

to the Secretary that such use would create a safety hazard and the Secretary accepts the certification.

“(ii) ACCEPTANCE OF CERTIFICATION.—The Secretary may accept a certification under this subparagraph only after the Secretary publishes notice of the certification in the Federal Register and provides an opportunity for public comment.

“(3) PUBLIC TRANSPORTATION VEHICLES.—The State agency may allow public transportation vehicles to use the HOV facility if the agency establishes—

“(A) requirements for clearly identifying the vehicles; and

“(B) procedures for enforcing the restrictions on the use of the facility by the vehicles.

“(4) HIGH OCCUPANCY TOLL VEHICLES.—The State agency may allow vehicles not otherwise exempt pursuant to this subsection to use the HOV facility if the operators of the vehicles pay a toll charged by the agency for use of the facility and the agency—

“(A) establishes a program that addresses how motorists can enroll and participate in the toll program;

“(B) develops, manages, and maintains a system that will automatically collect the toll; and

“(C) establishes policies and procedures—

“(i) to manage the demand to use the facility by varying the toll amount that is charged; and

“(ii) to enforce violations of use of the facility.

“(5) ALTERNATIVE FUEL VEHICLES AND NEW QUALIFIED PLUG-IN ELECTRIC DRIVE MOTOR VEHICLES.—

“(A) USE OF HOV FACILITIES.—For a period beginning not later than 1 year after the date of enactment of this section and ending on September 30, 2017, the State agency—

“(i) may allow alternative fuel vehicles and new qualified plug-in electric drive motor vehicles (as defined in section 30D(d)(1) of the Internal Revenue Code of 1986), to use HOV facilities in the State; and

“(ii) shall establish procedures for use in enforcing the restrictions on that use of HOV facilities by those vehicles.

“(B) EXISTING PROGRAMS AND PROCEDURES.—The State agency shall—

“(i) not later than 1 year after the date of enactment of this section, develop and publish in the Federal Register a plan for use in—

“(I) revising the HOV facility programs and procedures of the State agency to ensure that those programs and procedures are in compliance with this section; and

“(II) notifying the public of any upcoming changes in vehicle eligibility for HOV facility usage; and

“(ii) not later than 3 years after the date of enactment of this section, update HOV facility programs and procedures in accordance with the plan described in clause (i).

“(d) REQUIREMENTS APPLICABLE TO TOLLS.—

“(1) IN GENERAL.—Notwithstanding sections 129 and 301, and except as provided in paragraph (2), tolls may be charged under subsection (c)(4).

“(2) EXCESS TOLL REVENUES.—If a State agency makes a certification under section 129(a)(3) with respect to toll revenues collected under subsection (c)(4), the State, in the use of toll revenues under subsection (c)(4), shall give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety.

“(e) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.—

“(1) IN GENERAL.—A State agency that allows vehicles to use a HOV facility under paragraph (4) or (5) of subsection (c) shall

submit to the Secretary a report demonstrating that the facility is not already degraded, and that the presence of the vehicles will not cause the facility to become degraded, and certify that the agency will carry out the following responsibilities with respect to the facility:

“(A) Establishing, managing, and supporting a performance monitoring, evaluation, and reporting program for the HOV facility that provides for continuous monitoring, assessment, and reporting on the impacts that the vehicles may have on the operation of the facility and adjacent highways and submitting to the Secretary annual reports of those impacts.

“(B) Establishing, managing, and supporting an enforcement program that ensures that the HOV facility is being operated in accordance with this section.

“(C) Limiting or discontinuing the use of the HOV facility by the vehicles, whenever the operation of the facility is degraded, that requires such a limitation or discontinuation of use to apply first to vehicles using the HOV facility under subsection (c)(4) before applying to vehicles using the HOV facility under subsection (c)(5).

“(D) MAINTENANCE OF OPERATING PERFORMANCE.—A facility that has become degraded shall be brought back into compliance with the minimum average operating speed performance standard by not later than 180 days after the date on which the degradation is identified through changes to operation, including the following:

“(i) Increase the occupancy requirement for HOVs.

“(ii) Increase the toll charged for vehicles allowed under subsection (b) to reduce demand.

