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Senate

The Senate met at 11 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Today we celebrate the birthday of James Madison, the fourth President of the United States, who was known as the ''Father of the U.S. Constitution.'' He said, ''We have staked the whole future of American civilization, not upon the power of government, far from it. We have staked the future of all our political institutions upon the capacity of mankind for self-government; upon the capacity of each and all of us to govern ourselves, to control ourselves, to sustain ourselves according to the Ten Commandments of God.''

Let us pray. Almighty God, who ''has not given us a spirit of fear but of power and of love and of a sound mind.''—II Timothy 1:7—help us to get control of our lives by giving You control. Help the Senators and all of us who work with and for them to exemplify lives placed completely under Your control. We thank You for giving us the clear guidelines of Your control in the Ten Commandments, the irrevocable absolutes for life as individuals and as a nation. ''We the people'' reaffirm our commitment to Your truth as set forth in our Constitution. Guide the Senators in all they legislate to enable government to liberate the initiative of individuals to gain control of their destinies by living and working for Your glory. Through our Lord and Savior. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Senator LOTT of Mississippi, is recognized.

SCHEDULE

Mr. LOTT. Mr. President, this morning the Senate will be in a period for morning business until 12 noon. At noon, the Senate will proceed to executive session to begin up to 6 hours of debate on the nomination of Judge Frederica Massiah-Jackson to be a district judge for the Eastern District of Pennsylvania, with a vote occurring on or in relation to that nomination on Tuesday at approximately 2:15. As was announced on Friday, we do expect to have at least one rollcall vote today beginning at approximately 5:30. We will be voting on an Executive Calendar nomination or on a Kosovo resolution if language can be worked out. I understand the assistant majority leader, Senator NICKLES, is working on that with the Senator from Connecticut, Senator DODD. We hope they will get the language worked out so that we can have discussion and, hopefully, a vote on that important resolution. I think it is timely. As always, we will alert Members as to precisely when that vote is scheduled for and what it will be on.

Today, with regard to the Massiah-Jackson nomination, there are up to 6 hours of debate and 3 hours and 15 minutes on Tuesday. Following that debate, at 12:15, the Senate will proceed to a vote on invoking cloture on the motion to proceed to H.R. 2646, the Coverdell A+ education bill. Therefore, Senators can expect at least one vote today at approximately 5:30, as well as a vote on Tuesday, at 12:15 on cloture on the motion to proceed to Coverdell, and then the vote on the Massiah-Jackson nomination.

We are still hoping to clear for passage the Texas low-level waste legislation and the international shipping bill. Senators can therefore expect that to come up. Once we can get an agreement worked out, I think, on the low-level waste issue, hopefully the vote will not be a rollcall vote and it can be worked out and we can have a voice vote. Also, the shipping bill has been through a long process over the last 2 years. Senators on both sides of the aisle have worked on that important issue. Senator GORTON has indicated he would have just one amendment and he would agree to a 1-hour time agreement. But that bill is being held up now by, I believe, the Senator from Illinois because of some judicial nominations. Perhaps that can be worked out some way this week.

When you consider the nominations that will be voted on this week, the possibility of the low-level waste legislation and international shipping, as well as the Coverdell A+ education bill, we are going to have a busy week. If we can finish the Coverdell A+ issue without filibusters on the motion to proceed, as well as going to the substance of the bill, instead of just being able to get started on it Thursday, then we can go to NATO enlargement. If we don't get some cooperation on the education bill, which is very important for families and children in America and their education needs, then that will push off the NATO enlargement bill until sometime next week.

Now, the Appropriations Committee is scheduled to mark up the two supplemental appropriations bills beginning at 9:30 a.m. on Tuesday. So we will have one or both of those available as soon as the House acts, although that could still be a couple of weeks, as I understand it. We will be ready to go in the Senate. The Budget Committee is marking up the first concurrent budget resolution on Tuesday as well. So we can expect those two issues also to come up within the next 2 weeks, or certainly before we go out for the Easter recess.

Mr. President, I am looking forward to cooperation this week and a very productive week on behalf of the American people.

I yield the floor.

