANSPORTATION CENTERS.—For carrying out section 510 of title 23, United States Code $40,188,679 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) $24,113,208 for each of fiscal years 2005 through 2009 shall be available to carry out advanced, high-risk, long-term research under section 502(d) of title 23, United States Code;

(B) $16,075,472 for fiscal year 2005, $15,182,390 for fiscal year 2006, $13,396,226 for fiscal year 2007, $10,716,981 for fiscal year 2008, and $8,930,818 for fiscal year 2009 shall be available to carry out the long-term pavement performance program under section 502(e) of that title;

(C) $5,358,491 for each of fiscal years 2005 through 2009 shall be available to carry out the high-performance concrete bridge research and technology transfer program under section 502(i) of that title, of which $893,082 for each fiscal year shall be used by the Secretary to carry out demonstration projects involving the use of ultra-high-performance concrete with ductility;

(D) $5,358,491 for each of fiscal years 2005 through 2009 shall be made available to carry out research on asphalt used in highway pavements;

(E) $5,358,491 for each of fiscal years 2005 through 2009 shall be made available to carry out research on concrete pavements;

(F) $2,679,245 for each of fiscal years 2005 through 2009 shall be made available to carry out research on aggregates used in highway pavements;

(G) $4,242,138 for each of fiscal years 2005 through 2009 shall be made available for further development and deployment of techniques to prevent and mitigate alkali silica reactivity;

(H) $1,786,164 for fiscal year 2005 shall be remain available until expended for asphalt and asphalt-related reclamation research at the South Dakota School of Mines; and

(I) $2,679,245 for each of fiscal years 2005 through 2009 shall be made available to carry out section 502(f)(3) of title 23, United States Code.

(2) TECHNOLOGY APPLICATION PROGRAM.—Of the amounts made available under subsection (a)(1), $53,584,906 for each of fiscal years 2005 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) $11,163,522 for fiscal year 2005, $11,610,063 for fiscal year 2006, $12,056,604 for fiscal year 2007, $12,503,145 for fiscal year 2008, and $12,949,686 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) $13,396,226 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(b) of that title (relating to local technical assistance); and

(C) $2,679,245 for each of fiscal years 2005 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), $446,541 for each of fiscal years 2005 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 2005 through 2009, to carry out section 509 of title 23, United States Code, the Secretary shall set aside—

(A) $13,396,226 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) $16,968,553 of the amounts made available for the National Highway System under section 101 of title 23, United States Code, for the fiscal year;

(C) $11,610,063 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) $17,861,635 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) $4,465,409 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) $2,679,245 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 $26,792,453 for each of fiscal years 2005 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) $388,669,286 for fiscal year 2005;

(2) $395,813,942 for fiscal year 2006;

(3) $402,065,516 for fiscal year 2007;

(4) $407,424,008 for fiscal year 2008; and

(5) $413,675,582 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-environmental cooperative research program.
"508. Surface transportation research technology deployment and strategic planning.
"509. New strategic highway research program.
"510. University transportation centers.
"511. Multistate corridor operations and management.
"512. Transportation analysis simulation system.

"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) integrated, interoperable emergency 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 and appropriate—

''(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 surface transportation planning;

''(16) environmental research;

''(17) transportation system management and operations; and

''(18) 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;

''(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)); and

''(3) in cooperation with the Center for Civil Engineering Research at the University of Nevada, Reno, carry out a seismic research program—

''(A) to study the vulnerability of the Federal-aid highway system and other surface transportation systems to seismic activity;

''(B) to develop and implement cost-effective methods to reduce the vulnerability; and

''(C) to conduct seismic research and upgrade earthquake simulation facilities as necessary to carry out the program.

''(g) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—

''(1) IN GENERAL.—Not later than July 31, 2005, 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 2005, 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) integrated, interoperable emergency 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.

''(i) HIGH-PERFORMANCE CONCRETE BRIDGE RESEARCH AND TECHNOLOGY TRANSFER PROGRAM.—In accordance with the objectives described in subsection (c)(1) and the requirements under sections 503(b)(4) and 504(b), the Secretary shall carry out a program to demonstrate the application of high-performance concrete in the construction and rehabilitation of bridges.

''(j) BIOBASED TRANSPORTATION RESEARCH.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $16,075,472 for each of fiscal years 2005 through 2009 equally divided and available to carry out biobased research of national importance at the National Biodiesel Board and at research centers identified in section 9011 of Public Law 107–171.

''§ 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 and innovation application initiatives and partnerships program.

''(2) PURPOSE.—The purpose of the program shall be to significantly accelerate the adoption of technology and innovation 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 2005, 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 available for expenditure 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 2005 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-environmental cooperative research program

''(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environmental 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 2005, 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 2005, 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 $178,616 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 2005, 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;

''(E) policy; and

''(F) asset management.

''(2) COMPONENTS.—The strategic plan shall specify—

''(A) surface transportation research objectives and priorities;

''(B) specific surface transportation research projects to be conducted;

''(C) recommended technology transfer activities to promote the deployment of advances resulting from the surface transportation 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 2005, 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, 2005, 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 2005 and 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 2005 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 2005 through 2009, the Secretary shall make a grant in the amount of $893,082 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) $357,240 for fiscal year 2005; and

''(ii) $535,860 for each of fiscal years 2006 and 2007.

''(C) GROUP C.—For each of fiscal years 2005 through 2007, the Secretary shall make a grant in the amount of $893,082 to each of the institutions in group C (as described in subsection (a)(4)(C)).

''(D) GROUP D.—For each of fiscal years 2005 through 2009, the Secretary shall make a grant in the amount of $1,786,164 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 grants in an amount totaling $35,724,000 to 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 2005, the Secretary shall use to carry out this subsection—

''(A) $8,930,818 for fiscal year 2005;

''(B) $10,716,981 for fiscal year 2006;

''(C) $10,716,981 for fiscal year 2007;

''(D) $10,716,981 for fiscal year 2008; and

''(E) $10,716,981 for fiscal year 2009.

''§ 512. Transportation analysis simulation system

''(a) CONTINUATION OF TRANSIMS DEVELOPMENT.—

''(1) IN GENERAL.—The Secretary shall continue the deployment of the advanced transportation model known as the 'Transportation Analysis Simulation System' (referred to in this section as 'TRANSIMS') developed by the Los Alamos National Laboratory.

''(2) REQUIREMENTS AND CONSIDERATIONS.—In carrying out paragraph (1), the Secretary shall—

''(A) further improve TRANSIMS to reduce the cost and complexity of using the TRANSIMS;

''(B) continue development of TRANSIMS for applications to facilitate transportation planning, regulatory compliance, and response to natural disasters and other transportation disruptions; and

''(C) assist State transportation departments and metropolitan planning organizations, especially smaller metropolitan planning organizations, in the implementation of TRANSIMS by providing training and technical assistance.

''(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available to carry out this section—

''(1) to further develop TRANSIMS for additional applications, including—

''(A) congestion analyses;

''(B) major investment studies;

''(C) economic impact analyses;

''(D) alternative analyses;

''(E) freight movement studies;

''(F) emergency evacuation studies;

''(G) port studies; and

''(H) airport access studies;

''(2) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;

''(3) develop methods to simulate the national transportation infrastructure as a single, integrated system for the movement of individuals and goods;

''(4) provide funding to State transportation departments and metropolitan planning organizations for implementation of TRANSIMS.

''(c) ALLOCATION OF FUNDS.—Of the funds made available to carry out this section for each fiscal year, not less than 15 percent shall be allocated for activities described in subsection (b)(3).

''(d) FUNDING.—Of the amounts made available under section 2001(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 for each of fiscal years 2005 through 2009, the Secretary shall use $893,082 to carry out this section.

''(e) AVAILABILITY OF FUNDS.—Funds made available under this section shall be available to the Secretary through the Transportation Planning, Research, and Development Account of the Office of the Secretary.''.

(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.—Section 111 of title 49, United States Code, is amended—

(1) by redesignating subsection (k) as subsection (m);

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

''(k) ANNUAL REPORT.—

''(1) IN GENERAL.—For fiscal year 2005 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 2005 shall be used only for the collection and statistical analysis of information relating to surface transportation systems.''; and

(3) in subsection (m) (as redesignated by subparagraph (A)), by inserting ''surface transportation'' after ''sale of''.

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 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) ALLOCATIONS.—

(1) IN GENERAL.—For each of fiscal years 2005 through 2009, of the funds made available under section 2001(a)(1)(A), the Secretary shall set aside $8,930,818 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.

SEC. 2104. MOTORCYCLE CRASH CAUSATION STUDY GRANTS.

(a) GRANTS.—The Secretary shall provide grants for the purpose of conducting a comprehensive, in-depth motorcycle crash causation study that employs the common international methodology for in-depth motorcycle accident investigation of the Organization for Economic Cooperation and Development.

(b) FUNDING.—Of the amounts made available under section 2001(a)(3), $1,339,623 for fiscal year 2005 shall be available to carry out this section.

SEC. 2105. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (112 Stat. 449; 112 Stat. 864; 115 Stat. 2330) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence—

(I) by striking ''Build an'' and inserting ''Build or integrate an''; and

(II) by striking ''$2,000,000'' and inserting ''$2,500,000''; and

(ii) in the second sentence—

(I) by striking ''300,000 and that'' and inserting ''300,000,''; and

(II) by inserting before the period at the end the following: '', and includes major transportation corridors serving that metropolitan area'';

(B) in clause (ii), by striking all that follows ''will be'' and inserting ''reinvested in the intelligent transportation infrastructure system.'';

(C) by striking clause (iii); and

(D) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively;

(2) in subparagraph (C)(ii), by striking ''July 1, 2002'' and inserting ''the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005'';

(3) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) The term ''follow-on deployment areas'' means the metropolitan areas of Albany, Atlanta, Austin, Baltimore, Birmingham, Boston, Burlington Vermont, Charlotte, Chicago, Cleveland, Columbus, Dallas/Ft. Worth, Denver, Detroit, Greensboro, Hartford, Houston, Indianapolis, Jacksonville, Kansas City, Las Vegas, Los Angeles, Louisville, Miami, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, New York/Northern New Jersey, Norfolk, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Raleigh, Richmond, Sacramento, Salt Lake, San Diego, San Francisco, San Jose, St. Louis, Seattle, Tampa, Tucson, Tulsa, and Washington, District of Columbia.'';

(4) in subparagraph (F)—

(A) by striking ''Of the amounts'' and inserting the following:

''(i) THIS ACT.—Of the amounts''; and

(B) by adding at the end the following:

''(ii) SAFETEA.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $4,465,409 for each fiscal year to carry out this paragraph.

''(iii) AVAILABILITY; NO REDUCTION OR SETASIDE.—Amounts made available by this subparagraph—

''(I) shall remain available until expended; and

''(II) shall not be subject to any reduction or setaside.''; and

(5) by adding at the end the following:

''(H) USE OF RIGHTS-OF-WAY.—

''(i) IN GENERAL.—An intelligent transportation system project described in paragraph (3) or (6) that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance, if the Secretary determines that such use is in the public interest.

''(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State to regulate highway safety.''.

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 on-going 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 $1,339,623 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 2005, 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 2005 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—RECREATIONAL BOATING SAFETY PROGRAMS

SEC. 3001. SHORT TITLE.

This title may be cited as the ''Sport Fishing and Recreational Boating Safety Act''.

SEC. 3002. AMENDMENT OF FEDERAL AID IN FISH RESTORATION ACT.

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the 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. 3003. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—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 57 percent of the balance of each annual appropriation to be apportioned among the States, as provided for in section 4(c).''.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 3 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777b) is amended in the first sentence—

(A) by striking ''Sport Fish Restoration Account'' and inserting ''Sport Fish Restoration Trust Fund''; and

(B) by striking ''that Account'' and inserting ''that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2004.

SEC. 3004. DIVISION OF ANNUAL APPROPRIATIONS.

Section 4 (16 U.S.C. 777c) is amended—

(1) by striking subsections (a) through (c) and redesignating subsections (d) through (g) as subsections (b) through (e), respectively;

(2) by inserting before subsection (b) (as redesignated by paragraph (1)), the following:

''(a) IN GENERAL.—For fiscal years 2004 through 2009, the balance of each annual appropriation made in accordance with the provisions of section 3 of this title remaining after the distributions are made for administrative expenses and other purposes under section 4(b) and for multistate conservation grants under section 14 shall be distributed as follows:

''(1) COASTAL WETLANDS.—18.5 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.—18.5 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.—2 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.—2 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.—2 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this title. 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 (c).'';

(3) in subsection (b)(1) (as redesignated by paragraph (1)), by striking subparagraph (A) and inserting the following:

''(A) SET-ASIDE.—For fiscal year 2006 and each subsequent fiscal year, before making a distribution under subsection (a), the Secretary of the Interior may use not more than the available amount specified in subparagraph (B) for the fiscal year for expenses of administration incurred in the implementation of this chapter, in accordance with this section and section 9.'';

(4) in subsection (c) (as redesignated by paragraph (1)), by striking the subsection heading and all that follows through the colon in the first sentence and inserting the following:

''(c) APPORTIONMENT AMONG STATES.—For fiscal year 2006 and each subsequent fiscal year, after the distribution, transfer, use, and deduction under subsection (b), and after deducting amounts for grants under section 14, the Secretary of the Interior shall apportion 57 percent of the balance of each annual appropriation among the several States in the following manner:'';

(5) by striking ''per centum'' each place it appears in subsection (c) (as redesignated by paragraph (1)) and inserting ''percent'';

(6) in paragraph (1) of subsection (e) (as redesignated by paragraph (1)), by striking ''subsections (a), (b)(3)(A), (b)(3)(B), and (c)'' and inserting ''paragraphs (1), (3), (4), and (5) of subsection (a)''; and

(7) by adding at the end the following:

''(f) 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. 3005. 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 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(c).''; and

(2) in subsection (d)(3), by striking ''subsection (c) or (d) of section 4'' and inserting ''section 4(a)(5) or section 4(b)''.

SEC. 3006. 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. 3007. 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(b)''; and

(2) by striking ''section 4(d)(1)'' in subsection (b)(1) and inserting ''section 4(b)''.

SEC. 3008. PAYMENTS OF FUNDS TO AND COOPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SAMOA, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND THE 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 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(b) of this title.''.

SEC. 3009. 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 fiscal year 2004 and each subsequent fiscal year, not more than $3,000,000 of each annual appropriation made in accordance with the provisions of section 3 of this title 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(c)''; 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(b) for each fiscal year—''.

TITLE IV—SOLID WASTE DISPOSAL

SEC. 4001. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

"SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

''(a) DEFINITIONS.—In this section:

''(1) AGENCY HEAD.—The term 'agency head' means—

''(A) the Secretary of Transportation; and

''(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

''(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

''(A) involves the procurement of cement or concrete; and

''(B) is carried out in whole or in part using Federal funds.

''(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

''(A) ground granulated blast furnace slag;

''(B) coal combustion fly ash; and

''(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

''(b) IMPLEMENTATION OF REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

''(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

''(3) CONFORMANCE.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

''(c) FULL IMPLEMENTATION STUDY.—

''(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

''(2) MATTERS TO BE ADDRESSED.—The study shall—

''(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;

''(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and

''(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

''(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

''(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

''(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

''(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—

''(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and

''(2) eliminate barriers identified under subsection (c).

''(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 6004 the following:

''Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.''.

SEC. 4002. USE OF GRANULAR MINE TAILINGS.

(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section 4001(a)) is amended by adding at the end the following:

"SEC. 6006. USE OF GRANULAR MINE TAILINGS.

''(a) MINE TAILINGS.—

''(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—

''(A) cement or concrete projects; and

''(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.

''(2) REQUIREMENTS.—In establishing criteria under paragraph (1), the Administrator shall consider—

''(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and

''(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.

''(3) PUBLIC PARTICIPATION.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.

''(4) APPLICABILITY OF CRITERIA.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).

''(b) EFFECT OF SECTIONS.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.''.

(b) CONFORMING AMENDMENT.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 4001(b)) is amended by adding after the item relating to section 6005 the following:

''Sec. 6006. Use of granular mine tailings.''.

SA 568. Mr. BAYH submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

TITLE _____—OVERSEAS SUBSIDIES

SECTION ___01. SHORT TITLE.

This title may be cited as the ''Stopping Overseas Subsidies Act of 2005''.

SEC. ___02. APPLICATION OF COUNTERVAILING DUTIES TO NONMARKET ECONOMY COUNTRIES.

Section 701(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1671(a)(1)) is amended by inserting ''(including a nonmarket economy country)'' after ''country'' each place it appears.

SEC. ___03. EFFECTIVE DATE.

The amendments made by section ___02 apply to petitions filed under section 702 of the Tariff Act of 1930 on or after the date of the enactment of this title.

SA 569. Mr. CHAMBLISS (for himself and Mr. ISAKSON) submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the end of chapter 3 of subtitle E of title I, add the following:

SEC. ___. INTERSTATE ROUTE I–14 AND 3RD INFANTRY DIVISION HIGHWAY.

Not later than December 31, 2005, any funds made available to commission a study and report regarding the construction and designation of a new Interstate route linking Savannah, Georgia, Augusta, Georgia, and Knoxville, Tennessee, shall be provided to the Secretary to—

(1) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to construct a new interstate route to be designated as ''Interstate Route I–14'' and known as the 14th Amendment Highway, from Augusta, Georgia to Natchez, Mississippi (formerly designated the Fall Line Freeway in the State of Georgia); and

(2) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to designate and construct a new interstate route for the 3rd Infantry Division Highway, extending from Savannah,

Georgia, to Knoxville, Tennessee (formerly the Savannah River Parkway in the State of Georgia), following a route generally defined through Sylvania, Waynesboro, Augusta, Lincolnton, Elberton, Hartwell, Toccoa, and Young Harris, Georgia, and Maryville, Tennessee.