“(iii) Charge tolls to any class of vehicle allowed under subsection (b) that is not already subject to a toll.

“(iv) Limit or discontinue allowing vehicles under subsection (b).

“(v) Increase the available capacity of the HOV facility.

“(E) COMPLIANCE.—If the State fails to bring a facility into compliance under subparagraph (D), the Secretary shall subject the State to appropriate program sanctions under section 1.36 of title 23, Code of Federal Regulations (or successor regulations), until the performance is no longer degraded.

“(2) DEGRADED FACILITY.—

“(A) DEFINITION OF MINIMUM AVERAGE OPERATING SPEED.—In this paragraph, the term ‘minimum average operating speed’ means less than 65 percent of the HOV facility rated speed limit.

“(B) STANDARD FOR DETERMINING DEGRADED FACILITY.—For purposes of paragraph (1), the operation of a HOV facility shall be considered to be degraded if vehicles operating on the HOV facility are failing to maintain a minimum average operating speed 65 percent of the time over a consecutive 180-day period during morning or evening weekday peak hour periods (or both).”

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary and the States should provide additional incentives (including the use of high occupancy vehicle lanes on State highways and routes on the Interstate System) for the purchase and use of advanced technology and dedicated alternative fuel vehicles, which have been proven to minimize air emissions and decrease consumption of fossil fuels.

SA 1789. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for

other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____ . REGULATIONS REGARDING POOLS.

(a) DEFINITIONS.—

(1) COVERED REGULATION.—The term “covered regulation” means—

(A) the portions of part 35 of title 28, Code of Federal Regulations, that were added under the final rule issued by the Attorney General entitled “Nondiscrimination on the Basis of Disability in State and Local Government Services”, 75 Fed. Reg. 56164 (September 15, 2010); and

(B) the portions of part 36 of title 28, Code of Federal Regulations, that were added under the final rule issued by the Attorney General entitled “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities”, 75 Fed. Reg. 56236 (September 15, 2010).

(2) POOL.—The term “pool” means a swimming pool, wading pool, sauna, steam room, spa, wave pool, lazy river, sand bottom pool, or other water amusement, within the meaning of part 36 of title 28, Code of Federal Regulations.

(3) PRIVATE ENTITY; PUBLIC ACCOMMODATION.—The terms “private entity” and “public accommodation” have the meanings given the terms in section 301 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12181).

(4) PUBLIC ENTITY.—The term “public entity” has the meaning given the term in section 201 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131).

(b) COMPLIANCE THROUGH ACQUISITION AND USE OF PORTABLE LIFTS.—A public entity that provides a pool that is covered by title II of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq.) shall not be considered to commit a discriminatory act under that title because the entity facilitates use of the pool by acquiring and using 1 portable pool lift rather than installing 1 or more permanent pool lifts. A private entity that provides a public accommodation with a pool covered by title III of such Act (42 U.S.C. 12181 et seq.) shall not be considered to commit a discriminatory act under that title because the entity facilitates use of the pool by acquiring and using 1 portable pool lift for the pool rather than installing 1 or more permanent pool lifts.

SA 1790. Mr. BENNET (for himself and Mr. MORAN) submitted an amendment intended to be proposed by him to the bill S. 1813, to reauthorize Federal-aid highway and highway safety construction programs, and for other purposes; which was ordered to lie on the table; as follows:

In division D, on page 1489, after line 25, add the following:

SEC. _____ . EXTENSION OF WIND ENERGY CREDIT.

Paragraph (1) of section 45(d) of the Internal Revenue Code of 1986 is amended by striking “January 1, 2013” and inserting “January 1, 2014”.

SEC. _____ . COST OFFSET FOR EXTENSION OF WIND ENERGY CREDIT, AND DEFICIT REDUCTION, RESULTING FROM DELAY IN APPLICATION OF WORLD-WIDE ALLOCATION OF INTEREST.

(a) IN GENERAL.—Paragraphs (5)(D) and (6) of section 864(f) of the Internal Revenue Code of 1986 are each amended by striking “December 31, 2020” and inserting “December 31, 2022”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.