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

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. HUTCHINSON). Under the previous order, leadership time is reserved.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12 noon, with the time equally divided between the two leaders.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana, Mr. BAUCUS, is recognized.

RELATIONS WITH JAPAN AND TO HONOR MIKE MANSFIELD'S 95TH BIRTHDAY

Mr. BAUCUS. Mr. President, in a few days, Washington's cherry trees will come into bloom by the Tidal Basin. As you may know, the Empire of Japan gave us these trees in the year 1912, as a gesture of thanks for President Theodore Roosevelt's role in ending the Russo-Japanese War.

But with due regard for TR, no one in this century has done more for our relations with Japan than Montana's most accomplished and honored son: Mike Mansfield.

Today Mike celebrates his 95th birthday. To honor this occasion, and with thanks for all that Mike has taught me and all of us over the years, I would like to offer some thoughts on our relationship with Japan as we approach the next century.

THE UNITED STATES-JAPAN ALLIANCE

In the past fifty years, America and Japan built an enduring alliance. It is the work of statesmen like Douglas MacArthur and Yoshida Shigeru after the Second World War; Dwight Eisenhower and Kishi Nobusuke, who steered the US-Japan Security Treaty through the Senate and the Diet in 1960; and Mansfield himself in his years of service as Ambassador to Japan.

It has weathered the Chinese Revolution and the Korean War. Crises in the Taiwan Strait. Vietnam and forty years of Cold War confrontation. Through it all, this alliance has helped prevent another broad Asian war. That in turn has helped all the nations of the Pacific—from the lonely islands in sight of the Antarctic coast across the equator to the snows of Manchuria—to grow, live peacefully with one another, and give their people better lives. And as we look to the new century, we must recognize that preserving and strengthening this alliance is our single most important foreign policy task in Asia.

THE CONVENTIONAL WISDOM

We must begin by understanding, to use Mansfield's famous phrase, that our relationship with Japan remains ''the most important bilateral relationship in the world, bar none.''

To many Americans today—and perhaps many Japanese—that may seem less than obvious. Many of us look at Japan as powerful but helpless and fading; much like the ''things that have lost their power'' Sei Shonagon describes in the ''Makura no Soshi'':

> A large boat high and dry in a creek at ebb-tide; a large tree blown down in a gale, lying on its side with its roots in the air; the retreating figure of a sumo wrestler who has been defeated in a match.

The perception is easy to understand. At home, since 1991 Japan's economy has grown by an average of just 1% a year. Japan's political system has responded only with a series of minor spending and regulatory shifts, punctuated by a massive error in nearly doubling the consumption tax on a nation that already consumes far too little.

The Nikkei Index is down 60% from its peak and shows no signs of recovery.

Japan's banks are adrift in a sea of bad debts, claimed by the Finance Ministry to be 79 trillion yen and by others three times that much. It has taken eight years to revise banking regulations in the ''Big Bang,'' and serious action on failed banks is still entirely absent.

Abroad, Japan's Asian neighbors are enduring their worst crisis since the Vietnam War. Japan's government has responded with a—praiseworthy—willingness to contribute to the IMF's rescue packages for these countries. But its trade surplus with Thailand and Korea; its refusal to open its markets to imports; and its failure to improve its growth and consumption rates; helped create the crisis last year and now threaten to prolong it.

THE TRUTH

But as serious as this may be, we must not inflate it into something even worse. And some of us do just that. A Wall Street Journal column a couple months back—headlined ''Japan's Model Has Failed''—is a typical piece of conventional wisdom. Typical and forgivable, but dead wrong.

As Maeda Katsunosuke, Vice Chairman of Keidanren, says: ''Japan is not experiencing an 'economic crisis,' but a 'financial crisis.' ''

I would add to that a crisis of governance, which I will discuss later. But otherwise Japan is strong and healthy.

This year, Japan's manufacturing industries will produce as much as ours, in a country with half our population. Japan's great companies—Sony, Toyota, Mitsubishi, NEC—are as dynamic and competitive as ever. Japan builds nearly half the ships in the world. It doubles our annual production of machine tools. Filed more patents here in America than ever before. And, in an economy three fifths our size, will invest as much money as we do in state-of-the-art research and development.