SA 570. Mr. CHAMBLISS (for himself, Mr. ISAKSON, and Mr. LOTT) submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the end of chapter 3 of subtitle E of title I, add the following:

SEC. ____. INTERSTATE ROUTE I–14 AND 3RD INFANTRY DIVISION HIGHWAY.

Not later than December 31, 2005, any funds made available to commission a study and report regarding construction and designation of a new Interstate route linking Augusta, Georgia, Macon, Georgia, Columbus, Georgia, Montgomery, Alabama, and Natchez, Mississippi, shall be provided to the Secretary to—

(1) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to construct a new interstate route to be designated as ''Interstate Route I–14'' and known as the 14th Amendment Highway, from Augusta, Georgia to Natchez, Mississippi (formerly designated the Fall Line Freeway in the State of Georgia); and

(2) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to designate and construct a new interstate route for the 3rd Infantry Division Highway, extending from Savannah, Georgia, to Knoxville, Tennessee (formerly the Savannah River Parkway in the State of Georgia), following a route generally defined through Sylvania, Waynesboro, Augusta, Lincolnton, Elberton, Hartwell, Toccoa, and Young Harris, Georgia, and Maryville, Tennessee.

SA 571. Mr. ISAKSON submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the of subtitle H of title I, add the following:

SEC. 18____. APPROVAL AND FUNDING FOR CERTAIN CONSTRUCTION PROJECT.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall approve project STP–189–1(15)CT 3 in Gwinnett County, Georgia, and reserve such Federal funds available to the Secretary as are necessary for the project, not later than 30 days after the date of receipt by the Secretary of a construction authorization request from the State of Georgia, Department of Transportation for the project.

(b) EXEMPT PROJECT.—The project shall be considered to be an exempt project under section 93.126 of title 40, Code of Federal Regulations (or successor regulations).

SA 572. Mr. THUNE proposed an amendment to amendment SA 567 proposed by Mr. INHOFE to the bill H.R. 3, Reserved; as follows:

Strike section 1602(a) and insert the following:

(a) IN GENERAL.—Section 162 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (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.'';

(B) in paragraph (3)—

(i) by striking ''To be considered'' and inserting the following:

''(A) IN GENERAL.—To be considered'';

(ii) in subparagraph (A) (as designated by clause (i))—

(I) by inserting '', an Indian tribe, '' after ''nominated by a State''; and

(II) by inserting '', an Indian scenic byway,'' after ''designated as a State scenic byway''; and

(iii) by adding at the end the following:

''(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a National Scenic Byway under subparagraph (A) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

''(i) jurisdiction over the road; or

''(ii) responsibility for managing the road.

''(C) SAFETY.—Indian tribes shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).''; and

(C) by adding at the end the following:

''(4) RECIPROCAL NOTIFICATION.—States, Federal land management agencies, and Indian tribes shall notify each other regarding nominations under this subsection for roads that—

''(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

''(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.'';

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting ''and Indian tribes'' after ''provide technical assistance to States'';

(ii) in subparagraph (A), by striking ''designated as'' and all that follows and inserting ''designated as—

''(i) National Scenic Byways;

''(ii) All-American Roads;

''(iii) America's Byways;

''(iv) State scenic byways; or

''(v) Indian scenic byways; and''; and

(iii) in subparagraph (B), by inserting ''or Indian'' after ''State'';

(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'';

(ii) in subparagraph (B)—

(I) by striking ''State-designated'' and inserting ''State or Indian''; and

(II) 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

(iii) in subparagraph (C), by inserting ''or Indian'' after ''State'';

(3) in subsection (c)—

(A) in paragraph (1), by inserting ''or Indian'' after ''State'';

(B) in paragraph (3)—

(i) by inserting ''Indian scenic byway,'' after ''improvements to a State scenic byway,''; and

(ii) by inserting ''Indian scenic byway,'' after ''designation as a State scenic byway,''; and

(C) in paragraph (4), by striking ''passing lane,''; and

(4) in subsection (e), by inserting ''or Indian tribe'' after ''State''.

SA 573. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE VI—PUBLIC TRANSPORTATION

SEC. 6001. SHORT TITLE.

This title may be cited as the ''Federal Public Transportation Act of 2005''.

SEC. 6002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.

(a) AMENDMENTS TO TITLE 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

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

SEC. 6003. POLICIES, FINDINGS, AND PURPOSES.

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

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

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

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

(2) by striking ''urban areas'' and inserting ''urbanized areas''.

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

(1) by striking ''an urban'' and inserting ''a''; and

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

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

(1) in paragraph (1)—

(A) by striking ''improved mass'' and inserting ''improved public''; and

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

(2) in paragraph (2)—

(A) by striking ''urban mass'' and inserting ''public''; and

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

(3) in paragraph (3)—

(A) by striking ''urban mass'' and inserting ''public''; and

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

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

SEC. 6004. DEFINITIONS.

Section 5302(a) is amended—

(1) in paragraph (1)—

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

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

(C) in subparagraph (H)—

(i) by striking ''and'' after ''innovative'' and inserting ''or''; and

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

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

(E) by adding at the end the following:

''(J) crime prevention and security, including—

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

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

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

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

(2) by redesignating paragraphs (8) through (17) as paragraphs (9) through (18), respectively;

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

''(7) MASS TRANSPORTATION.—The term 'mass transportation' means public transportation.

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

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

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

''(C) manages public transportation demand.'';

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

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

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

(6) by amending paragraph (18), as redesignated, to read as follows:

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

SEC. 6005. METROPOLITAN TRANSPORTATION PLANNING.

Section 5303 is amended to read as follows:

''§ 5303. Metropolitan transportation planning

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

''(1) CONSULTATION.—A 'consultation' occurs when 1 party—

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

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

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

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

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

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

''(5) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means any elected or appointed official of general purpose local government located in a nonmetropolitan area who is responsible for transportation services for such local government.

''(b) GENERAL REQUIREMENTS.—

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

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

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

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

''(c) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

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

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

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

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

''(A) local elected officials;

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

''(C) appropriate State officials.

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

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

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

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

''(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that combined represent not less than 75 percent of the existing planning area population (including the incorporated city or cities named by the Bureau of the Census in designating the urbanized area) as appropriate to carry out this section.

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

''(d) METROPOLITAN PLANNING AREA BOUNDARIES.—

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

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

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

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

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

''(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Federal Public Transportation Act of 2005 shall be retained, except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in accordance with paragraph (5).

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

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

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

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

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

''(e) COORDINATION IN MULTISTATE AREAS.—

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

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

''(A) to enter into agreements or compacts with other States, which agreements or compacts are not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

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

''(3) LAKE TAHOE REGION.—

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

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

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

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

''(C) INTERSTATE COMPACT.—

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

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

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

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

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

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

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

''(f) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

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

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

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

''(4) COORDINATION WITH OTHER PLANNING PROCESSES.—

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

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

''(i) recipients of assistance under this chapter;

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

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

''(g) SCOPE OF PLANNING PROCESS.—

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

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

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

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

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

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

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

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

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

''(2) SELECTION OF FACTORS.—After soliciting and considering any relevant public comments, the metropolitan planning organization shall determine which of the factors described in paragraph (1) are most appropriate to consider.

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

''(h) DEVELOPMENT OF TRANSPORTATION PLAN.—

''(1) IN GENERAL.—

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

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

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

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

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

''(2) MITIGATION ACTIVITIES.—

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

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

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

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

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

''(A) an identification of transportation facilities, including major roadways, transit, multimodal and intermodal facilities, intermodal connectors, and other relevant facilities identified by the metropolitan planning

organization, which should function as an integrated metropolitan transportation system, emphasizing those facilities that serve important national and regional transportation functions;

''(B) a financial plan that—

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

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

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

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

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

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

''(E) proposed transportation and transit enhancement activities.

''(4) CONSULTATION.—

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

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

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

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

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

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

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

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

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

''(i) PARTICIPATION BY INTERESTED PARTIES.—

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

''(A) citizens;

''(B) affected public agencies;

''(C) representatives of public transportation employees;

''(D) freight shippers;

''(E) providers of freight transportation services;

''(F) private providers of transportation;

''(G) representatives of users of public transit;

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

''(I) other interested parties.

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

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

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

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

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

''(ii) the contents of the transportation plan.

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

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

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

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

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

''(j) TRANSPORTATION IMPROVEMENT PROGRAM.—

''(1) DEVELOPMENT AND UPDATE.—

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

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

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

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

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

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

''(i) appropriate public involvement;

''(ii) financial planning;

''(iii) transportation conformity analyses; and

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

''(2) INCLUDED PROJECTS.—

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

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

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

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

''(3) SELECTION OF PROJECTS.—

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

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

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

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

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

''(4) PUBLICATION REQUIREMENTS.—

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

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

''(C) RULEMAKING.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations specifying—

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

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

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

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

''(IV) the status of each project; and

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

''(k) TRANSPORTATION MANAGEMENT AREAS.—

''(1) REQUIRED IDENTIFICATION.—The Secretary shall identify each urbanized area

with a population of more than 200,000 individuals as a transportation management area.

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

''(3) CONGESTION MANAGEMENT SYSTEM.—

''(A) IN GENERAL.—The transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under title 23 and this chapter through the use of travel demand reduction and operational management strategies.

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

''(4) SELECTION OF PROJECTS.—

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

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

''(5) CERTIFICATION.—

''(A) IN GENERAL.—The Secretary shall—

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

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

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

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

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

''(C) PENALTY FOR FAILING TO CERTIFY.—

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

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

''(D) REVIEW OF CERTIFICATION.—In making a certification under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.

''(*l*) ABBREVIATED PLANS FOR CERTAIN AREAS.—

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

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

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

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

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

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

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

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

SEC. 6006. STATEWIDE TRANSPORTATION PLANNING.

Section 5304 is amended to read as follows:

''§ 5304. Statewide transportation planning

''(a) GENERAL REQUIREMENTS.—

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

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

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

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

''(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

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

''(1) coordinate planning under this section with—

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

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

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

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

''(d) SCOPE OF PLANNING PROCESS.—

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

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

''(B) increase the safety of the transportation system for motorized and nonmotorized users;

''(C) increase the security of the transportation system for motorized and nonmotorized users;

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

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

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

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

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

''(2) SELECTION OF PROJECTS AND STRATEGIES.—After soliciting and considering any relevant public comments, the State shall

determine which of the projects and strategies described in paragraph (1) are most appropriate.

''(3) MITIGATION ACTIVITIES.—

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

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

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

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

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

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

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

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

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

''(f) STATEWIDE TRANSPORTATION PLAN.—

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

''(2) CONSULTATION WITH GOVERNMENTS.—

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

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

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

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

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

''(I) land use management;

''(II) natural resources;

''(III) environmental protection;

''(IV) conservation; and

''(V) historic preservation.

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

''(I) comparison of transportation plans to State conservation plans or maps, if available;

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

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

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

''(A) provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed Plan; and

''(B) to the maximum extent practicable—

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

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

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

''(4) MITIGATION ACTIVITIES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

''(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—

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

''(2) CONSULTATION WITH GOVERNMENTS.—

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

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

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

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

''(4) INCLUDED PROJECTS.—

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

''(B) LISTING OF PROJECTS.—

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

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

''(C) INDIVIDUAL IDENTIFICATION.—

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

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

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

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

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

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

''(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The Program shall not include a project, or an identified phase of a project,

unless full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 6007. TRANSPORTATION MANAGEMENT AREAS.

Section 5305 is repealed.

SEC. 6008. PRIVATE ENTERPRISE PARTICIPATION.

Section 5306 is amended—

(1) in subsection (a)—

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

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

(2) in subsection (b) by striking ''5303–5305 of this title'' and inserting ''5303, 5304, and 5308''; and

(3) by adding at the end the following:

''(c) REGULATIONS.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations describing how the requirements under this chapter relating to subsection (a) shall be enforced.''.

SEC. 6009. URBANIZED AREA FORMULA GRANTS.

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

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

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

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

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

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

(2) by adding at the end the following:

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

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

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

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

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

''(B) planning, including mobility management;

''(C) transit enhancements;

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

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

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

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

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

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

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

''(2) SPECIAL RULE FOR FISCAL YEARS 2005 THROUGH 2007.—

''(A) INCREASED FLEXIBILITY.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2005 through 2007, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population if—

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

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

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

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

''(B) MAXIMUM AMOUNTS IN FISCAL YEAR 2005.—In fiscal year 2005—

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

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

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

''(C) MAXIMUM AMOUNTS IN FISCAL YEAR 2006.—In fiscal year 2006—

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

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

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

''(D) MAXIMUM AMOUNTS IN FISCAL YEAR 2007.—In fiscal year 2007—

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

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

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

(3) by striking paragraph (4).

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

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

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

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

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

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

(6) by adding at the end the following:

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

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

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

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

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

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

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

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

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

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

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

''(k) RELATIONSHIP TO OTHER LAWS.—

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

''(2) INAPPLICABLE PROVISIONS.—

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

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

SEC. 6010. PLANNING PROGRAMS.

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

''§ 5308. Planning programs

''(a) GRANTS AUTHORIZED.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, make agreements with other departments, agencies, or instrumentalities of the Government, or enter into contracts with private nonprofit or for-profit entities to—

''(1) develop transportation plans and programs;

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

''(3) conduct technical studies relating to public transportation, including—

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

''(B) evaluations of previously financed projects;

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

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

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

''(c) METROPOLITAN PLANNING PROGRAM.—

''(1) ALLOCATIONS TO STATES.—

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

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

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

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

''(B) approved by the Secretary of Transportation;

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

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

''(3) SUPPLEMENTAL ALLOCATIONS.—

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

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

''(d) STATE PLANNING AND RESEARCH PROGRAM.—

''(1) IN GENERAL.—The Secretary shall allocate amounts made available pursuant to subsection (g)(3)(B) to States for grants and contracts to carry out sections 5304, 5306, 5315, and 5322 so that each State receives an amount equal to the ratio of the population in urbanized areas in that State, divided by the total population in urbanized areas in all States, as shown by the latest available decennial census.

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

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

''(e) PLANNING CAPACITY BUILDING PROGRAM.—

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

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

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

''(4) USE OF FUNDS.—

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

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

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

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

''(i) expend appropriated funds directly; or

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

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

''(g) ALLOCATION OF FUNDS.—Of the amounts made available under section 5338(b)(2)(B) for fiscal year 2006 and each fiscal year thereafter to carry out this section—

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

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

''(3) of the remaining amount—

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

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

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

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

''5308. Planning programs.''.

SEC. 6011. CAPITAL INVESTMENT PROGRAM.

(a) SECTION HEADING.—The section heading of section 5309 is amended to read as follows:

''§ 5309. Capital investment grants''.

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

(1) in paragraph (1)—

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

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

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

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

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

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

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

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

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

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

''(2) GRANTEE REQUIREMENTS.—

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

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

''(C) SUBRECIPIENT.—The Secretary shall require that any private, nonprofit organization that is a subrecipient of a grant awarded under this section shall be subject to the same terms, conditions, requirements, and provisions as a subrecipient of assistance under section 5310.

''(D) STATEWIDE TRANSIT PROVIDER GRANTEES.—A statewide transit provider that receives a grant under this section shall be subject to the terms, conditions, requirements, and provisions of this section or section 5311, consistent with the scope and purpose of the grant and the location of the project.''; and

(3) by adding at the end the following:

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

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

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

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

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

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

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

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

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

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

''(2) the applicant has, or will have—

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

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

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

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

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

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

''(A) is authorized for final design and construction; and

''(B) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

''(2) DETERMINATIONS.—The Secretary may not award a grant under this subsection for a new fixed guideway capital project unless the Secretary determines that the proposed project is—

''(A) based on the results of an alternatives analysis and preliminary engineering;

''(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost-effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use patterns and policies; and

''(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct the project, and maintain and operate the entire public transportation system, while ensuring that the extent and quality of existing public transportation services are not degraded.

''(3) EVALUATION OF PROJECT JUSTIFICATION.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

''(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

''(B) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

''(C) the direct and indirect costs of relevant alternatives;

''(D) factors such as—

''(i) congestion relief;

''(ii) improved mobility;

''(iii) air pollution;

''(iv) noise pollution;

''(v) energy consumption; and

''(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

''(E) reductions in local infrastructure costs achieved through compact land use development and positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;

''(F) the cost of suburban sprawl;

''(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;

''(H) population density and current transit ridership in the transportation corridor;

''(I) the technical capability of the grant recipient to construct the project;

''(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and

''(K) other factors that the Secretary determines to be appropriate to carry out this chapter.

''(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—

''(A) IN GENERAL.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—

''(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;

''(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

''(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels, while ensuring that the extent and quality of existing public transportation services are not degraded.

''(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—

''(i) the reliability of the forecasts of costs and utilization made by the recipient and the contractors to the recipient;

''(ii) existing grant commitments;

''(iii) the degree to which financing sources are dedicated to the proposed purposes;

''(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and

''(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project, provided that if the Secretary gives priority to financing projects that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.

''(5) PROJECT ADVANCEMENT AND RATINGS.—

''(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the

project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.

''(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.

''(6) APPLICABILITY.—This subsection shall not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005.

''(7) RULEMAKING.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations on the manner by which the Secretary shall evaluate and rate projects based on the results of alternatives analysis, project justification, and local financial commitment, in accordance with this subsection.

''(8) POLICY GUIDANCE.—

''(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new starts project review and evaluation process—

''(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005; and

''(ii) each time significant changes are made by the Secretary to the new starts project review and evaluation process and criteria, but not less frequently than once every 2 years.

