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**AMENDMENT TO H.R. 3, AS REPORTED
OFFERED BY MR. FLAKE OF ARIZONA**

At the end of section 1103 of the bill, add the following:

1 (e) SUBTRACTION OF EARMARKS FROM SURFACE
2 TRANSPORTATION PROGRAM FUNDING.—Section
3 104(b)(3) of title 23, United States Code, is amended—

4 (1) in subparagraph (B) by striking “subpara-
5 graph (A)” and inserting “subparagraphs (A) and
6 (C)”;

7 (2) by adding at the end the following:

8 “(C) SUBTRACTION OF EARMARKS.—

9 “(i) IN GENERAL.—Amounts to be ap-
10 portioned to a State under subparagraph
11 (A) for each of fiscal years 2004 through
12 2009 shall be reduced by the aggregate
13 amount made available to the State (and
14 recipients in the State) out of the Highway
15 Trust Fund for that fiscal year for projects
16 described in sections 1702, 3037, and
17 3038 of the Transportation Equity Act: A
18 Legacy for Users.



1 “(ii) EFFECT ON MINIMUM GUAR-
2 ANTEE.—In determining a State’s percent-
3 age return from the Highway Trust Fund
4 (other than the Mass Transit Account) for
5 purposes of section 105 for a fiscal year,
6 the Secretary shall treat amounts sub-
7 tracted under clause (i) for that fiscal year
8 as amounts apportioned to the State for
9 the surface transportation program for
10 that fiscal year.

11 “(iii) REAPPORTIONMENT.—Amounts
12 subtracted from a State for a fiscal year
13 under this subparagraph shall be reappor-
14 tioned among the States under the formula
15 in subparagraph (A).”.