Japan's social indicators are even better. Its citizens have the world's longest average lifespan. Its unemployment rate is the lowest in the developed world. Its crime rate is trivial—so low that two violent incidents in Tokyo high schools this year appeared to Japan as a national epidemic. Its students rate at the top of international science and math surveys. And, not least, Japan's poor live much better lives than America's.

So to say that Japan's economy—much less its ''model''—has ''failed'' is to say something foolish. Japan's problems are serious. But they are soluble. And there is no reason to conclude that in the first decades of the next century, we and Japan will be less than the world's two leading economies; its technological leaders; and, at least in potential, its strongest military powers.

And thus, as the 21st century opens, our relationship with Japan will remain the most important in the world. Nothing will do more to keep the peace in Asia; to build prosperity in every Pacific nation; and to make the world a better, cleaner, healthier place—than preserving our alliance.

SHARED VALUES

How do we do it? We need five things. And the first and most important of them is summed up in a comment Mansfield made to the Japan-America Society a few years ago:

> Remember that we are two of the world's greatest democracies, and that we share basic values—respect for political and economic freedom and a common desire for peace.

Some alliances are marriages of convenience against common threat, in which the partners have irreconcilable differences they can put aside but not solve. The classic case is our alliance with the Soviet Union in the Second World War. It did not survive the war; nor, probably, did its authors on either side intend that it should.

But alliances based on common values, with proper care, can outlive the threats they were created to address. And our alliance with Japan is one of those.

Our people share a reverence for democracy. We share the freedoms to travel and to speak our minds. And we share something that may appear superficial, but really is profound: an appreciation for one another's way of life.

You can see that on a walk down any big Tokyo street, as you pass the Body Shop, Condomania, McDonald's, Wendy's, and dozens of other commonplaces of modern life. And you can see it here in America with karaoke bars, teenagers wearing tamagotchi, sushi bars, Banana Yoshimoto in bookstores and the Teenage Mutant Ninja Turtles on Saturday morning TV.

These things may sound trivial—fads and consumerism at worst, a taste for one another's popular culture at best. But they are important. They show that ordinary people in both countries—salarymen, high school kids, soccer moms—understand that what is important in life is not national crusades, military glory and foreign wars, but the good life and the quest for peace.

SHARED VIEW OF SECURITY

That is a solid foundation for the second thing we need: a united policy to

keep the peace in a world perhaps less dangerous, but more complex, than the world of the Cold War.

In the coming years, China will choose between the highly responsible and important role it has taken up in the Korean question and in the Asian financial crisis; and the belligerent approach it adopted in the Taiwan Strait crisis just two years ago.

We will see historic events across the Tsushima Strait, as North Korea's totalitarian system crumbles and the Korean nation moves towards unity.

Russia, already reviving economically, will regain its status as a great Pacific power.

And the financial crisis in Indonesia, whose waters carry most of Japan's energy supply and 40% of all the world's shipping may create an entirely new set of questions.

We cannot predict the future in any of these areas. But we can be certain of two things. We can address them more safely and peacefully if our own military is strong and our policy does not go out of its way to pick fights. And it will be close to impossible for these processes to lead to a major war as long as we remain allied with Japan—Asia's most advanced economy and, potentially, its strongest military power. Or, to use Mike Mansfield's words:

> Remember that we are allies, and that our security and foreign policy cooperation is essential for the peace and prosperity that the Pacific region enjoys today.

The new Defense Guidelines we signed last year; our cooperation on Iraq; and our joint work for Japan's permanent seat on the UN Security Council show me that we are listening to that advice.

COMMON AGENDA

Third, the next century will present us with a new set of issues, arising from the extraordinary growth of industry, science, trade and migration. And as the world's two leading technological powers, we and Japan have special responsibilities to address them.

Mass trade and migration have enriched the world and made ordinary people freer than ever before. They also allow new diseases to spread faster than ever; put great strains on food safety; and eased life for international criminals.