''(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—

''(i) invite public comment to the policy guidance published under subparagraph (A); and

''(ii) publish a response to the comments received under clause (i).''.

(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.— Section 5309(f) is amended to read as follows:

''(f) MAJOR CAPITAL INVESTMENT PROJECTS OF LESS THAN $75,000,000.—

''(1) PROJECT CONSTRUCTION GRANT AGREEMENT.—

''(A) IN GENERAL.—The Secretary shall enter into a project construction grant agreement, based on evaluations and ratings required under this subsection, with each grantee receiving less than $75,000,000 under this subsection for a new fixed guideway or corridor improvement capital project that—

''(i) is authorized by law; and

''(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (3)(B).

''(B) CONTENTS.—

''(i) IN GENERAL.—An agreement under this paragraph shall specify—

''(I) the scope of the project to be constructed;

''(II) the estimated net cost of the project;

''(III) the schedule under which the project shall be constructed;

''(IV) the maximum amount of funding to be obtained under this subsection;

''(V) the proposed schedule for obligation of future Federal grants; and

''(VI) the sources of non-Federal funding.

''(ii) ADDITIONAL FUNDING.—The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.

''(C) FULL FUNDING GRANT AGREEMENT.—An agreement under this paragraph shall be considered a full funding grant agreement for the purposes of subsection (g).

''(2) SELECTION PROCESS.—

''(A) SELECTION CRITERIA.—The Secretary may not award a grant under this subsection for a proposed project unless the Secretary determines that the project is—

''(i) based on the results of planning and alternatives analysis;

''(ii) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and

''(iii) supported by an acceptable degree of local financial commitment.

''(B) PLANNING AND ALTERNATIVES.—In evaluating a project under subparagraph (A)(i), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.

''(C) PROJECT JUSTIFICATION.—In making the determinations under subparagraph (A)(ii), the Secretary shall—

''(i) determine the degree to which local land use policies are supportive of the public transportation project and the degree to which the project is likely to achieve local developmental goals;

''(ii) determine the cost effectiveness of the project at the time of the initiation of revenue service;

''(iii) determine the degree to which the project will have a positive effect on local economic development;

''(iv) consider the reliability of the forecasts of costs and ridership associated with the project; and

''(v) consider other factors that the Secretary determines to be appropriate to carry out this subsection.

''(D) LOCAL FINANCIAL COMMITMENT.—For purposes of subparagraph (A)(iii), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.

''(3) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—

''(A) IN GENERAL.—A proposed project under this subsection may not advance from the planning and alternatives analysis stage to project development and construction unless—

''(i) the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements; and

''(ii) the metropolitan planning organization has adopted the locally preferred alternative for the project into the long-range transportation plan.

''(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low, based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required under this subsection.

''(4) IMPACT REPORT.—

''(A) IN GENERAL.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Federal Transit Administration shall submit a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects to—

''(i) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

''(ii) the Committee on Transportation and Infrastructure of the House of Representatives.

''(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.

''(5) REGULATIONS.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.''.

(g) FULL FUNDING GRANT AGREEMENTS.—Section 5309(g)(2) is amended by adding at the end the following:

''(C) BEFORE AND AFTER STUDY.—

''(i) IN GENERAL.—Each full funding grant agreement shall require the applicant to conduct a study that—

''(I) describes and analyzes the impacts of the new start project on transit services and transit ridership;

''(II) evaluates the consistency of predicted and actual project characteristics and performance; and

''(III) identifies sources of differences between predicted and actual outcomes.

''(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—

''(I) SUBMISSION OF PLAN.—Applicants seeking a full funding grant agreement shall submit a complete plan for the collection and analysis of information to identify the impacts of the new start project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.

''(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—

''(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;

''(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;

''(cc) collection of data on the transit system 2 years after the opening of the new start project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the new start project; and

''(dd) analysis of the consistency of predicted project characteristics with the after data.

''(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.

''(E) PUBLIC PRIVATE PARTNERSHIP PILOT PROGRAM.—

''(i) AUTHORIZATION.—The Secretary may establish a pilot program to demonstrate the advantages of public-private partnerships for certain fixed guideway systems development projects.

''(ii) IDENTIFICATION OF QUALIFIED PROJECTS.—The Secretary shall identify qualified public-private partnership projects as permitted by applicable State and local enabling laws and work with project sponsors to enhance project delivery and reduce overall costs.''.

(h) GOVERNMENT SHARE OF NET PROJECT COST.—Section 5309(h) is amended to read as follows:

''(h) GOVERNMENT SHARE OF ADJUSTED NET PROJECT COST.—

''(1) IN GENERAL.—The Secretary shall estimate the net project cost based on engineering studies, studies of economic feasibility,

and information on the expected use of equipment or facilities.

''(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a major capital investment project evaluated under subsections (e) and (f) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

''(3) MAXIMUM GOVERNMENT SHARE.—

''(A) IN GENERAL.—A grant for the project shall be for 80 percent of the net project cost, or the net project cost as adjusted under paragraph (2), unless the grant recipient requests a lower grant percentage.

''(B) EXCEPTIONS.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

''(i) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

''(ii) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

''(4) OTHER SOURCES.—The costs not funded by a grant under this section may be funded from—

''(A) an undistributed cash surplus;

''(B) a replacement or depreciation cash fund or reserve; or

''(C) new capital, including any Federal funds that are eligible to be expended for transportation.

''(5) PLANNED EXTENSION TO FIXED GUIDEWAY SYSTEM.—In addition to amounts allowed under paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the Secretary determines that only non-Federal funds were used and that the purchase was made for use on the extension. A refund or reduction of the costs not funded by a grant under this section may be made only if a refund of a proportional amount of the grant is made at the same time.

''(6) EXCEPTION.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to amounts allowed under paragraph (4).''.

(i) LOAN PROVISIONS AND FISCAL CAPACITY CONSIDERATIONS.—Section 5309 is amended—

(1) by striking subsections (i), (j), (k), and (l);

(2) by redesignating subsections (m) and (n) as subsections (i) and (j), respectively;

(3) by striking subsection (o) (as added by section 3009(i) of the Federal Transit Act of 1998); and

(4) by redesignating subsections (o) and (p) as subsections (k) and (l), respectively.

(j) ALLOCATING AMOUNTS.—Section 5309(i), as redesignated, is amended to read as follows:

''(i) ALLOCATING AMOUNTS.—

''(1) FISCAL YEAR 2005.—Of the amounts made available or appropriated for fiscal year 2005 under section 5338(a)(3)—

''(A) $1,437,829,600 shall be allocated for projects of not less than $75,000,000 for major capital projects for new fixed guideway systems and extensions of such systems under subsection (e) and projects for new fixed guideway or corridor improvement capital projects under subsection (f);

''(B) $1,204,684,800 shall be allocated for capital projects for fixed guideway modernization; and

''(C) $669,600,000 shall be allocated for capital projects for buses and bus-related equipment and facilities.

''(2) IN GENERAL.—Of the amounts made available or appropriated for fiscal year 2006 and each fiscal year thereafter for grants under this section pursuant to subsections (b)(4) and (c) of section 5338—

''(A) the amounts appropriated under section 5338(c) shall be allocated for major capital projects for—

''(i) new fixed guideway systems and extensions of not less than $75,000,000, in accordance with subsection (e); and

''(ii) projects for new fixed guideway or corridor improvement capital projects, in accordance with subsection (f); and

''(B) the amounts made available under section 5338(b)(4) shall be allocated for capital projects for buses and bus-related equipment and facilities.

''(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(K) for fiscal year 2006 and each fiscal year thereafter shall be allocated in accordance with section 5337.

''(4) PRELIMINARY ENGINEERING.—Not more that 8 percent of the allocation described in paragraphs (1)(A) and (2)(A) may be expended on preliminary engineering.

''(5) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A), $10,400,000 shall be available in each of the fiscal years 2005 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals.

''(6) BUS AND BUS FACILITY GRANTS.—

''(A) CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(B), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.

''(B) PROJECTS NOT IN URBANIZED AREAS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

''(C) INTERMODAL TERMINALS.—Of the amounts made available under paragraphs (1)(C) and (2)(B), not less than $75,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.''.

(k) REPORTS.—Section 5309 is amended by inserting at the end the following:

''(m) REPORTS.—

''(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—

''(A) IN GENERAL.—Not later than the first Monday of February of each year, the Secretary shall submit a report on funding recommendations to—

''(i) the Committee on Transportation and Infrastructure of the House of Representatives;

''(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

''(iii) the Subcommittee on the Departments of Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies of the Committee on Appropriations of the House of Representatives; and

''(iv) the Subcommittee on Transportation, Treasury, and General Government of the Committee on Appropriations of the Senate.

''(B) CONTENTS.—The report submitted under subparagraph (A) shall contain—

''(i) a proposal on the allocation of amounts to finance grants for capital investment projects among grant applicants;

''(ii) a recommendation of projects to be funded based on—

''(I) the evaluations and ratings determined under subsection (e) and (f); and

''(II) existing commitments and anticipated funding levels for the subsequent 3 fiscal years; and

''(iii) detailed ratings and evaluations on each project recommended for funding.

''(2) TRIANNUAL REPORTS ON PROJECT RATINGS.—

''(A) IN GENERAL.—Not later than the first Monday of February, the first Monday of June, and the first Monday of October of each year, the Secretary shall submit a report on project ratings to—

''(i) the Committee on Transportation and Infrastructure of the House of Representatives;

''(ii) the Committee on Banking, Housing, and Urban Affairs of the Senate;

''(iii) the Subcommittee on the Departments of Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies of the Committee on Appropriations of the House of Representatives; and

''(iv) the Subcommittee on Transportation, Treasury, and General Government of the Committee on Appropriations of the Senate.

''(B) CONTENTS.—Each report submitted under subparagraph (A) shall contain—

''(i) a summary of the ratings of all capital investment projects for which funding was requested under this section;

''(ii) detailed ratings and evaluations on the project of each applicant that had significant changes to the finance or project proposal or has completed alternatives analysis or preliminary engineering since the date of the latest report; and

''(iii) all relevant information supporting the evaluation and rating of each updated project, including a summary of the financial plan of each updated project.

''(3) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit a report containing a summary of the results of the studies conducted under subsection (g)(2) to—

''(A) the Committee on Transportation and Infrastructure of the House of Representatives;

''(B) the Committee on Banking, Housing, and Urban Affairs of the Senate;

''(C) the Subcommittee on the Departments of Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies of the Committee on Appropriations of the House of Representatives; and

''(D) the Subcommittee on Transportation, Treasury, and General Government of the Committee on Appropriations of the Senate.

''(4) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

''(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, and each year thereafter, the Secretary shall submit a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing major investment projects to the committees and subcommittees listed under paragraph (3).

''(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

''(i) estimates made at the time projects are approved for entrance into final design;

''(ii) costs and ridership when the project commences revenue operation; and

''(iii) costs and ridership when the project has been in operation for 2 years.

''(5) ANNUAL GOVERNMENT ACCOUNTABILITY OFFICE REVIEW.—

''(A) REVIEW.—The Comptroller General of the United States shall conduct an annual

review of the processes and procedures for evaluating and rating projects and recommending projects and the Secretary's implementation of such processes and procedures.

''(B) REPORT.—Not later than 90 days after the submission of each report required under paragraph (1), the Comptroller General shall submit a report to Congress that summarizes the results of the review conducted under subparagraph (A).

''(6) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report to the committees and subcommittees listed under paragraph (3) on the suitability of allowing contractors to public transportation agencies that undertake major capital investments under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.''.

(*l*) RESTRICTIONS ON USE OF BUS CATEGORY FUNDS FOR FIXED GUIDEWAY PROJECTS.—Funds provided to grantees under the bus and bus facility category for fixed guideway ferry and gondola projects in the Department of Transportation and Related Agencies Appropriations Acts for any of fiscal years 1998 through 2005, or accompanying committee reports, that remain available and unobligated may be used for fixed guideway projects under this section.

SEC. 6012. NEW FREEDOM FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended to read as follows:

''§ 5310. New freedom for elderly persons and persons with disabilities

''(a) GENERAL AUTHORITY.—

''(1) AUTHORIZATION.—The Secretary may award grants to a State for capital public transportation projects that are planned, designed, and carried out to meet the needs of elderly individuals and individuals with disabilities, with priority given to the needs of these individuals to access necessary health care.

''(2) ACQUISITION OF PUBLIC TRANSPORTATION SERVICES.—A capital public transportation project under this section may include acquiring public transportation services as an eligible capital expense.

''(3) ADMINISTRATIVE COSTS.—A State may use not more than 15 percent of the amounts received under this section to administer, plan, and provide technical assistance for a project funded under this section.

''(b) ALLOTMENTS AMONG STATES.—

''(1) IN GENERAL.—From amounts made available or appropriated in each fiscal year under subsections (a)(1)(C)(iv) and (b)(2)(D) of section 5338 for grants under this section, the Secretary shall allot amounts to each State under a formula based on the number of elderly individuals and individuals with disabilities in each State.

''(2) TRANSFER OF FUNDS.—Any funds allotted to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

''(3) REALLOCATION OF FUNDS.—A State receiving a grant under this section may reallocate such grant funds to—

''(A) a private nonprofit organization;

''(B) a public transportation agency or authority; or

''(C) a governmental authority that—

''(i) has been approved by the State to coordinate services for elderly individuals and individuals with disabilities;

''(ii) certifies that nonprofit organizations are not readily available in the area that can provide the services described under this subsection; or

''(iii) will provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act.

''(c) GOVERNMENT SHARE.—

''(1) MAXIMUM.—

''(A) IN GENERAL.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

''(B) EXCEPTION.—A State described in section 120(d) of title 23 shall receive an increased Government share in accordance with the formula under that section.

''(2) REMAINING COSTS.—The costs of a capital project under this section that are not funded through a grant under this section—

''(A) may be funded from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and

''(B) may be derived from amounts appropriated to or made available to any Federal agency (other than the Department of Transportation, except for Federal Lands Highway funds) that are eligible to be expended for transportation.

''(3) EXCEPTION.—For purposes of paragraph (2), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

''(d) GRANT REQUIREMENTS.—

''(1) IN GENERAL.—A grant recipient under this section shall be subject to the requirements of a grant recipient under section 5307 to the extent the Secretary determines to be appropriate.

''(2) CERTIFICATION REQUIREMENTS.—

''(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

''(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Each grant recipient under this section shall certify that—

''(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

''(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.

''(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.

''(e) STATE PROGRAM OF PROJECTS.—

''(1) SUBMISSION TO SECRETARY.—Each State shall annually submit a program of transportation projects to the Secretary for approval with an assurance that the program provides for maximum feasible coordination between transportation services funded under this section and transportation services assisted by other Federal sources.

''(2) USE OF FUNDS.—Each State may use amounts made available to carry out this section to provide transportation services for elderly individuals and individuals with disabilities if such services are included in an approved State program of projects.

''(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the needs of elderly individuals and individuals with disabilities.

''(g) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.

''(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.

''(i) FARES NOT REQUIRED.—This section does not require that elderly individuals and individuals with disabilities be charged a fare.''.

(b) CONFORMING AMENDMENT.—The item relating to section 5310 in the table of sections for chapter 53 is amended to read as follows:

''5310. New freedom for elderly persons and persons with disabilities.''.

SEC. 6013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.

(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:

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

''(1) RECIPIENT.—The term 'recipient' means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.

''(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or a private operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.''.

(b) GENERAL AUTHORITY.—Section 5311(b) is amended—

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

''(1) GRANTS AUTHORIZED.—Except as provided under paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—

''(A) public transportation capital projects;

''(B) operating costs of equipment and facilities for use in public transportation; and

''(C) the acquisition of public transportation services.'';

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following:

''(2) STATE PROGRAM.—

''(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.

''(B) SUBMISSION TO SECRETARY.—Each State shall annually submit the program described in subparagraph (A) to the Secretary.

''(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—

''(i) the program provides a fair distribution of amounts in the State; and

''(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.'';

(4) in paragraph (3), as redesignated—

(A) by striking ''(3) The Secretary of Transportation'' and inserting the following:

''(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—

''(A) ESTABLISHMENT.—The Secretary'';

(B) by striking ''make'' and inserting ''use not more than 2 percent of the amount made available to carry out this section to award''; and

(C) by adding at the end the following:

''(B) DATA COLLECTION.—

''(i) REPORT.—Each grantee under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—

''(I) total annual revenue;

''(II) sources of revenue;

''(III) total annual operating costs;

''(IV) total annual capital costs;

''(V) fleet size and type, and related facilities;

''(VI) revenue vehicle miles; and

''(VII) ridership.''; and

(5) by adding after paragraph (3) the following:

''(4) Of the amount made available to carry out paragraph (3)—

''(A) not more than 15 percent may be used to carry out projects of a national scope; and

''(B) any amounts not used under subparagraph (A) shall be allocated to the States.''.

(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:

''(c) APPORTIONMENTS.—

''(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:

''(A) $8,000,000 for fiscal year 2006.

''(B) $10,000,000 for fiscal year 2007.

''(C) $12,000,000 for fiscal year 2008.

''(D) $15,000,000 for fiscal year 2009.

''(2) REMAINING AMOUNTS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(F) of section 5338 that are not apportioned under paragraph (1)—

''(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and

''(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).

''(3) APPORTIONMENTS BASED ON LAND AREA IN NONURBANIZED AREAS.—

''(A) IN GENERAL.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.

''(B) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.

''(4) APPORTIONMENTS BASED ON POPULATION IN NONURBANIZED AREAS.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.''.

(d) USE FOR ADMINISTRATIVE, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—

(1) by striking ''AND TECHNICAL ASSISTANCE.—(1) The Secretary of Transportation'' and inserting '', PLANNING, AND TECHNICAL ASSISTANCE.—The Secretary'';

(2) by striking ''to a recipient''; and

(3) by striking paragraph (2).