The industrial expansion of Latin America, Southeast Asia and India has reduced poverty and allowed ordinary people to live longer lives. It has also reduced fishing stocks, sped global warming and accelerated the decline of the world's forests and wildlife. Crises like the fires in Borneo, or slowly developing problems like the accumulation of toxic materials in fish, can affect dozens of countries or even the whole world.

These things will challenge the wisdom and capacity of us all; but early signs are good.

Through the ''Common Agenda,'' launched in 1993, American and Japanese doctors have eradicated poliomyelitis in the Western Pacific. We hope to wipe it out worldwide by the year 2000. Our environmental experts are developing ways to preserve coral reefs, a biodiversity resource the naturalist E.O. Wilson calls ''the marine equivalent of the rainforest.'' Still others are creating new technologies to monitor the health of oceans and the pace of climate change; predict earthquakes and floods more efficiently, and slow the spread of AIDS in Cambodia and Vietnam.

THE ECONOMIC RELATIONSHIP

Fourth, we need a strong, fair and reciprocal relationship in economics and trade. And the structural imbalance of today's trade with Japan is, I believe, the greatest threat to our alliance.

Our trade with Japan is vast. In goods and services together, it likely topped $250 billion last year. To put this in context, our $14 billion worth of travel services exports to Japan was greater than the total of all our exports—cars, wheat, computers, insurance, everything—to China.

And most of this relationship is good for both of us. Japan is a crucial market for Montana's cattlemen and lumber mills. Japanese companies, like Advanced Silicon Materials with its plant in Butte, invest and create jobs here in America.

But depending on currency values, we run a structural deficit of $30 to $70 billion. And the reason is not, I believe, macroeconomic factors like budget surpluses, deficits, growth rates or savings. It is that Japan's market was rigged against imports in the 1950s and 1960s, and has not fundamentally changed since.

As farsighted as our policymakers were in other areas, they did not respond as Japan's ministries shut down American auto factories, closed out our textile markets and blocked our agricultural exports. And as the kendo master Miyamoto Musashi wrote in the ''Book of Five Rings,'' the results were inevitable: ''If you diverge only a little from the correct Way, you will later find this a large divergence.''

So these methods spread throughout Japan's economy. To the great cost of American producers and Japanese consumers, they remain in force today.

The Health Ministry uses long reviews and irrelevant tests to block foreign pharmaceuticals. It takes an average of forty months, or three times as long as our FDA, to approve any foreign medicine; and it has taken thirty-eight years and counting in the extreme case of oral contraceptives. So Merck and Pfizer sell less than they should; and Japan's elderly are denied the most effective new medicines, like Eisei for Alzheimer's patients and Fosomax for osteoporosis—ironically, a drug developed by a Japanese pharmaceutical company and sold by an American firm, just as VCRs were invented in America and are sold by NEC and Sony.

Japanese citizens sign 99-year mortgages on houses because foreign construction firms remain locked out of the market. American auto companies can't find dealerships, whether steering wheels are on the right, the left, or the roof. And Japanese families pay $20 for a melon, $5 for an apple, and outrageous sums for a bag of rice.

Americans get angry about this. Rightly so. And the consequences can go beyond trade. While times are good in America, most people will live with the imbalance. But when our economy turns down, it will be right back above the fold in the daily paper. And we could return to the era of scare headlines about Japanese buying the Lincoln Center; movie theaters running films like ''Rising Sun''; Members of Congress holding Toshiba-smashing parties on the Capitol steps; and Americans beginning to see Japan as less a partner than a rival or even a threat.

TRADE POLICY

I do not want to see that happen. The time to prevent it is now, and I do not think our policy is up to the job.

Today we are focused almost totally on macroeconomics: tax policy, fiscal stimulus and Japan's growth rate. That is not wrong in itself. Japan should be fixated less on its deficit, and more on its responsibility to grow faster and import more from its neighbors. In fact, faster growth will also help Japan with its budget deficits, as has happened here in America. So the Treasury is right to call for tax cuts and real stimulus.

But it is not enough. When we succeed in trade with Japan, it is through specific sectoral talks, using retaliation if necessary, to address the administrative guidance, informal cartels and discriminatory regulations found almost everywhere in Japan's economy. That is why the beef agreement Ambassador Mansfield and I pushed for nine years ago has made Japan our largest foreign beef market by far—regardless of what my old friend Hata Tsutomu thought about Japanese intestines. It is why the medical equipment agreement and the Semiconductor Agreements work. And it is why, let us hope, our recent agreements on air passenger service and port procedures will succeed.

True, this method is uncomfortable. It leads to disputes and ''friction.'' But when we drift away from it, our exports stagnate and our public is rightly frustrated. We need to return to it; and the only alternative to that is a sweeping reform in Japan.

CRISIS OF GOVERNANCE

And that leads me to my earlier comment about a ''crisis of governance,'' and along with it, the fifth and final part of a strong relationship with Japan in the next century.

A few years ago, a member of the Japanese Diet touched on this in a mostly wrong-headed book called ''The Japan That Can Say No.'' He meant, of course, ''no'' to the United States in trade negotiations, feeling that in order to reform, Japan had to stop what he viewed as constant grovelling to the demands of the United States.

In the US, around the same time, I was the Trade Subcommittee Chairman. So I was making a lot of the demands. And I had the opposite complaint—I felt Japan only said ''no.''

But I have come to believe neither of us was quite right. Like the blind sages in the Japanese folk tale, we were trying to describe an elephant by examining bits of it. And the past ten years of Japanese history have revealed to us, if not the whole beast, then at least a more complete animal.

If we look at Japan's response to its bank failures; reform of the Finance Ministry; or the Asian financial crisis, we see a Japan that, to exaggerate only a little, cannot say ''yes,'' cannot say ''no,'' and simply waits for problems to go away. And the reason is obviously not that Japanese cannot understand issues or make decisions. It is the nature of governance in Japan.

Bureaucrats have too much power and too little accountability to politicians or courts. Ministers appoint virtually no senior ministry officials and have little power over their subordinates. Thus Prime Ministers have few means to make ministries work together. Governments have too little power to set policy. And citizens have too little control over the whole system.

As a result, regulatory, trade and financial policies set decades ago, for a nation recovering from war and only beginning to develop civilian industry, continue to guide Japan today. They no longer work and they will not work. And this is the root of all the problems I cited earlier, from failure to stimulate the economy, to the slow pace of banking reform and the lackluster response to the Asian financial crisis.

POLITICAL REFORM

And thus, Japan must go beyond deregulation and fiscal policy. It needs thorough political reform. A system that can make a decision and make it stick.

It must give more power to ministers at the expense of their bureaucrats; elected politicians at the expense of ministries; towns and prefectures at the expense of Tokyo; citizens at the expense of the state.

That will take enormous willpower and vision. But I am totally convinced that Japan can do it. Recall the explosive reforms and industrial growth of the Meiji era, and the rebuilding after World War II. Remember that in the right circumstances, Japan's people are among the most creative, energetic and hard-working in the world. And look ahead to a brilliant future.

If Japan can make this leap, our relationship will reach its full potential—as a creator of wealth for our countries and our neighbors, a source of ideas, invention and science that will astonish the world, and the world's strongest guarantee of peace.

And if that sounds like a daydream, remember how far we have come, from the end of the Second World War to this era of peace in the Pacific. Set aside Health Ministry regulations, fiscal policy, Defense Guidelines and every thing else, and reflect on the amazing fact that today, more than at any time in human history, ordinary people can live a decent, safe, secure life.

Our alliance for Japan helped make it happen. And Mike Mansfield, on his 95th birthday, deserves as much credit for this as anyone alive.

It is quite a legacy. The best possible tribute to it would be that, in the next century, we complete the work he has begun so well.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent to allow Angela Marshall of my staff to be on the Senate floor during the introduction of the Emergency Marketing Assistance Act.

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

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 1762 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BAUCUS. Mr. President, 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. BYRD. 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. BYRD. Mr. President, what is the state of business at the moment?