(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—

(1) in paragraph (1)—

(A) by striking ''(1)'' and inserting the following:

''(1) IN GENERAL.—''; and

(B) by striking ''after September 30, 1993,''; and

(2) in paragraph (2)—

(A) by striking ''A State'' and inserting ''After consultation with affected intercity bus service providers, a State''; and

(B) by striking ''of Transportation''.

(f) GOVERNMENT SHARE OF COSTS.—Section 5311(g) is amended to read as follows:

''(g) GOVERNMENT SHARE OF COSTS.—

''(1) MAXIMUM GOVERNMENT SHARE.—

''(A) CAPITAL PROJECTS.—

''(i) IN GENERAL.—Except as provided under clause (ii), a grant awarded under this section for any purpose other than operating assistance may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.

''(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Government share of the net capital costs in accordance with the formula under that section.

''(B) OPERATING ASSISTANCE.—

''(i) IN GENERAL.—Except as provided under clause (ii), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.

''(ii) EXCEPTION.—A State described in section 120(d) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under subparagraph (A)(ii).

''(2) OTHER FUNDING SOURCES.—Funds for a project under this section that are not provided for by a grant under this section—

''(A) may be provided from—

''(i) an undistributed cash surplus;

''(ii) a replacement or depreciation cash fund or reserve;

''(iii) a service agreement with a State or local social service agency or a private social service organization; or

''(iv) new capital; and

''(B) may be derived from amounts appropriated to or made available to a Government agency (other than the Department of Transportation, except for Federal Land Highway funds) that are eligible to be expended for transportation.

''(3) USE OF GOVERNMENT GRANT.—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.

''(4) EXCEPTION.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(c)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(c)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.''.

(g) WAIVER CONDITION.—Section 5311(j)(1) is amended by striking ''but the Secretary of Labor may waive the application of section 5333(b)'' and inserting ''if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees''.

SEC. 6014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.

(a) IN GENERAL.—Section 5312 is amended—

(1) by amending subsection (a) to read as follows:

''(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION PROJECTS.—

''(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, or other transactions (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration or deployment projects, or evaluation of technology of national significance to public transportation that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.

''(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

''(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.'';

(2) by striking subsections (b) and (c);

(3) by redesignating subsections (d) and (e) as (b) and (c), respectively.

(4) in subsection (b)(2), as redesignated, by striking ''other agreements'' and inserting ''other transactions''; and

(5) in subsection (c)(2), as redesignated, by striking ''public and private'' and inserting ''public or private''.

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5312 is amended to read as follows:

''§ 5312. Research, development, demonstration, and deployment projects''.

(2) TABLE OF SECTIONS.—The item relating to section 5312 in the table of sections for chapter 53 is amended to read as follows:

''5312. Research, development, demonstration, and deployment projects.''.

SEC. 6015. TRANSIT COOPERATIVE RESEARCH PROGRAM.

(a) IN GENERAL.—Section 5313 is amended—

(1) by striking subsection (b);

(2) in subsection (a)—

(A) in paragraph (1), by striking ''(1) The amounts made available under paragraphs (1) and (2)C)(ii) of section 5338(c) of this title'' and inserting ''The amounts made available under subsections (a)(5)(C)(iii) and (b)(2)(G)(i) of section 5338''; and

(B) in paragraph (2), by striking ''(2)'' and inserting the following:

''(b) GOVERNMENT ASSISTANCE.—''; and

(3) by amending subsection (c) to read as follows:

''(c) GOVERNMENT SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with such benefit.''.

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading of section 5313 is amended to read as follows:

''§ 5313. Transit cooperative research program''.

(2) TABLE OF SECTIONS.—The item relating to section 5313 in the table of sections for chapter 53 is amended to read as follows:

''5313. Transit cooperative research program.''.

SEC. 6016. NATIONAL RESEARCH PROGRAMS.

(a) IN GENERAL.—Section 5314 is amended—

(1) in subsection (a)—

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

''(1) AVAILABILITY OF FUNDS.—The Secretary may use amounts made available under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338 for grants, contracts, cooperative agreements, or other transactions for the purposes described in sections 5312, 5315, and 5322.'';

(B) in paragraph (2), by striking ''(2) Of'' and inserting the following:

''(2) ADA COMPLIANCE.—From'';

(C) by amending paragraph (3) to read as follows:

''(3) SPECIAL DEMONSTRATION INITIATIVES.—The Secretary may use not more than 25 percent of the amounts made available under

paragraph (1) for special demonstration initiatives, subject to terms that the Secretary determines to be consistent with this chapter. For a nonrenewable grant of not more than $100,000, the Secretary shall provide expedited procedures for complying with the requirements of this chapter.''';

(D) in paragraph (4)—

(i) by striking subparagraph (B); and

(ii) by redesignating subparagraph (C) as subparagraph (B); and

(E) by adding at the end the following:

''(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—

''(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

''(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—

''(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or

''(ii) is an agency of a State or unit of local government.

''(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

''(D) APPLICATION.—

''(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

''(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

''(I) high incidence of renal disease; and

''(II) limited access to dialysis facilities.

''(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

''(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.''; and

(2) by amending subsection (b) to read as follows:

''(b) GOVERNMENT SHARE.—If there would be a clear and direct financial benefit to an entity under a grant, contract, cooperative agreement, or other transaction financed under subsection (a) or section 5312, 5313, 5315, or 5322, the Secretary shall establish a Government share consistent with such benefit.''.

(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION; ALTERNATIVE FUELS STUDY.—Section 5314 is amended by adding at the end the following:

''(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

''(1) ESTABLISHMENT.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

''(2) ELIGIBILITY.—An organization shall be eligible to receive the grant under paragraph (1) if the organization—

''(A) focuses significantly on serving the needs of the elderly;

''(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

''(C) has affiliates in a majority of the States;

''(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

''(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

''(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

''(A) gather best practices from throughout the country and provide such practices to local communities that are implementing senior transportation programs;

''(B) work with teams from local communities to identify how they are successfully meeting the transportation needs of senior and any gaps in services in order to create a plan for an integrated senior transportation program;

''(C) provide resources on ways to pay for senior transportation services;

''(D) create a web site to publicize and circulate information on senior transportation programs;

''(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

''(F) administer the demonstration grant program established under paragraph (4).

''(4) GRANTS AUTHORIZED.—

''(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

''(i) local transportation organizations;

''(ii) State agencies;

''(iii) units of local government; and

''(iv) nonprofit organizations.

''(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

''(i) evaluate the state of transportation services for senior citizens;

''(ii) recognize barriers to mobility that senior citizens encounter in their communities;

''(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

''(iv) identify future transportation needs of senior citizens within local communities; and

''(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

''(C) SELECTION OF GRANTEES.—The Secretary shall select grantees under this subsection based on a fair representation of various geographical locations throughout the United States.

''(5) ALLOCATIONS.—From the funds made available for each fiscal year under subsections (a)(5)(C)(iv) and (b)(2)(G)(iv) of section 5338, $3,000,000 shall be allocated to carry out this subsection.

''(d) ALTERNATIVE FUELS STUDY.—

''(1) STUDY.—The Secretary shall conduct a study of the actions necessary to facilitate the purchase of increased volumes of alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) for use in public transit vehicles

''(2) SCOPE OF STUDY.—The study conducted under this subsection shall focus on the incentives necessary to increase the use of alternative fuels in public transit vehicles, including buses, fixed guideway vehicles, and ferries.

''(3) CONTENTS.—The study shall consider—

''(A) the environmental benefits of increased use of alternative fuels in transit vehicles;

''(B) existing opportunities available to transit system operators that encourage the purchase of alternative fuels for transit vehicle operation;

''(C) existing barriers to transit system operators that discourage the purchase of alternative fuels for transit vehicle operation, including situations where alternative fuels that do not require capital improvements to transit vehicles are disadvantaged over fuels that do require such improvements; and

''(D) the necessary levels and type of support necessary to encourage additional use of alternative fuels for transit vehicle operation.

''(4) RECOMMENDATIONS.—The study shall recommend regulatory and legislative alternatives that will result in the increased use of alternative fuels in transit vehicles.

''(5) REPORT.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit the study completed under this subsection to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives''.

(c) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 5314 is amended to read as follows:

''§ 5314. National research programs''.

(2) TABLE OF SECTIONS.—The item relating to section 5314 in the table of sections for chapter 53 is amended to read as follows:

''5314. National research programs.''.

SEC. 6017. NATIONAL TRANSIT INSTITUTE.

(a) Section 5315 is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) ESTABLISHMENT.—The Secretary shall award grants to Rutgers University to conduct a national transit institute.

''(b) DUTIES.—

''(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established pursuant to subsection (a) shall develop and conduct training programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

''(2) TRAINING PROGRAMS.—The training programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

''(A) intermodal and public transportation planning;

''(B) management;

''(C) environmental factors;

''(D) acquisition and joint use rights of way;

''(E) engineering and architectural design;

''(F) procurement strategies for public transportation systems;

''(G) turnkey approaches to delivering public transportation systems;

''(H) new technologies;

''(I) emission reduction technologies;

''(J) ways to make public transportation accessible to individuals with disabilities;

''(K) construction, construction management, insurance, and risk management;

''(L) maintenance;

''(M) contract administration;

''(N) inspection;

''(O) innovative finance;

''(P) workplace safety; and

''(Q) public transportation security.''; and

(2) in subsection (d), by striking ''mass'' each place it appears.

SEC. 6018. BUS TESTING FACILITY.

Section 5318 is amended—

(1) in subsection (a)—

(A) by striking ''ESTABLISHMENT.—The Secretary of Transportation shall establish

one facility'' and inserting ''IN GENERAL.—The Secretary shall maintain 1 facility''; and

(B) by striking ''established by renovating'' and inserting ''maintained at''; and

(2) in subsection (d), by striking ''section 5309(m)(1)(C) of this title'' and inserting ''paragraphs (1)(C) and (2)(B) of section 5309(i)''.

SEC. 6019. BICYCLE FACILITIES.

Section 5319 is amended by striking ''5307(k)'' and inserting ''5307(d)(1)(K)''.

SEC. 6020. SUSPENDED LIGHT RAIL TECHNOLOGY PILOT PROJECT.

Section 5320 is repealed.

SEC. 6021. CRIME PREVENTION AND SECURITY.

Section 5321 is repealed.

SEC. 6022. GENERAL PROVISIONS ON ASSISTANCE.

Section 5323 is amended—

(1) in subsection (a)—

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

''(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

''(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

''(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

''(C) just compensation under State or local law will be paid to the company for its franchise or property.''; and

(B) in paragraph (2), by striking ''(2)'' and inserting the following:

''(2) LIMITATION.—'';

(2) by amending subsection (b) to read as follows:

''(b) NOTICE AND PUBLIC HEARING.—

''(1) IN GENERAL.—An application for a grant under this chapter for a capital project that will substantially affect a community, or the public transportation service of a community, shall include, in the environmental record for the project, evidence that the applicant has—

''(A) provided an adequate opportunity for public review and comment on the project;

''(B) held a public hearing on the project if the project affects significant economic, social, or environmental interests;

''(C) considered the economic, social, and environmental effects of the project; and

''(D) found that the project is consistent with official plans for developing the urban area.

''(2) CONTENTS OF NOTICE.—Notice of a hearing under this subsection—

''(A) shall include a concise description of the proposed project; and

''(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.'';

(3) by amending subsection (e) to read as follows:

''(e) NEW TECHNOLOGY.—A grant for financial assistance under this chapter for new technology, including innovative or improved products, techniques, or methods, shall be subject to the requirements of section 5309 to the extent the Secretary determines to be appropriate.'';

(4) in subsection (f)—

(A) by striking ''(1)'' and inserting the following:

''(1) IN GENERAL.—'';

(B) by striking paragraph (2);

(C) by striking ''This subsection'' and inserting the following:

''(2) EXCEPTIONS.—This subsection; and

(D) by adding at the end the following:

''(3) PENALTY.—If the Secretary determines that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar the applicant, authority, or operator from receiving Federal transit assistance in an amount the Secretary determines to be appropriate.'';

(5) in subsection (g), by striking ''103(e)(4) and 142 (a) or (c)'' each place it appears and inserting ''133 and 142'';

(6) by amending subsection (h) to read as follows:

''(h) TRANSFER OF LANDS OR INTERESTS IN LANDS OWNED BY THE UNITED STATES.—

''(1) REQUEST BY SECRETARY.—If the Secretary determines that any part of the lands or interests in lands owned by the United States and made available as a result of a military base closure is necessary for transit purposes eligible under this chapter, including corridor preservation, the Secretary shall submit a request to the head of the Federal agency supervising the administration of such lands or interests in lands. Such request shall include a map showing the portion of such lands or interests in lands, which is desired to be transferred for public transportation purposes.

''(2) TRANSFER OF LAND.—If 4 months after submitting a request under paragraph (1), the Secretary does not receive a response from the Federal agency described in paragraph (1) that certifies that the proposed appropriation of land is contrary to the public interest or inconsistent with the purposes for which such land has been reserved, or if the head of such agency agrees to the utilization or transfer under conditions necessary for the adequate protection and utilization of the reserve, such land or interests in land may be utilized or transferred to a State, local governmental authority, or public transportation operator for such purposes and subject to the conditions specified by such agency.

''(3) REVERSION.—If at any time the lands or interests in land utilized or transferred under paragraph (2) are no longer needed for public transportation purposes, the State, local governmental authority, or public transportation operator that received the land shall notify to the Secretary, and such lands shall immediately revert to the control of the head of the Federal agency from which the land was originally transferred.'';

(7) in subsection (j)(5), by striking ''Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)'' and inserting ''Federal Public Transportation Act of 2005'';

(8) by amending subsection (*l*) to read as follows:

''(*l*) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter, if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.'';

(9) in subsection (m), by adding at the end the following: ''Requirements to perform preaward and postdelivery reviews of rolling stock purchases to ensure compliance with subsection (j) shall not apply to private nonprofit organizations or to grantees serving urbanized areas with a population of fewer than 1,000,000.'';

(10) in subsection (*o*), by striking ''the Transportation Infrastructure Finance and Innovation Act of 1998'' and inserting ''subchapter II of chapter 1 of title 23''; and

(11) by adding at the end the following:

''(p) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309, may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

''(2) REIMBURSEMENT BY SECRETARY.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient established pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307 or 5309.'';

''(q) PROHIBITED USE OF FUNDS.—Grant funds received under this chapter may not be used to pay ordinary governmental or nonproject operating expenses.''.

SEC. 6023. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 5324 is amended to read as follows:

''§ 5324. Special provisions for capital projects

''(a) REAL PROPERTY AND RELOCATION SERVICES.—Whenever real property is acquired or furnished as a required contribution incident to a project, the Secretary shall not approve the application for financial assistance unless the applicant has made all payments and provided all assistance and assurances that are required of a State agency under sections 210 and 305 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4630 and 4655). The Secretary must be advised of specific references to any State law that are believed to be an exception to section 301 or 302 of such Act (42 U.S.C. 4651 and 4652).

''(b) ADVANCE REAL PROPERTY ACQUISITIONS.—

(1) IN GENERAL.—The Secretary may participate in the acquisition of real property for any project that may use the property if the Secretary determines that external market forces are jeopardizing the potential use of the property for the project and if—

''(A) there are offers on the open real estate market to convey that property for a use that is incompatible with the project under study;

''(B) there is an imminent threat of development or redevelopment of the property for a use that is incompatible with the project under study;

''(C) recent appraisals reflect a rapid increase in the fair market value of the property;

''(D) the property, because it is located near an existing transportation facility, is likely to be developed and to be needed for a future transportation improvement; or

''(E) the property owner can demonstrate that, for health, safety, or financial reasons, retaining ownership of the property poses an undue hardship on the owner in comparison to other affected property owners and requests the acquisition to alleviate that hardship.

''(2) ENVIRONMENTAL REVIEWS.—Property acquired in accordance with this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

''(3) LIMITATION.—The Secretary shall limit the size and number of properties acquired under this subsection as necessary to avoid any prejudice to the Secretary's objective evaluation of project alternatives.

''(4) EXEMPTION.—An acquisition under this section shall be considered an exempt project under section 176 of the Clean Air Act (42 U.S.C. 7506).

''(c) RAILROAD CORRIDOR PRESERVATION.—

''(1) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

''(2) ENVIRONMENTAL REVIEWS.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.

''(d) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

''(1) IN GENERAL.—The Secretary may not approve an application for financial assistance for a capital project under this chapter unless the Secretary determines that the project has been developed in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary's findings under this paragraph shall be made a matter of public record.

''(2) COOPERATION AND CONSULTATION.—In carrying out section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.''.

(b) CONFORMING AMENDMENT.—The item relating to section 5324 in the table of sections for chapter 53 is amended to read as follows:

''5324. Special provisions for capital projects.''.

SEC. 6024. CONTRACT REQUIREMENTS.

(a) IN GENERAL.—Section 5325 is amended to read as follows:

''§ 5325. Contract requirements

''(a) COMPETITION.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

''(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—

''(1) IN GENERAL.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same manner as a contract for architectural and engineering services is negotiated under chapter 11 of title 40, or an equivalent qualifications-based requirement of a State. This subsection does not apply to the extent a State has adopted or adopts by law a formal procedure for procuring those services.

''(2) ADDITIONAL REQUIREMENTS.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

''(A) Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

''(B) A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

''(C) After a firm's indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

''(D) A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

''(c) EFFICIENT PROCUREMENT.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

''(d) DESIGN-BUILD PROJECTS.—

''(1) DEFINED TERM.—As used in this subsection, the term 'design-build project'—

''(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build an operable segment of a public transportation system that meets specific performance criteria; and

''(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

''(2) FINANCIAL ASSISTANCE FOR CAPITAL COSTS.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

''(e) ROLLING STOCK.—

''(1) ACQUISITION.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

''(A) with a party selected through a competitive procurement process; or

''(B) based on—

''(i) initial capital costs; or

''(ii) performance, standardization, life cycle costs, and other factors.

''(2) MULTIYEAR CONTRACTS.—A recipient procuring rolling stock with Federal financial assistance under this chapter may make a multiyear contract, including options, to buy not more than 5 years of requirements for rolling stock and replacement parts. The Secretary shall allow a recipient to act on a cooperative basis to procure rolling stock under this paragraph and in accordance with other Federal procurement requirements.

''(f) EXAMINATION OF RECORDS.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

''(g) GRANT PROHIBITION.—A grant awarded under this chapter may not be used to support a procurement that uses an exclusionary or discriminatory specification.

''(h) BUS DEALER REQUIREMENTS.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

''(i) AWARDS TO RESPONSIBLE CONTRACTORS.—

''(1) IN GENERAL.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

''(2) CRITERIA.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

''(A) the integrity of the contractor;

''(B) the contractor's compliance with public policy;

''(C) the contractor's past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(m)(4); and

''(D) the contractor's financial and technical resources.''.

(b) CONFORMING AMENDMENTS.—Chapter 53 is amended by striking section 5326.

SEC. 6025. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) PROJECT MANAGEMENT PLAN REQUIREMENTS.—Section 5327(a) is amended—

(1) in paragraph (11), by striking ''and'' at the end;

(2) in paragraph (12), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(13) safety and security management.''.

(b) LIMITATIONS ON USE OF AVAILABLE AMOUNTS.—Section 5327(c) is amended—

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

''(1) IN GENERAL.—The Secretary may not use more than 1 percent of amounts made available for a fiscal year to carry out any of sections 5307 through 5311, 5316, or 5317, or a project under the National Capital Transportation Act of 1969 (Public Law 91–143) to make a contract to oversee the construction of major projects under any of sections 5307 through 5311, 5316, or 5317 or under that Act.''; and

(2) in paragraph (2)—

(A) by striking ''(2)'' and inserting the following:

''(2) OTHER ALLOWABLE USES.—''; and

(B) by inserting ''and security'' after ''safety''.

SEC. 6026. PROJECT REVIEW.

Section 5328 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking ''(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant'' and inserting the following:

''(1) ALTERNATIVES ANALYSIS.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis under subsections (e) and (f) of section 5309'';

(B) in paragraph (2)—

(i) by striking ''(2)'' and inserting the following:

''(2) ADVANCEMENT TO PRELIMINARY ENGINEERING STAGE.—''; and

(ii) by striking ''is consistent with'' and inserting ''meets the requirements of'';

(C) in paragraph (3)—

(i) by striking ''(3)'' and inserting the following:

''(3) RECORD OF DECISION.—'';

(ii) by striking ''of construction''; and

(iii) by adding before the period at the end the following: ''if the Secretary determines that the project meets the requirements of subsection (e) or (f) of section 5309''; and

(D) by striking paragraph (4); and

(2) by striking subsection (c).

SEC. 6027. INVESTIGATIONS OF SAFETY AND SECURITY RISK.

(a) IN GENERAL.—Section 5329 is amended to read as follows:

''§ 5329. Investigation of safety hazards and security risks

''(a) IN GENERAL.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

''(b) SUBMISSION OF CORRECTIVE PLAN.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

''(c) WITHHOLDING OF FUNDS.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may be withheld until a plan is approved and carried out.

''(d) PUBLIC TRANSPORTATION SECURITY.—

''(1) IN GENERAL.—Not later than 90 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.

''(2) CONTENTS.—The memorandum of understanding described in paragraph (1) shall—

''(A) establish national security standards for public transportation agencies;

''(B) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

''(C) create a method of coordination with public transportation agencies on security matters; and

''(D) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security.''.

(b) CONFORMING AMENDMENT.—The item relating to section 5329 in the table of sections for chapter 53 is amended to read as follows:

''5329. Investigation of safety hazards and security risks.''.

SEC. 6028. STATE SAFETY OVERSIGHT.

(a) IN GENERAL.—Section 5330 is amended—

(1) by amending the heading to read as follows:

''§ 5330. Withholding amounts for noncompliance with State safety oversight requirements'';

(2) by amending subsection (a) to read as follows:

''(a) APPLICATION.—This section shall only apply to—

''(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and

''(2) States that are designing rail fixed guideway public transportation systems that will not be subjected to regulation by the Federal Railroad Administration.'';

(3) in subsection (d), by striking ''affected States'' and inserting the following: ''affected States—

''(1) shall ensure uniform safety standards and enforcement; or

''(2)''; and

(4) in subsection (f), by striking ''Not later than December 18, 1992, the'' and inserting ''The''.

(b) CONFORMING AMENDMENT.—The item relating to section 5330 in the table of sections for chapter 53 is amended to read as follows:

''5330. Withholding amounts for noncompliance with State safety oversight requirements.''.

SEC. 6029. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Section 1993 of title 18, United States Code, is amended—

(1) by striking ''mass'' each place it appears and inserting ''public'';

(2) in subsection (a)(5), by inserting ''controlling,'' after ''operating''; and

(3) in subsection (c)(5), by striking ''5302(a)(7) of title 49, United States Code,'' and inserting ''5302(a) of title 49,''.

(b) CONFORMING AMENDMENT.—The table of contents for chapter 97 of title 18, United States Code is amended by amending the item related to section 1993 to read as follows:

''1993. Terrorist attacks and other acts of violence against public transportation systems.''.

SEC. 6030. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

Section 5331 is amended—

(1) in subsection (a)(3), by inserting before the period at the end the following: ''or sections 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or other Federal agency''; and

(2) in subsection (f), by striking paragraph (3).

SEC. 6031. EMPLOYEE PROTECTIVE ARRANGEMENTS.

Section 5333(b) is amended—

(1) in paragraph (3), by striking the period at the end and inserting '': *Provided,* That—

''(A) the protective period shall not exceed 4 years; and

''(B) the separation allowance shall not exceed 12 months.''; and

(2) by adding at the end the following:

''(4) An arrangement under this subsection shall not guarantee continuation of employment as a result of a change in private contractors through competitive bidding unless such continuation is otherwise required under subparagraph (A), (B), or (D) of paragraph (2).

''(5) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and amendments to existing assistance agreements, shall be certified without referral.

''(6) Nothing in this subsection shall affect the level of protection provided to freight railroad employees.''.

SEC. 6032. ADMINISTRATIVE PROCEDURES.

Section 5334 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking ''5309–5311 of this title'' and all that follows and inserting ''5309 through 5311;'';

(B) in paragraph (9), by striking ''and'' at the end;

(C) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(D) by inserting at the end the following:

''(11) issue regulations as necessary to carry out the purposes of this chapter.'';

(2) by redesignating subsections (b), (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (c), (d), (e), (f), (g), (h), (i), (j), and (k), respectively;

(3) by adding after subsection (a) the following:

''(b) PROHIBITIONS AGAINST REGULATING OPERATIONS AND CHARGES.—

''(1) IN GENERAL.—Except as directed by the President for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate—

''(A) the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter; or

''(B) the rates, fares, tolls, rentals, or other charges prescribed by any public or private transportation provider.

''(2) COMPLIANCE WITH AGREEMENT.—Nothing in this subsection shall prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.''; and

(4) in subsection (j)(1), as redesignated, by striking ''carry out section 5312(a) and (b)(1) of this title'' and inserting ''advise and assist the Secretary in carrying out section 5312(a)''.

SEC. 6033. REPORTS AND AUDITS.

Section 5335 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) in paragraph (1), by striking ''(1)''; and

(B) in paragraph (2), by striking ''(2) The Secretary may make a grant under section 5307 of this title'' and inserting the following:

''(b) REPORTING AND UNIFORM SYSTEMS.—The Secretary may award a grant under section 5307 or 5311''.

SEC. 6034. APPORTIONMENTS OF APPROPRIATIONS FOR FORMULA GRANTS.

Section 5336 is amended—

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

(2) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(3) by redesignating subsection (i) and (j) as subsection (h) and (i) respectively;

(4) by adding before subsection (b), as redesignated, the following:

''(a) APPORTIONMENTS.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(L) of section 5338—

''(1) there shall be apportioned, in fiscal year 2006 and each fiscal year thereafter, $35,000,000 to certain urbanized areas with populations of less than 200,000 in accordance with subsection (k); and

''(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (b) through (d).'';

(5) in subsection (b), as redesignated—

(A) by striking ''Of the amount made available or appropriated under section 5338(a) of this title'' and inserting ''Of the amount apportioned under subsection (a)(3)''; and

(B) in paragraph (2), by striking ''subsections (b) and (c) of this section'' and inserting ''subsections (c) and (d)'';

(6) in subsection (c)(2), as redesignated, by striking ''subsection (a)(2) of this section'' and inserting ''subsection (b)(2)'';

(7) in subsection (d), as redesignated, by striking ''subsection (a)(2) of this section'' and inserting ''subsection (b)(2)'';

(8) in subsection (e)(1), by striking ''subsections (a) and (h)(2) of section 5338 of this title'' and inserting ''subsections (a) and (b) of section 5338'';

(9) in subsection (g), by striking ''subsection (a)(1) of this section'' each place it appears and inserting ''subsection (b)(1)''; and

(10) by adding at the end the following:

''(j) SMALL TRANSIT INTENSIVE CITIES FACTORS.—The amount apportioned under subsection (a)(1) shall be apportioned to urbanized areas as follows:

''(1) The Secretary shall calculate a factor equal to the sum of revenue vehicle hours operated within urbanized areas with a population of between 200,000 and 1,000,000 divided by the sum of the population of all such urbanized areas.

''(2) The Secretary shall designate as eligible for an apportionment under this subsection all urbanized areas with a population of under 200,000 for which the number of revenue vehicle hours operated within the urbanized area divided by the population of the urbanized area exceeds the factor calculated under paragraph (1).

''(3) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the product of the population of that urbanized area and the factor calculated under paragraph (1).

''(4) For each urbanized area qualifying for an apportionment under paragraph (2), the Secretary shall calculate an amount equal to the difference between the number of revenue vehicle hours within that urbanized area less the amount calculated in paragraph (3).

''(5) Each urbanized area qualifying for an apportionment under paragraph (2) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for that urbanized area under paragraph (4) divided by the sum of the amounts calculated under paragraph (4) for all urbanized areas qualifying for an apportionment under paragraph (2).

''(k) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

''(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

''(2) REPORT.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

''(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

''(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

''(ii) the optimal number and size of any incentive programs;

''(iii) what types of systems should compete for various incentives;

''(iv) how incentives should be distributed; and

''(v) the likely effects of the incentive funding system.''.

SEC. 6035. APPORTIONMENTS FOR FIXED GUIDEWAY MODERNIZATION.

Section 5337 is amended—

(1) in subsection (a), by striking ''for each of fiscal years 1998 through 2003''; and

(2) by striking ''section 5336(b)(2)(A)'' each place it appears and inserting ''section 5336(c)(2)(A)''.

SEC. 6036. AUTHORIZATIONS.

Section 5338 is amended to read as follows:

''§ 5338. Authorizations

''(a) FISCAL YEAR 2005.—

''(1) FORMULA GRANTS.—

''(A) TRUST FUND.—For fiscal year 2005, $3,499,927,776 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

''(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $499,989,824 for fiscal year 2005 to carry out sections 5307, 5309, 5310, and 5311 of this chapter and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

''(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

''(i) $4,811,150 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

''(ii) $6,894,400 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

''(iii) $94,526,689 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

''(iv) $173,040,330 shall be available to provide financial assistance for other than urbanized areas under section 5311;

''(v) $3,325,048,327 shall be available to provide financial assistance for urbanized areas under section 5307;

''(vi) $49,600,000 shall be available to provide financial assistance for buses and bus facilities under section 5309; and

''(vii) $345,996,704 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311.''.

''(2) JOB ACCESS AND REVERSE COMMUTE.—

''(A) TRUST FUND.—For fiscal year 2005, $108,500,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

''(B) GENERAL FUND.—In addition to the amounts made available under paragraph (A), there are authorized to be appropriated $15,500,000 for fiscal year 2005 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

''(3) CAPITAL PROGRAM GRANTS.—

''(A) TRUST FUND.—For fiscal year 2005, $2,898,100,224 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

''(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $414,014,176 for fiscal year 2005 to carry out section 5309.

''(4) PLANNING.—

''(A) TRUST FUND.—For fiscal year 2005, $63,364,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5308.

''(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $9,052,000 for fiscal year 2005 to carry out section 5308.

''(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

''(i) 82.72 percent shall be allocated for metropolitan planning under section 5308(c); and

''(ii) 17.28 percent shall be allocated for State planning under section 5308(d).

''(5) RESEARCH.—

''(A) TRUST FUND.—For fiscal year 2005, $47,740,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

''(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there are authorized to be appropriated $6,820,000 for fiscal year 2005 to carry out sections 5311(b), 5312, 5313, 5314, 5315, and 5322.

''(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

''(i) not less than $3,968,000 shall be available to carry out programs of the National Transit Institute under section 5315;

''(ii) not less than $5,208,000 shall be available to carry out section 5311(b)(2);

''(iii) not less than $8,184,000 shall be available to carry out section 5313; and

''(iv) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

''(6) UNIVERSITY TRANSPORTATION RESEARCH.—

''(A) TRUST FUND.—For fiscal year 2005, $5,208,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5505 and 5506.

''(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $744,000 for fiscal year 2005 to carry out sections 5505 and 5506.

''(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

''(i) $1,984,000 shall be available for grants under 5506(f)(5) to the institution identified in section 5505(j)(3)(E), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005;

''(ii) $1,984,000 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(A), as in effect on the date specified in clause (i); and

''(iii) $1,984,000 shall be available for grants under section 5505(d) to the institution identified in section 5505(j)(4)(F), as in effect on the date specified in subclause (I).

''(C) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.

''(7) ADMINISTRATION.—

''(A) TRUST FUND.—For fiscal year 2005, $67,704,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.

''(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there are authorized to be appropriated $9,672,000 for fiscal year 2005 to carry out section 5334.

''(8) GRANTS AS CONTRACTUAL OBLIGATIONS.—

''(A) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available under paragraph (1)(A), (2)(A), (3)(A), (4)(A), (5)(A), (6)(A), or (7)(A) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

''(B) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance under paragraph (1)(B), (2)(B), (3)(B), (4)(B), (5)(B), (6)(B), or (7)(B) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.

''(9) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.''.

''(b) FORMULA GRANTS AND RESEARCH.—

''(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5309, 5310 through 5316, 5322, 5335, 5340, and 5505 of this title, and sections 3037 and 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—

''(A) $5,943,059,000 for fiscal year 2006;

''(B) $6,279,868,000 for fiscal year 2007;

''(C) $6,862,064,000 for fiscal year 2008; and

''(D) $7,476,967,000 for fiscal year 2009.

''(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1) for each fiscal year—

''(A) 0.092 percent shall be available for grants to the Alaska Railroad under section 5307 for improvements to its passenger operations;

''(B) 1.75 percent shall be available to carry out section 5308;

''(C) 2.05 percent shall be available to provide financial assistance for job access and reverse commute projects under section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note);

''(D) 3.00 percent shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;

''(E) 0.125 percent shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note);

''(F) 6.25 percent shall be available to provide financial assistance for other than urbanized areas under section 5311;

''(G) 0.89 percent shall be available to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5505, and national research programs under sections 5312, 5313, 5314, and 5322, of which—

''(i) 17.0 percent shall be allocated to carry out transit cooperative research programs under section 5313;

''(ii) 7.5 percent shall be allocated to carry out programs under the National Transit Institute under section 5315, including not more than $1,000,000 to carry out section 5315(a)(16);

''(iii) 11.0 percent shall be allocated to carry out the university centers program under section 5505; and

''(iv) any funds made available under this subparagraph that are not allocated under clauses (i) through (iii) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322;

''(H) $25,000,000 shall be available for each of the fiscal years 2006 through 2009 to carry out section 5316;

''(I) there shall be available to carry out section 5335—

''(i) $3,900,000 in fiscal year 2006;

''(ii) $4,200,000 in fiscal year 2007;

''(iii) $4,600,000 in fiscal year 2008; and

''(iv) $5,000,000 in fiscal year 2009;

''(J) 6.25 percent shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and

''(K) 22.0 percent shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(i)(3); and

''(L) any amounts not made available under subparagraphs (A) through (K) shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307.

''(3) UNIVERSITY CENTERS PROGRAM.—

''(A) ALLOCATION.—Of the amounts allocated under paragraph (2)(G)(iii), $1,000,000 shall be available in each of the fiscal years 2006 through 2009 for Morgan State University to provide transportation research, training, and curriculum development.

''(B) REQUIREMENTS.—The university specified under subparagraph (A) shall be considered a University Transportation Center under section 510 of title 23, and shall be subject to the requirements under subsections (c), (d), (e), and (f) of such section.

''(C) REPORT.—In addition to the report required under section 510(e)(3) of title 23, the university specified under subparagraph (A) shall annually submit a report to the Secretary that describes the university's contribution to public transportation.

''(4) BUS GRANTS.—In addition to the amounts made available under paragraph (1), there shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309(i)(2)(B)—

''(A) $796,977,000 for fiscal year 2006;

''(B) $842,144,000 for fiscal year 2007;

''(C) $920,218,000 for fiscal year 2008; and

''(D) $1,002,678,000 for fiscal year 2009.