The PRESIDING OFFICER. We are in morning business until 12 noon.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak for not to exceed 15 minutes and that the stated order for the Senate at 12 noon be delayed until I complete my remarks, which will not be longer than 15 minutes at most.

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

SENATOR MOYNIHAN'S BIRTHDAY

Mr. BYRD. Mr. President, today, March 16th, marks the birthday of a man whom Shakespeare could have been describing when he said in ''Henry VII,'' ''He was a scholar, and a ripe and good one, exceeding wise, fair-spoken, and persuading.'' The man whom that description fits like a glove is the respected senior Senator from New York, Senator DANIEL PATRICK MOYNIHAN, who today celebrates his seventy-first birthday. O, to be 71 again. O, to be 71 again. I have to rejoice in Senator MOYNIHAN being only 71 today. I am pleased to offer Senator MOYNIHAN my best wishes for a very happy birthday, and my thanks for the intellectual vigor, the stubborn veracity, the scrupulous accuracy and the wise counsel that Senator MOYNIHAN has brought to the Senate.

Senator MOYNIHAN's curriculum vitae is as widely known as it is broadly based—his humble beginnings, his climb up the academic ladder which, despite being interrupted by World War II, culminated in a doctorate from the Fletcher School of Law and Diplomacy; a period of teaching economics—wouldn't I like to have sat in his class—a period of teaching economics, sociology and urban studies at Harvard and at the Joint Center for Urban Studies; and a distinguished series of positions in the Kennedy, Johnson and Nixon administrations before winning election to the Senate for the first time in 1976. Few Senators come to this body with so much academic and practical experience. No one who observes Senator MOYNIHAN on the Senate floor would guess that as a young man, he once arrived at a test with a dockworker's loading hook tucked in his back pocket.

William Shakespeare has also said in ''Twelfth Night,'' ''But to be said an honest man . . . goes as fairly as to say a careful man and a great scholar.'' And that description also reflects the character of Senator MOYNIHAN, a lifelong scholar who has never shirked from the sometimes unpleasant duty of informing the Senate and the nation and Presidents of the hard facts of this or that issue. His carefully studied analysis and his insight into complex issues ranging from poverty in America to the future of social security keep Senators on the floor and staff glued to C–Span, because we have all come to rely on the fact that when Senator MOYNIHAN speaks, we all will learn something of importance, something that may fundamentally shift our thinking. His skill with words is equally finely honed, imbuing every thoughtfully parsed sentence with meaning and wit. He is, to hearken back to Shakespeare's description, ''fair spoken, and persuading,'' in speech and in the many books he has authored.

In an age of ten second campaign slogans, bumper sticker rhetoric, and simplistic, feel-good legislation, Senator MOYNIHAN is an anachronism, a throwback to the days of thoughtful consideration of complex issues and reasoned debate on the merits of different possible solutions. He thinks on a grander, a grander scale than do most people and, as a consequence, he is able to foresee problems long before they become costly, messy, politically dangerous quagmires that few people have the courage to tackle, let alone solve. When I have doubts about some new program being proposed, or some radical change being suggested without the benefit of hearings or committee consideration, and Senator MOYNIHAN also voices concern, or briefly sketches possible unpredicted outcomes arising from the proposal, then I know that my hesitation is vindicated.

In another sense, too, Senator MOYNIHAN is a figure from a different, more polite age, for he is a gentleman. Edmund Burke has observed that ''A king

may make a nobleman, but he cannot make a gentleman.'' ''A king may make a nobleman, but he cannot make a gentleman.'' The same can be said for politicians—elections can make a Senator—not always a good one—but they can never make a gentleman. In this age of negative campaigns, of road rage, of obscenities masquerading as popular music, and of television that makes one blush while changing channels, there are few gentlemen to point to, but Senator MOYNIHAN is surely one of those few. He listens carefully, respectful of the viewpoint of the speaker—which is in itself an increasingly lost art, it seems. I have never heard him raise his voice in anger, or comment rudely about another Member, and though his criticisms can be as witty and tart as an Empire apple—the Empire apple is something like the McIntosh apple, very flavorful, tart. I saw some up at Martin's store in Charlestown yesterday, some Empire apples. Despite the standing that he enjoys, he remains an approachable figure, unaffected by the grandeur of his surroundings in this majestic building. Were he to stop and look back at the Capitol, I suspect that he would be enjoying the simple pleasure of tulips and daffodils, nodding, tossing their heads in the sunshine, and not so much savoring the symbol of legislative power embodied in this marble and sandstone edifice.