''(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(i)(2)(A)—

''(1) $1,386,523,000 for fiscal year 2006;

''(2) $1,465,100,000 for fiscal year 2007;

''(3) $1,600,927,000 for fiscal year 2008; and

''(4) $1,744,385,000 for fiscal year 2009.

''(d) ADMINISTRATION.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334—

''(1) $82,086,000 for fiscal year 2006;

''(2) $86,738,000 for fiscal year 2007;

''(3) $94,779,000 for fiscal year 2008; and

''(4) $103,273,000 for fiscal year 2009.

''(e) GRANTS AS CONTRACTUAL OBLIGATIONS.—

''(1) MASS TRANSIT ACCOUNT FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (b)(1), (b)(4), or (d) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project.

''(2) APPROPRIATED FUNDS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (c) is a contractual obligation of the United States Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated in advance for such purpose by an Act of Congress.

''(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b) and (c) shall remain available until expended.''.

SEC. 6037. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) IN GENERAL.—Chapter 53 is amended by adding at the end the following:

''§ 5340. Apportionments based on growing States and high density State formula factors

''(a) DEFINITION.—In this section, the term 'State' shall mean each of the 50 States of the United States.

''(b) ALLOCATION.—Of the amounts made available for each fiscal year under section 5338(b)(2)(J), the Secretary shall apportion—

''(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

''(2) 50 percent to States and urbanized areas in accordance with subsection (d).

''(c) GROWING STATE APPORTIONMENTS.—

''(1) APPORTIONMENT AMONG STATES.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

''(2) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

''(A) IN GENERAL.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

''(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

''(3) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

''(d) HIGH DENSITY STATE APPORTIONMENTS.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

''(1) ELIGIBLE STATES.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

''(2) STATE URBANIZED LAND FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

''(A) the total land area of the State (in square miles); multiplied by

''(B) 370; multiplied by

''(C)(i) the population of the State in urbanized areas; divided by

''(ii) the total population of the State.

''(3) STATE APPORTIONMENT FACTOR.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

''(4) STATE APPORTIONMENT.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

''(5) APPORTIONMENTS BETWEEN URBANIZED AREAS AND OTHER THAN URBANIZED AREAS IN EACH STATE.—

''(A) IN GENERAL.—The Secretary shall apportion amounts apportioned to each State under paragraph (4) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the population of all urbanized areas in that State divided by the total population of that State.

''(B) REMAINING AMOUNTS.—Amounts remaining for each State after apportionment under subparagraph (a) shall be apportioned to that State and added to the amount made available for grants under section 5311.

''(6) APPORTIONMENTS AMONG URBANIZED AREAS IN EACH STATE.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (5)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (5)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 53 is amended by adding at the end the following:

''5340. Apportionments based on growing States and high density States formula factors.''.

SEC. 6038. JOB ACCESS AND REVERSE COMMUTE GRANTS.

Section 3037 of the Federal Transit Act of 1998 (49 U.S.C. 5309 note) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking ''means an individual'' and inserting the following: ''means—

''(A) an individual''; and

(ii) by striking the period at the end and inserting ''; or

''(B) an individual who is eligible for assistance under the State program of Temporary Assistance to Needy Families funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et. seq.) in the State in which the recipient of a grant under this section is located.''; and

(B) in paragraph (2), by striking ''development of'' each place it appears and inserting ''development and provision of'';

(2) in subsection (i), by amending paragraph (2) to read as follows:

''(2) COORDINATION.—

''(A) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

''(B) CERTIFICATION.—A recipient of funds under this section shall certify that—

''(i) the project has been derived from a locally developed, coordinated public transit human services transportation plan; and

''(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.'';

(3) by amending subsection (j) to read as follows:

''(j) GRANT REQUIREMENTS.—

''(1) IN GENERAL.—

''(A) URBANIZED AREAS.—A grant awarded under this section to a public agency or private company engaged in public transportation in an urbanized area shall be subject to the all of the terms and conditions to which a grant awarded under section 5307 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

''(B) OTHER THAN URBANIZED AREAS.—A grant awarded under this section to a public agency or a private company engaged in public transportation in an area other than urbanized areas shall be subject to all of the terms and conditions to which a grant awarded under section 5311 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

''(C) NONPROFIT ORGANIZATIONS.—A grant awarded under this section to a private nonprofit organization shall be subject to all of the terms and conditions to which a grant made under section 5310 of title 49, United States Code, is subject, to the extent the Secretary considers appropriate.

''(2) SPECIAL WARRANTY.—

''(A) IN GENERAL.—Section 5333(b) of title 49, United States Code, shall apply to grants under this section if the Secretary of Labor utilizes a Special Warranty that provides a fair and equitable arrangement to protect the interests of employees.

''(B) WAIVER.—The Secretary may waive the applicability of the Special Warranty under subparagraph (A) for private non-profit recipients on a case-by-case basis as the Secretary considers appropriate.''; and

(4) by striking subsections (k) and (l).

SEC. 6039. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) SECTION HEADING.—The section heading for section 3038 of the Federal Transit Act of 1998 (49 U.S.C. 5310 note), is amended to read as follows:

''SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.''.

(b) FUNDING.—Section 3038(g) of the Federal Transit Act of 1998 (49 U.S.C. 5310 note) is amended to read as follows:

''(g) FUNDING.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(iii) and (b)(2)(E) of section 5338 of title 49, United States Code—

''(1) 75 percent shall be available, and shall remain available until expended, for operators of over-the-road buses, used substantially or exclusively in intercity, fixed-route over-the-road bus service, to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses; and

''(2) 25 percent shall be available, and shall remain available until expended, for operators of over-the-road bus service not described in paragraph (1), to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses.''.

(b) CONFORMING AMENDMENT.—The item relating to section 3038 in the table of contents for the Transportation Equity Act for the 21st Century (Public Law 105–178) is amended to read as follows:

''Sec. 3038. Over-the-road bus accessibility program.''.

SEC. 6040. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

''§ 5316. Alternative transportation in parks and public lands

''(a) IN GENERAL.—

''(1) AUTHORIZATION.—

''(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other transaction to carry out a qualified project under this section to enhance the protection of America's National Parks and public lands and increase the enjoyment of those visiting the parks and public lands by ensuring access to all, including persons with disabilities, improving conservation and park and public land opportunities in urban areas through partnering with state and local governments, and improving park and public land transportation infrastructure.

''(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.

''(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other transaction for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.

''(b) DEFINITIONS.—In this section, the following definitions shall apply:

''(1) ELIGIBLE AREA.—The term 'eligible area' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—

''(A) a unit of the National Park System;

''(B) a unit of the National Wildlife Refuge System;

''(C) a recreational area managed by the Bureau of Land Management; and

''(D) a recreation area managed by the Bureau of Reclamation.

''(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.

''(3) ALTERNATIVE TRANSPORTATION.—The term 'alternative transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service.

''(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—

''(A) a Federal land management agency; or

''(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other Governmental or nongovernmental participant.

''(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—

''(A) is an activity described in section 5302, 5303, 5304, 5308, or 5309(a)(1)(A);

''(B) involves—

''(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of this section with clean fuel vehicles; or

''(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;

''(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;

''(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);

''(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or

''(F) is any other alternative transportation project that—

''(i) enhances the environment;

''(ii) prevents or mitigates an adverse impact on a natural resource;

''(iii) improves Federal land management agency resource management;

''(iv) improves visitor mobility and accessibility and the visitor experience;

''(v) reduces congestion and pollution (including noise pollution and visual pollution); or

''(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).

''(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—

''(1) technical assistance in alternative transportation;

''(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and

''(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.

''(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year

under section 5338(b)(2)(H) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.

''(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this title or any other provision of law.

''(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 12 percent of the total amount made available to carry out this section under section 5338(b)(2)(H) for any fiscal year.

''(e) PLANNING PROCESS.—In undertaking a qualified project under this section—

''(1) if the qualified participant is a Federal land management agency—

''(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—

''(i) the metropolitan planning provisions under section 5303 of this title;

''(ii) the statewide planning provisions under section 5304 of this title; and

''(iii) the public participation requirements under section 5307(e); and

''(B) in the case of a qualified project that is at a unit of the National Park system, the planning process shall be consistent with the general management plans of the unit of the National Park system; and

''(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—

''(A) comply with the metropolitan planning provisions under section 5303 of this title;

''(B) comply with the statewide planning provisions under section 5304 of this title;

''(C) comply with the public participation requirements under section 5307(e) of this title; and

''(D) consult with the appropriate Federal land management agency during the planning process.

''(f) COST SHARING.—

''(1) The Secretary, in cooperation with the Secretary of the Interior, shall establish the agency share of net project cost to be provided under this section to a qualified participant.

''(2) In establishing the agency share of net project cost to be provided under this section, the Secretary shall consider—

''(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;

''(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;

''(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;

''(D) the clear and direct benefit to the qualified participant; and

''(E) any other matters that the Secretary considers appropriate to carry out this section.

''(3) Notwithstanding any other provision of law, Federal funds appropriated to any Federal land management agency may be counted toward the non-agency share of the net project cost of a qualified project.

''(g) SELECTION OF QUALIFIED PROJECTS.—

''(1) The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.

''(2) In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—

''(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;

''(B) the location of the qualified project, to ensure that the selected qualified projects—

''(i) are geographically diverse nationwide; and

''(ii) include qualified projects in eligible areas located in both urban areas and rural areas;

''(C) the size of the qualified project, to ensure that there is a balanced distribution;

''(D) the historical and cultural significance of a qualified project;

''(E) safety;

''(F) the extent to which the qualified project would—

''(i) enhance livable communities;

''(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);

''(iii) reduce congestion; and

''(iv) improve the mobility of people in the most efficient manner; and

''(G) any other matters that the Secretary considers appropriate to carry out this section, including—

''(i) visitation levels;

''(ii) the use of innovative financing or joint development strategies; and

''(iii) coordination with gateway communities.

''(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—

''(1) When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—

''(A) the qualified participant applies for the payment;

''(B) the Secretary approves the payment; and

''(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.

''(2)(A) The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.

''(B) The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.

''(C) The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.

''(i) RELATIONSHIP TO OTHER LAWS.—

''(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.

''(2) OTHER REQUIREMENTS.—A qualified participant under this section is subject to any other terms, conditions, requirements, and provisions that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.

''(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than $25,000,000—

''(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement, in accordance with section 5309(g); and

''(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).

''(i) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

''(j) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

''(1) The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other transactions for research, development, and deployment of new technologies in eligible areas that will—

''(A) conserve resources;

''(B) prevent or mitigate adverse environmental impact;

''(C) improve visitor mobility, accessibility, and enjoyment; and

''(D) reduce pollution (including noise pollution and visual pollution).

''(2) The Secretary may request and receive appropriate information from any source.

''(3) Grants, cooperative agreements, contracts or other transactions under paragraph (1) shall be awarded from amounts allocated under subsection (c)(1).

''(k) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a state infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

''(l) REPORTS.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

''(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

''(B) the Committee on Transportation and Infrastructure of the House of Representatives.

''(2) ANNUAL AND SUPPLEMENTAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(m).''.

(b) CONFORMING AMENDMENTS.—The table of sections for chapter 53 is amended by inserting after the item relating to section 5315 the following:

''5316. Alternative transportation in parks and public lands.''.

SEC. 6041. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (c) of section 5338 of title 49, United States Code, shall not exceed—

(1) $7,646,336,000 for fiscal year 2005;

(2) $8,208,645,000 for fiscal year 2006;

(3) $8,673,850,000 for fiscal year 2007;

(4) $9,477,988,000 for fiscal year 2008; and

(5) $10,327,303,000 for fiscal year 2009.

SEC. 6042. ADJUSTMENTS FOR THE SURFACE TRANSPORTATION EXTENSION ACT OF 2004.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall reduce the total apportionments and allocations made for fiscal year 2005 to each grant recipient under section 5338 of title 49, United States Code, by the amount apportioned to that recipient pursuant to section 8 of the Surface Transportation Extension Act of 2004 part V (118 Stat. 1154).

(b) FIXED GUIDEWAY MODERNIZATION ADJUSTMENT.—In making the apportionments described in subsection (a), the Secretary shall adjust the amount apportioned for fiscal year 2005 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in 5337(a) of title 49, United States Code.

SEC. 6043. DISADVANTAGED BUSINESS ENTERPRISE.

Section 1821(a) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 shall apply to all funds authorized or otherwise made available under this title.

SA 574. Mrs. DOLE (for herself and Mr. BURR) submitted an amendment intended to be proposed by her to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST.

(a) IN GENERAL.—If a State owns all of the outstanding stock of a corporation—

(1) which is a real estate investment trust on the date of the enactment of this Act,

(2) which is a non-operating class III railroad, and

(3) substantially all of the activities of which consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons for railroad transportation and for economic development purposes for the benefit of the State and its citizens,

then, to the extent such activities are of a type which are an essential governmental function within the meaning of section 115 of the Internal Revenue Code of 1986, income derived from such activities by the corporation shall be treated as accruing to the State for purposes of section 115 of such Code.

(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986—

(1) no gain or loss shall be recognized under section 336 or 337 of such Code, and

(2) no change in basis of the property of such corporation shall occur,

because of any change of status of a corporation to a tax-exempt entity by reason of the application of subsection (a).

(c) TAX-EXEMPT FINANCING.—

(1) IN GENERAL.—Any obligation issued by a corporation described in subsection (a) at least 95 percent of the net proceeds (as defined in section 150(a) of the Internal Revenue Code of 1986) of which are to be used to provide for the acquisition, construction, or improvement of railroad transportation infrastructure (including railroad terminal facilities)—

(A) shall be treated as a State or local bond (within the meaning of section 103(c) of such Code), and

(B) shall not be treated as a private activity bond (within the meaning of section 103(b)(1) of such Code) solely by reason of the ownership or use of such railroad transportation infrastructure by the corporation.

(2) NO INFERENCE.—Except as provided in paragraph (1), nothing in this subsection shall be construed to affect the treatment of the private use of proceeds or property financed with obligations issued by the corporation for purposes of section 103 of the Internal Revenue Code of 1986 and part IV of subchapter B of such Code.

(d) DEFINITIONS.—For purposes of this section:

(1) REAL ESTATE INVESTMENT TRUST.—The term ''real estate investment trust'' has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.

(2) NON-OPERATING CLASS III RAILROAD.—The term ''non-operating class III railroad'' has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.), and the regulations thereunder.

(3) STATE.—The term ''State'' includes—

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a) through action of such corporation's board of directors.

(2) EXCEPTION.—This section shall not apply to any State which—

(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2006.

SA 575. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 21____. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Section 5117(b)(3) of the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 449) is amended—

(1) in subparagraph (B)—

(A) in clause (i)—

(i) in the first sentence—

(I) by striking ''Build an'' and inserting ''Build or integrate an''; and

(II) by striking ''2,000,000'' and inserting ''2,500,000''; and

(ii) in the second sentence—

(I) by striking ''300,000 and that'' and inserting ''300,000,''; and

(II) by inserting before the period at the end the following: '', and includes major transportation corridors serving that metropolitan area'';

(B) in clause (ii), by striking ''shared'' and all that follows and inserting ''reinvested in the intelligent transportation infrastructure system.'';

(C) by striking clause (iii); and

(D) by redesignating clauses (iv) and (v) as clauses (iii) and (iv), respectively;

(2) in subparagraph (C)(ii), by striking ''July 1, 2002'' and inserting ''the date that is 180 days after the date of enactment of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005'';

(3) in subparagraph (E), by striking clause (ii) and inserting the following:

''(ii) The term 'follow-on deployment areas' means the metropolitan areas of Albany, Atlanta, Austin, Baltimore, Birmingham, Boston, Charlotte, Chicago, Cleveland, Columbus, Dallas/Ft. Worth, Denver, Detroit, Greensboro, Hartford, Houston, Indianapolis, Jacksonville, Kansas City, Las Vegas, Los Angeles, Louisville, Miami, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, New York/Northern New Jersey, Norfolk, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Raleigh, Richmond, Sacramento, Salt Lake, San Diego, San Francisco, San Jose, St. Louis, Seattle, Tampa, Tucson, Tulsa, and Washington, District of Columbia.'';

(4) in subparagraph (F)—

(A) by striking ''Of the amounts'' and inserting the following:

''(i) THIS ACT.—Of the amounts''; and

(B) by adding at the end the following:

''(ii) SAFETEA.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this paragraph $5,000,000 for each fiscal year.

''(iii) AVAILABILITY; NO REDUCTION OR SETASIDE.—Amounts made available by this subparagraph—

''(I) shall remain available until expended; and

''(II) shall not be subject to any reduction or setaside.''; and

(5) by adding at the end the following:

''(H) USE OF RIGHTS-OF-WAY.—

''(i) IN GENERAL.—An intelligent transportation system project described in paragraph (3) or (6) that involves privately owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance, if the Secretary of Transportation determines that such use is in the public interest.

''(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State—

''(I) to regulate highway safety; or

''(II) under sections 253 and 332(c)(7) of the Act of June 19, 1934 (47 U.S.C. 253, 332(c)(7)) (commonly known as the 'Communications Act of 1934').''.

(b) CONFORMING AMENDMENT.—Section 5204 of the Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 453) is amended by striking subsection (k).

SA 576. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the end of subchapter I of chapter 5 of title 23, United States Code (as amended by section 2101(a)), add the following:

''§ 513. California University of Pennsylvania Urban Maglev Demonstration Project.

The Secretary shall make available $45,000,000 for the continuation of the California University of Pennsylvania Urban Maglev Demonstration Project.''.

In the analysis for chapter 5 of title 23, United States Code (as amended by section 2101(a)), at the end of the items relating to subchapter I, add the following:

''513. California University of Pennsylvania Urban Maglev Demonstration Project.''.

SA 577. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which

was ordered to lie on the table; as follows:

In section 2001(a)(5), strike ''$40,188,679'' and insert ''$50,188,679''.

In the analysis for chapter 5 of title 23, United States Code (as added by section 2101(a)), strike the item relating to section 512 and insert the following:

''512. University bridge research centers.
''513. Transporation analysis simulation system.

In chapter 5 of title 23, United States Code (as amended by section 2101(a)), redesignate section 512 as section 513.

In chapter 5 of title 23, United States Code (as amended by section 2101(a)), insert after section 511 the following:

''§ 512. University bridge research centers

''(a) IN GENERAL.—The Secretary shall establish and implement a university bridge research center program in accordance with this section.

''(b) PURPOSES.—The Secretary, in coordination with nonprofit institutions of higher learning, shall encourage and promote specific research on—

''(1) advanced highway bridge materials and systems for economical, rapid, and durable repair, replacement, and protection of highway bridges; and

''(2) technology to monitor and evaluate bridge damage and deterioration to significantly extend the useful life of highway bridges.

''(c) BRIDGE CENTERS.—The Secretary shall make grants to nonprofit institutions of higher learning to establish and operate university bridge research centers.

''(d) SELECTION OF GRANT RECIPIENTS.—

''(1) APPLICATIONS.—To be eligible to receive a grant under this section, a nonprofit institution of higher learning shall submit to the Secretary an application in such form and containing such information as the Secretary may require.

''(2) SELECTION CRITERIA.—

''(A) IN GENERAL.—Except as otherwise provided by subparagraph (B), the Secretary shall select each recipient of a grant under this section through a competitive process on the basis of—

''(i) the demonstrated research and development resources available to the recipient to carry out this section;

''(ii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range bridge deterioration and structure problems;

''(iii) the demonstrated commitment by the recipient of at least $200,000 in regularly budgeted institutional amounts each year to support ongoing bridge research and education programs;

''(iv) the demonstrated ability of the recipient to disseminate results of bridge transportation research and education programs through a statewide or regionwide program;

''(v) the demonstrated ability of the recipient to partner with other institutions that have highway bridge research expertise;

''(vi) the demonstrated ability of the recipient to conduct analysis, laboratory testing, and field verification of bridge design through a record of demonstration projects with State transportation departments and private, public and quasi-public bridge authorities;

''(vii) the demonstrated record of the recipient in transferring technology to practitioners;

''(viii) the demonstrated record of the recipient in testing full-scale bridge components in laboratory facilities and implementing results in design changes and field verification; and

''(ix) the strategic plan that the recipient proposes to carry out under the grant.

''(B) PREFERENCE.—Preference shall be given to nonprofit institutions of higher learning located in the 10 States with the worst deficiencies in highway bridges, as ranked by the 2002 Federal Highway Administration National Bridge Inventory.

''(e) ACTIVITIES.—A Federal Highway Administration university bridge transportation center that receives a grant under this section shall conduct—

''(1) basic and applied bridge research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in bridge longevity;

''(2) an education program that includes multidisciplinary course work and student participation in research; and

''(3) an ongoing program of technology transfer that makes research results available to potential users in a form that can be implemented, used, or otherwise applied.

''(f) FEDERAL SHARE.—

''(1) IN GENERAL.—The Federal share of the costs of activities carried out using a grant made under this section shall be 50 percent.

''(2) NON-FEDERAL SHARE.—The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23.

''(g) PROGRAM COORDINATION.—

''(1) COORDINATION.—The Secretary shall—

''(A) coordinate the research, education, training, and technology transfer activities that grant recipients carry out under this section; and

''(B) establish a clearinghouse for dissemination of the results of the research.

''(2) ANNUAL REVIEW AND EVALUATION.—At least annually the Secretary shall review and evaluate programs carried out by grant recipients.

''(3) FUNDING LIMITATION.—The Secretary shall use not more than 1 percent of amounts made available from Government sources to carry out this subsection.

''(h) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section shall remain available for obligation for 2 years after the last day of the fiscal year for which the funds are made available.

''(i) NUMBER AND AMOUNT OF GRANTS.—For each of fiscal years 2005, 2006, 2007, 2008, and 2009, the Secretary shall make a grant of $2,000,000 to each of 5 nonprofit institutions of higher education to conduct bridge transportation research.

SA 578. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the end of section 1807, add the following new subsection:

(c) STEEL BRIDGE TESTING.—The Secretary shall make available $10,000,000 to test steel bridges using a non-destructive technology capable of detecting growing cracks, including subsurface flaws as small as 0.01 inches in length or depth.

SA 579. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

On page 216, after the matter preceding line 1, insert the following:

SEC. 15__. HIGH PRIORITY CORRIDORS ON THE NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended—

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

''(46) Interstate Route 376 from the Pittsburgh Interchange (I/C No. 56) of the Pennsylvania Turnpike, westward on Interstate Route 279, United States Route 22, United States Route 30, and Pennsylvania Route 60, continuing past the Pittsburgh International Airport on Turnpike Route 60, to the Pennsylvania Turnpike (Interstate Route 76), Interchange 10, and continuing north on Pennsylvania Turnpike Route 60 and on United States Route 422 to Interstate Route 80.''; and

(2) in subsection (e)(5)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E); and

(B) by inserting after subparagraph (A) the following:

''(B) INTERSTATE ROUTE 376.—

''(i) DESIGNATION OF INTERSTATE ROUTE 376.—

''(I) IN GENERAL.—The routes referred to in subsection (c)(46), except the portion of Pennsylvania Turnpike Route 60 and United States Route 422 between Pennsylvania Turnpike Interchange 10 and Interstate Route 80, shall be designated as Interstate Route 376.

''(II) SIGNS.—The State of Pennsylvania shall—

''(aa) have jurisdiction over the highways described in subclause (I) (except Pennsylvania Turnpike Route 60); and

''(bb) erect signs in accordance with Interstate signing criteria that identify the routes described in subclause (I) as Interstate Route 376.

''(III) ASSISTANCE FROM SECRETARY.—The Secretary shall assist the State of Pennsylvania in carrying out, not later than December 31, 2008, an activity under subclause (II) relating to Interstate Route 376 and in complying with sections 109 and 139 of title 23, United States Code.

''(ii) OTHER SEGMENTS.—The segment of the route referred to in subsection (c)(46) located between the Pennsylvania Turnpike, Interchange 10, and Interstate Route 80 may be signed as Interstate Route 376 under clause (i)(II) if that segment meets the criteria under sections 109 and 139 of title 23, United States Code.''.

SA 580. Mr. VOINOVICH (for himself, Mr. DEWINE, Mr. COLEMAN, Mr. DURBIN, Mr. OBAMA, and Mr. DAYTON) submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. COMPUTATION OF CERTAIN ESTIMATED TAX PAYMENTS.

If the Secretary of Transportation takes into account fiscal year 2005 or any preceding fiscal year in computing the apportionment of funds pursuant to sections 104 and 105 of title 23, United States Code, for fiscal year 2005 or any subsequent fiscal year, the Secretary shall determine such apportionment by using the amount of estimated tax receipts that the Secretary estimates would have resulted had the amendments made by section 301 of the American Jobs Creation Act of 2004 taken effect at the beginning of the fiscal year which is so taken into account.

SA 581. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 3, Reserved; which was ordered to lie on the table; as follows:

In section 144(f)(2)(A) of title 23, United States Code (as amended by section

1807(a)(4)), strike ''15 percent'' and insert ''20 nor more than 35 percent''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE FOR BANKING, HOUSING, AND URBAN AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 26, 2005, at 10 a.m., to conduct a hearing on ''An Update on Money Services Businesses Under Bank Secrecy and USA Patriot Regulation.''

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Tuesday, April 26, 2005, at 10 a.m. on the nominations of Maria Cino to be the Deputy Secretary of Transportation, and Phyllis Scheinberg to be Assistant Secretary of Transportation for Budget.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Tuesday, April 26, 2005, at 2:30 p.m. on the Transportation Security Administration's FY2006 Budget and pending nominations.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, April 26, at 10 a.m. in Room SD–366.

The purpose of the hearing is to receive testimony regarding the status of the Department of Energy's Nuclear Power 2010 Program.

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

COMMITTEE ON FINANCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of Tuesday, April 26, 2005, at 10 a.m., to hear testimony on ''Proposals To Achieve Sustainable Solvency, With and Without Personal Accounts.''

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

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, April 26, 2005 at 9:30 a.m. to hold a hearing on the Millennium Challenge Corporation.

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

COMMITTEE ON HEALTH, EDUCATION, LABOR AND PENSIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions, Subcommittee on Reitrement Security and Aging, be authorized to hold a hearing during the session of the Senate on Tuesday, April 26, 2005 at 10 a.m. in SD–430.

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

COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on ''A Bill to create a Fair and Efficient System to Resolve Claims of Victims for Bodily Injury Caused by Asbestos Exposure, and for other Purposes'' on Tuesday, April 26, 2005 at 9:30 a.m., in Russell Senate Office Building, Room 325.

Panel I: The Honorable Judge Becker.

Panel II: The Honorable John Engler, National Association of Manufacturing, Washington, DC.; Mr. Craig Berrington, General Counsel, American Insurance Association, Washington, DC.; Ms. Peg Seminario, Director, AFL–CIO, Washington, DC.; Ms. Carol Morgan, President and General Counsel, National Service Industries, Inc.; Doraville, GA; Mr. Hershel W. Gober, National Legislative Director, Military Order of the Purple Heart, McLean, VA; Dr. Francine Rabinovitz, Hamilton, Rabinovitz & Alschuler, Carmel, CA; Mr. Mark A. Peterson, President, Legal Analysis Systems, Inc., Thousand Oaks, CA; Prof. Eric D. Green, Boston University Law School, Boston, MA.

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

COMMITTEE ON VETERANS' AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Tuesday, April 26, 2005, to markup the nomination of Mr. Jonathan B. Perlin to be Under Secretary for Health, Department of Veterans' Affairs.

The meeting will take place in room S 216 (the President's Room) of the Capitol at 11:45 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 26, 2005 at 2:30 p.m., to hold a briefing.

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

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests be authorized to meet during the session of the Senate on Tuesday, April 26, 2005 at 2:30 p.m., in room SD–366.

The purpose of the hearing is to review the preparedness of the Departments of Agriculture and the Interior for the 2005 Wildfire Season, including agencies' assessment of the risk of fires by region, the status of and contracting for aerial fire suppression assets, and other information needed to better understand the agencies' ability to deal with the upcoming fire season.

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

PRIVILEGE OF THE FLOOR

Mr. INHOFE. Mr. President, I ask unanimous consent that the privilege of the floor be afforded Mr. Richard Steinmann, a detailee from the Federal Transit Administration, for the duration of the consideration of the surface transportation reauthorization bill.

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

Mr. INHOFE. Mr. President, I ask unanimous consent that the following staff members of the Joint Committee on Taxation on a list that I send to the desk be given the privilege of the floor for the duration of the deliberation of the Highway Reauthorization and Excise Simplification Act of 2005, provided that no more than four from the list occupy the floor at any given time.

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

The list is as follows:

Yin, George K., Barthold, Thomas A., Bloyer, John, Clay, Gordon M., Corcoran, Sean M., Flax, Nikole C., Hirsch, Harold E., Lenter, David L., Matthews, Laurie A., McMullen, Debra L., Means, Kristine M., Nega, Joseph W., Rock, Cecily W., Thomas, Melvin C., Wielobob, Allison E., Schmitt, Bernard A., Beeman, E. Ray, Bornholdt, Gary W., Colinvauz, Roger, Fisher, Tara Z., Fontenot, Gray C., James, Deirdre, Littman, Allen J., McDermott, Patricia, McMullen, Neval E., Navratil, John F., Noren, David G., Smith, Carolyn E., Way, Kashi.

EXPRESSING SENSE OF CONGRESS ON WORLD INTELLECTUAL PROPERTY DAY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Con. Res. 28, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res 28) expressing the sense of Congress on World Intellectual Property Day regarding the importance of protecting intellectual property rights globally.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. LUGAR. Mr. President, today, on World Intellectual Property Day, I rise in support of a resolution I have submitted recognizing the importance of

protecting intellectual property. One of the key benefits of protecting intellectual property is preserving innovation. Only with enforcement of protections will there be incentives for inventors to create and protect their innovations. As the sharing of goods and ideas transcends national boundaries, it is vital that these protections be able to accompany the ideas that they protect globally.

Although most of our trading partners have national domestic laws protecting intellectual property piracy and are even parties to agreements which contain intellectual property protections, piracy continues largely due to lack of enforcement. Theft of intellectual property results in competitive disadvantages to U.S. industries and job loss for American workers.

Counterfeiting and digital piracy have increased dramatically in recent years. In addition to the direct impact on the sales and profits of the subject industries, there is also significant harm and deception to consumers who believe they are purchasing legal and legitimate goods. Piracy and counterfeiting of copyrighted products in digital and other formats have grown to an enormous scale because these illegal activities offer a high rate of return with minimal risk to the criminal producing element. This element can conduct piracy with little capital investment, and in many countries, little chance of apprehension. Even if apprehended, the penalties may be so minor that they offer no deterrent.

There are various agreements between nations implemented at different levels for the protection of intellectual property. One of these is part of the World Trade Organization, WTO, charter, the Trade Related Aspects of Intellectual Property Rights, TRIPS. Key TRIPS provisions require all WTO members to provide certain minimum standards of protection for patents, copyrights, trademarks, trade secrets, geographical indicators, and other forms of intellectual property. There is also a requirement to provide effective enforcement of each nation's domestic intellectual property regulations.

Also currently in force are two copyright treaties of the World Intellectual Property Organization: the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, which entered into force in 2002. These treaties help raise the minimum standards of intellectual property protection around the world, particularly with respect to internet-based delivery of copyrighted works. As with the TRIPS agreement, enforcement of obligations by member countries remains the issue.

This resolution focuses on two nations, China and Russia, with which we have significant trading relationships, yet, are still not offering the necessary enforcement of protections. China has become a leading exporter of counterfeit and pirated goods to the world. It is, therefore, critical that we address the issue of protection and enforcement in China. At the April 2004 meeting of the Joint Commission on Commerce and Trade, JCCT, the Chinese Government indicated that it would undertake a series of actions to significantly reduce infringement throughout the country. Piracy rates in China have remained at extremely high levels for the past decade, despite numerous actions by the Chinese Government such as the seizure and destruction of millions of pirated products, often via highly publicized steamrollings of counterfeited discs. As a fellow member of the WTO, we must ensure that China fulfills its commitments to enforce intellectual property protections under the rules of the WTO.

Piracy in Russia continues to be a growing problem. Only a few pirate optical disc factories existed in Russia in the late 1990s. Reports indicate that there are now over 30 such plants producing pirated products in Russia, ruining the Russian market for American right-holders and substantially undermining other markets in Europe as well. The Russian Government has made many promises to solve this problem, but meaningful results have yet to occur. Russia recognizes that its domestic laws and enforcement measures still do not meet TRIPS requirements; however, the required legislation has not been implemented. We should encourage the Government of Russia to act promptly and implement these measures so that it can fully comply with the rules of the WTO.

The problem of protecting intellectual property is evident. Going forward, our focus should be on the solutions. What enforcement methods should be utilized that have not been thus far? Should our international agreements and treaties with our trading partners be better utilized to ensure enforcement of intellectual property rights laws? Some progress has been made in these areas, yet there is much more ground to cover. I encourage the administration to insure that our trading partners fulfill their commitments and agreements to abide by global intellectual property rules.

I ask unanimous consent that relevant material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the International Intellectual Property Alliance, Apr. 26, 2005]

STATEMENT OF THE INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE CELEBRATING WORLD INTELLECTUAL PROPERTY DAY

WASHINGTON, DC.—The International Intellectual Property Alliance (IIPA), a coalition of six trade associations representing 1,300 U.S.-based copyright companies, today celebrates 2005 World Intellectual Property Day. Eric H. Smith, President of IIPA, issued the following statement:

''The theme for 2005's World Intellectual Property Day is 'Think, Imagine, Create.' This message from the Director General of the World Intellectual Property Organization (WIPO), Kamil Idris, is directed at the world's young people to build awareness about the importance of creativity—and the protection of the intellectual property that supports that creativity—to the daily lives of every global citizen. Without providing this protection, many of the great cultural and technological assets that we now take for granted would never have been available to us to improve our lives. Strong protection and enforcement of the world's laws that nurture the creativity embodied in intellectual property are all too often taken for granted or viewed by a few as no longer necessary. We too often forget the important cultural and economic benefits, jobs, contributions to GDP and tax revenues that are dependent on a strong intellectual property system.

''U.S. creators have benefited significantly from a strong global system of protection enshrined in treaties and conventions to which virtually all the world's nations belong. Yet weak laws and inadequate enforcement of those laws continue to plague all those individuals and companies that contribute to this great global creative and technological explosion.

''Today, Senators Lugar and Baucus introduced a Sense of the Congress Resolution, celebrating World Intellectual Property Day, and highlighting the massive damage done—over $4 billion just to U.S. creators of copyright products alone—to global creativity by just two countries, China and Russia, through their failure to abide by internationally-agreed standards of protection and enforcement. The message to these countries is clear: they are cheating themselves by failing to take effective action to prevent the creative works of their own citizens, U.S. citizens and those of other countries, from blatant theft. IIPA members join with the sponsors of this Resolution to call upon these governments to take earnest measures to halt this theft and upon the U.S. government to use all the tools provided by Congress to see that these countries take effective action to prevent pirates from stealing intellectual property with impunity. Economic and cultural development is increasingly dependent on the creation and protection of intellectual property of all kinds. The resolution hits the mark in targeting two of the world's worst offenders of intellectual property rights.''

[From the Association of American Publishers News]

PUBLISHERS APPLAUD SENATE RESOLUTION ON SAFEGUARDING INTELLECTUAL PROPERTY WORLDWIDE

WASHINGTON, DC, April 26, 2005.—The U.S. publishing industry enthusiastically welcomed today's introduction in the Senate of a bipartisan Concurrent Resolution stressing the importance of protecting intellectual property rights around the world. The Association of American Publishers (AAP) expressed special thanks to Senator Richard Lugar (R–IN), Chairman of the Foreign Relations Committee, and Senator Max Baucus (D–MT), Ranking Member of the Finance Committee, who joined in sponsoring the resolution to mark the observance of World Intellectual Property Day.

Noting that the theft of intellectual property hurts the U.S. economy and costs American jobs, and citing deep concern over the failure of many U.S. trading partners to fulfill obligations to protect intellectual property, the resolution is particularly critical of China and Russia, where piracy threatens the very existence of legitimate markets for copyright products. The resolution calls on the Administration to use ''all available tools provided by Congress,'' and the leverage provided by bi-lateral and multi-lateral

trade agreements (including, where appropriate, WTO commitments) as well as terms regulating benefits such as the Generalized System of Preferences (GSP) program, to protect the intellectual property rights of American businesses.

AAP President and CEO Pat Schroeder congratulated Senators Lugar and Baucus for focusing attention on the serious matter of international piracy. ''Chinese pirates are decimating markets for legitimate commercial best sellers, academic arid professional works and English language learning materials. Russia leads its region in consumption of pirated books in both English and translation, and the impact on American publishers will only deepen as demand for English language materials grows in the region. Piracy cost American publishers an estimated $50 million last year in China, and $42 million in Russia, and the situation is worsening with the growth of the Internet as a distribution channel for pirated works,'' Mrs. Schroeder said. ''In marking World Intellectual Property Day, this strong statement of Congress'' commitment to protect American creativity is very welcome.''

The Association of American Publishers is the national trade association of the U.S. book publishing industry. AAP's approximately 300 members include most of the major commercial book publishers in the United States, as well as smaller and nonprofit publishers, university presses and scholarly societies. The protection of intellectual property rights in all media, the defense of intellectual freedom, and the promotion of reading and literacy are among the Association's primary concerns.

[From the Motion Picture Association of America]

MPPA CHIEF PRAISES WORLD INTELLECTUAL PROPERTY DAY RESOLUTION

WASHINGTON, DC.—Motion Picture Association President and CEO Dan Glickman today praised a concurrent resolution introduced by Senator Richard Lugar (R–IN) and Senator Max Baucus (D–MT) that expressed the sense of the Congress stressing the importance of protecting intellectual property rights, particularly in China and Russia where piracy and counterfeiting are rampant.

''I thank Senator Lugar and Senator Baucus for this resolution celebrating World Intellectual Property Day, and more importantly, for taking a leadership role in fighting for intellectual property rights across the globe.''

''Of course, my special concern is protecting the magic of the movies. Our industry loses $3.5 million each year through hard goods piracy, and billions more in internet piracy. If the black market is allowed to flourish, and if thieves are allowed to continue to steal our products, it makes it more and more difficult to make the movies that entertain people the world over.''

''But this isn't just about the movies. As the resolution itself says, the American economy depends increasingly on the work of authors, inventors, programmers and many others who create intellectual products of high value. In fact, close to twelve million Americans are employed by the copyright industries. For America, intellectual property means jobs.''

''But intellectual property is important for the rest of the world as well. Enforcing intellectual property laws in China and in Russia will only help these economies prosper in the long run.'' ''I applaud this bold resolution and I thank both Senator Lugar and Senator Baucus for introducing it today.''

UNIVERSAL MUSIC GROUP,
Santa Monica, CA, April 25, 2005.

Hon. RICHARD G. LUGAR,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR LUGAR: I am the President and Chief Operating Officer of Universal Music Group, the worlds' largest music company. I write to tell you how much my company and I appreciate Congress' commitment to the fight against piracy. We recognize that you and Senator Baucus have been particular champions of this cause for some time now. The Resolution that you and Senator Baucus are introducing is another indication of your commitment to the many Americans who earn their livelihoods by bringing new artists and sounds to consumers around the globe.

It is clear that innovation and the strong protection of intellectual property laws will be vital to America's economic future. The United States Government must do all that it can to ensure that our trading partners vigorously enforce the treaties and other commitments they make to the United States, and it is our hope that your Senate colleagues will join you in sending that message by supporting the Lugar-Baucus Resolution.

Very truly yours,

ZACH HOROWITZ,
President and COO.

[From the Recording Industry Association of America, April 26, 2005]

STATEMENT ON WORLD INTELLECTUAL PROPERTY DAY

On behalf of America's music community, we wish to thank Chairman Lugar and Senator Baucus for the resolution that they have jointly introduced today highlighting the need for greater vigilance in the fight against piracy in global markets. In particular, there is an urgent need to direct attention to markets like Russia and China, which remain essentially closed to U.S. businesses due to stifling piracy rates. As the Senators aptly mention, piracy in these markets and elsewhere around the world ''is open, notorious and permitted to operate without meaningful hindrance from the government.''

There may be no single economic issue that has a greater bearing on American competitiveness in the 21st century than the protection of intellectual property. As such, it is imperative that we not shy away from demands that our trading partners meet their obligations under international agreements as well as the criteria for participating in US. trade programs affording unilaterally extended trade benefits. We simply cannot enter into political arrangements that fail to protect our greatest economic assets.

On the occasion of World Intellectual Property Day, we wish to call upon the Russian and Chinese governments to reform their approach to this critical issue and to begin to seriously address the rampant piracy that is so endemic in their societies today. It is of utmost importance that the Sino-U.S. and U.S.-Russia relationships are built upon a mutual understanding of shared obligations and a strong commitment to embracing and enforcing the rule of law. While we very much want to see Russia join the community of nations bound to one another in the World Trade Organization, negotiations cannot conclude without marked improvement and a commitment on the part of the Russian government to the protection of intellectual property.

We also wish to express our great concern about the current state of affairs in China and the apparent determination of the Chinese government to limit the ability of U.S. companies to meaningfully engage in the Chinese market. At present, the Chinese government continues to maintain significant barriers to entry for some of our nation's most competitive industries, particularly in the area of music and film production and distribution. In addition, the government continues to permit Chinese pirate businesses to be built on the back of American creativity. Without question, these practices must change if China wishes to maintain a secure and stable relationship with the United States.

We appreciate the continued attention of our nation's political leaders to this pressing issue—on both the occasion of World Intellectual Property Day and beyond. We look forward to working with Congress and the Administration to help produce—and if necessary, demand—effective changes to create a more level playing field and a global environment that values and respects American intellectual property.

MITCH BAINWOL,
Chairman and CEO.

Mr. BAUCUS. Mr. President, the theme of this year's World Intellectual Property Day, which we commemorate today, is ''Think, Imagine, Create.''

Think, imagine, create, these simple words are at the center of what makes America great and what continues to drive our progress. American thought produced our Constitution and our system of government. American imagination put a person on the moon. And American creativity has made U.S. culture the envy of the world.

It is astounding how important intellectual property has become in our everyday life. It is even more astounding how much we take human creativity and intellectual property for granted. Just think about it for a moment and imagine what a world would be like without intellectual property rights.

Without copyrights, who would want to write the books we read, produce the movies we watch, or compose the music that fills our ears?

Without trademarks, who would want to invest the enormous time, energy, and resources required to develop a brand name synonymous with quality and reliability?

And without patents, who would have the incentive to innovate and produce inventions that change our world and save our lives?

Intellectual property rights are not just some abstract legal concept the sole province of lawyers and judges. They are an essential motor of our economy.

Look at the copyright industry. These are the folks who produce newspapers, books, movies, computer software, and radio/TV broadcasting. This industry alone accounts for 12 percent of our gross domestic product. That's $1.25 trillion.

If these numbers don't impress, then let's look at the impact the copyright industries have on U.S. jobs. They alone employ roughly 11.5 million workers. That is nearly 8.5 percent of total U.S. employment. Believe it or not, that number approaches the level of employment in the heath care sector or the entire manufacturing sector. And between 1997 and 2002, the rate of

job growth in the copyright industry exceeded that of the U.S. economy as a whole.

That is why protecting intellectual property rights worldwide is critical. It is not just a concern for the overall health of the U.S. economy. And it is not just a concern of this or that company. It is a concern of each and every worker that the intellectual property industries employ. And it is a concern of each and every one of us that enjoys going to see the latest movie, likes wearing a hip new pair of Nike shoes, or needs the most innovative life saving drug.

Unfortunately, while we have a robust IPR regime here in America, some of our trading partners do not. In certain countries, IPR theft is rampant.

China is probably the most notorious example. USTR reports that counterfeiting and piracy in China are at ''epidemic levels and cause serious harm to U.S. businesses in virtually every sector of the economy.'' In fact, as USTR pointed out, one U.S. trade association claims that counterfeiting and piracy in China exceeds 90 percent. Estimates of the value of counterfeit and pirated goods in China are between $19 billion and $24 billion in 2001. That translates into losses of $2.5 to $3.8 billion to U.S. industry.

Russia is also a serial IPR violator. The scale of intellectual property rights infringement there is vast and growing. Russia's legal framework has huge gaps, and the enforcement of existing laws is lax. This has real costs. Estimated losses to U.S. copyright industries due to piracy of films, videos, sound recordings, books, and computer software continue to exceed $1 billion annually. Over 80 percent of all DVDs on the Russian market are estimated to be pirated. Pirated music is estimated at 66 percent of sales, and software piracy is estimated at about 88 percent.

IPR violations in Brazil are also very troubling, particularly given that Brazil is both a WTO member and receives benefits from the United States under the Generalized System of Preferences. USTR reports that estimated losses in Brazil due to piracy of copyrighted materials totaled over $930 million in 2004 alone. An estimated 75 percent of audiocassettes sold in Brazil are pirated.

These violations run counter to the entire spirit and purpose of World Intellectual Property Day. Rather than foster an environment that encourages thought, imagination, and creativity, IPR violations in China, Russia, Brazil, and other countries stifle creativity and innovation. They send the chilling message that the short-term profit of pirates, counterfeiters, and other IPR thieves matter more than the long term gains of society.

We need to crack down on countries that fail to protect and enforce intellectual property rights. We should use all tools at our disposal to address barriers to thought, imagination, and creativity.

In my view, we are long overdue in initiating a WTO case with China for its failure to comply with its obligations under the WTO's TRIPS agreement, particularly in the area of copyrights.

In my view, we should not give a green light to Russia's bid to join the WTO until Russia makes visible and sustained improvements to its legal regime as well as a demonstrable commitment to long-term enforcement.

And in my view, we should not continue to give countries with serious intellectual property deficiencies, like Russia and Brazil, GSP benefits until they clean up their act.

That is why I am today cosponsoring with Senator LUGAR a sense-of-the-Senate resolution on the importance of protecting intellectual property. Among other things, this resolution urges the administration to use all effective remedies to address the lack of intellectual property protection. It also urges the administration to take action to ensure that China, Russia, and our other trading partners comply with their international trade obligations.

Think, imagine, create, that is the theme of this year's World Intellectual Property Day. I hope that next year we can celebrate an improved global environment that truly fosters these important aspirations.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 28) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 28

Whereas protection of intellectual property is critical to our nation's economic competitiveness, cultural diversity, health and scientific development;

Whereas the United States economy depends increasingly on the work of authors, artists, inventors, programmers, and many others who create intellectual products of high value;

Whereas theft of intellectual property results in competitive disadvantages to United States industries and job losses for American workers, and for the United States economy as a whole;

Whereas the copyright industries employ approximately 11,500,000 workers or 8.41 percent of total employment in the United States, a number that approaches the levels of employment in the health care and social assistance sector (15,300,000 employees) and the entire manufacturing sector (14,500,000 workers in 21 manufacturing industries);

Whereas there is great concern about the failure of many of our trading partners to live up to their international obligations in the area of intellectual property protection;

Whereas counterfeiting of copyrighted products in digital and other formats, as well as counterfeiting of all types of trademarked products, has grown to an enormous scale;

Whereas many of our trading partners, in particular Russia and China, have laws in place to prevent piracy and counterfeiting, but are failing to enforce the laws;

Whereas Russia and China alone are responsible for over $4,000,000,000 in losses a year to United States industries due to piracy;

Whereas piracy in Russia and China is open, notorious, and permitted to operate without meaningful hindrance from the governments of those countries;

Whereas China should be encouraged to meet its intellectual property protection obligations as a member of the World Trade Organization (WTO);

Whereas Russia should be encouraged to explore means to provide effective piracy protection enabling compliance with the rules set forth by the WTO;

Whereas the United States Government must convey to these countries that failure to act will have political and economic consequences for relationships with the United States; and

Whereas Congress has enacted legislation regarding the protection of intellectual property, including measures which direct the Administration to censure countries that fail to provide adequate and effective protection for intellectual property: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) the Administration should utilize effective remedies and solutions in addressing the lack of intellectual property protection in China and Russia, using all available tools provided by Congress;

(2) the Administration should ensure that any country that enjoys benefits under the Generalized System of Preferences (GSP) program, such as Russia, lives up to its obligations to provide adequate and effective protection for intellectual property rights, or lose its eligibility to participate in trade preference programs;

(3) the Administration should ensure that action is taken against any country with which the United States shares mutual commitments under the WTO, such as China, when the country fails to live up to its WTO commitments;

(4) the Administration should urge Russia to promote measures to enforce intellectual property protection which will enable compliance with the intellectual property commitments required by the WTO; and

(5) the President should take any additional action the President considers appropriate to protect the intellectual property rights of United States businesses.

COMMENDING UNIVERSITY OF MINNESOTA WOMEN'S ICE HOCKEY TEAM

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 125, which was submitted earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 125) commending the University of Minnesota Golden Gophers women's ice hockey team for winning the 2004–2005 National Collegiate Athletic Association Division I Women's Hockey Championship.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble 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. 125) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 125

Whereas, on Sunday, March 27, 2005, the University of Minnesota Golden Gophers won the National Collegiate Athletic Association (NCAA) Division I Women's Hockey Championship for the second straight year;

Whereas the University of Minnesota Golden Gophers defeated Harvard University in the championship game by a score of 4 to 3, and defeated Dartmouth College by a score of 7 to 2 in the semifinals;

Whereas, during the 2004–2005 season, the Golden Gophers won an outstanding 36 out of 40 games;

Whereas Ms. Krissy Wendell was honored with the prestigious Patty Kazmaier Award, which is presented annually to the Nation's most outstanding women's collegiate hockey player;

Whereas Ms. Natalie Darwitz, Ms. Lyndsay Wall, and Ms. Krissy Wendell were selected for the 2004–2005 NCAA All-Tournament Team, and Ms. Darwitz was named the tournament's Most Valuable Player;

Whereas Ms. Lyndsay Wall, Ms. Krissy Wendell, and Ms. Natalie Darwitz were named to the CCM Women's University Division I Ice Hockey All-American First Team, and Ms. Jody Horak was named to the CCM Women's University Division I Ice Hockey All-American Second Team;

Whereas the team's seniors—Ms. Jody Horak, Ms. Brenda Reinen, Ms. Kelly Stephens, Ms. Noelle Sutton, and Ms. Stacy Troumbly—made tremendous contributions to the University of Minnesota Golden Gophers women's ice hockey program throughout their collegiate careers;

Whereas Ms. Ashley Albrecht, Ms. Chelsey Brodt, Ms. Natalie Darwitz, Ms. Whitney Graft, Ms. Jody Horak, Ms. Krista Johnson, Ms. Natalie Lammé, Ms. Erica McKenzie, Ms. Anya Miller, Ms. Andrea Nichols, Ms. Liz Palkie, Ms. Jenelle Philipczyk, Ms. Brenda Reinen, Ms. Bobbi Ross, Ms. Allie Sanchez, Ms. Maggie Souba, Ms. Kelly Stephens, Ms. Noelle Sutton, Ms. Stacy Troumbly, Ms. Becky Wacker, Ms. Lyndsay Wall, and Ms. Krissy Wendell demonstrated exceptional teamwork, selfless team spirit, and admirable sportswomanship throughout the season;

Whereas the University of Minnesota Golden Gophers women's ice hockey team Head Coach Laura Halldorson and Assistant Coaches Brad Frost, Charlie Burggraf, and Jeff Moen provided outstanding leadership and coaching to mold all of the talented young women into a championship team: Now, therefore, be it

Resolved, That the Senate—

(1) commends the University of Minnesota Golden Gophers women's ice hockey team for winning the 2004–2005 National Collegiate Athletic Association's Division I Women's Ice Hockey Championship;

(2) recognizes the outstanding achievements of the team's players, coaches, and support staff; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the president of the University of Minnesota.

ORDERS FOR WEDNESDAY, APRIL 27, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, April 27. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a period for morning business for up to 120 minutes, with the first 30 minutes under the control of the majority leader or his designee, the next 60 minutes under the control of Senator BIDEN or his designee, and the final 30 minutes under the control of the majority leader or his designee; provided that following morning business the Senate resume consideration of H.R. 3, the highway bill.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow following morning business, the Senate will resume consideration of the highway bill. We will continue the amending process tomorrow. The chairman and ranking member will be here to work through amendments that are offered. Rollcall votes are expected throughout the day in relation to the amendments.

I also remind my colleagues that we have several other important matters to address before adjourning for next week's recess. We hope to receive conference reports to both the budget resolution and supplemental appropriations bill. In addition, several nominations are available for floor consideration, and we expect to move forward with those this week as well.

Again, we have a lot of work to do this week. Senators should expect busy days with rollcall votes throughout the week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:34 p.m., adjourned until Wednesday, April 27, 2005, at 9:30 a.m.