In the twenty-two years that Senator MOYNIHAN has graced the Senate with his presence, he has brought to the Senate an intellectual puissance and an exalted level of scholarship that have raised the mental caliber of every one around him. He has been more than a Senator from New York, though he certainly has been a good representative of the people of that great State. He has also been an intellectual leader, a sage, and a prophet for the Senate and for the Nation. He has lifted us all up on his broad wings of scholarship.

He is the possessor, the last time I looked at the Congressional Directory some few months ago, he is the possessor of 60 honorary degrees—60. I don't think anyone else in this body, probably in the other body, can equal that achievement.

So he has lifted us all up on the broad wings of his scholarship, his experience and his wisdom, so painstakingly acquired only to be so freely and generously given away.

Herman Melville observed in Moby Dick that ''. . . there is a Catskill eagle in some souls that can alike dive down into the blackest gorges, and soar out of them again and become invisible in the sunny spaces. And even if he for ever flies within the gorge, that gorge is in the mountains; so that even in his lowest stoop the mountain eagle is still higher than other birds upon the plain, even though they soar.'' The distinguished Senator from New York is just such a soul, a Catskill eagle, inspiring other birds of the sunlit Senate plain, including this BYRD.

Mr. President, Erma and I offer our best wishes to Senator DANIEL PATRICK MOYNIHAN as he celebrates his birthday with his lovely wife Liz and his family. May he enjoy many, many, many more happy birthdays, and may we, his colleagues, have the high privilege of sharing in those birthdays with him over a period of many, many years away.

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

The PRESIDING OFFICER (Mr. ROBERTS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF FREDERICA A. MASSIAH-JACKSON

Mr. GRAMS. Mr. President, as in executive session, I ask unanimous consent that the debate relative to the nomination of Frederica Massiah-Jackson be postponed to occur at a time to be determined by the majority leader. It is my understanding that the White House intends to withdraw this nomination by 1 p.m. today. If that does not occur, then it would be the majority leader's intention to begin the scheduled debate at 1 p.m.

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

Mr. GRAMS. Thank you very much, Mr. President.

EXTENSION OF MORNING BUSINESS

Mr. GRAMS. Mr. President, I also 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.

Mr. GRAMS. Thank you very much, Mr. President.

95TH BIRTHDAY TRIBUTE TO MIKE MANSFIELD

Mr. DASCHLE. Mr. President, I would like to join my colleague from Montana, Senator BAUCUS, in wishing a happy 95th birthday to former Senator and Ambassador Mike Mansfield. If historians were to accept nominations for individuals who are living embodiments of 20th century history, I would nominate Mike Mansfield to be our Democratic representative.

Ambassador Mansfield's life has framed some of the great events of this century, from his service as a 14-year-old sailor in the U.S. Navy in World War I, to his role as an architect of modern American policy toward Japan as long-time U.S. Ambassador. Along the way, Mike Mansfield shaped history in both ordinary and extraordinary ways: as a miner and mining engineer, as a professor of history and political science, and as a member of the U.S. House of Representatives and Senate from Montana, including a remarkable 16-year tenure as Senate Majority Leader.

As you know, Mr. President, Mike Mansfield's majestic portrait now presides over a room that bears his name just off the Senate floor. To Senators, staff, and visitors, it is a reminder of a Senate giant who was a quiet rock of integrity and perseverance. I am honored and grateful that we have the opportunity today to thank this living reminder of America's greatness and its goodness. Happy birthday, Ambassador Mansfield, and best wishes for many more years of good health and happiness.

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

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

ORDER OF PROCEDURE

Mr. LOTT. Mr. President, for the information of all Senators, I would like to officially notify the Presiding Officer on a change in the status of the nomination that was to have been debated today, that being the nomination of Frederica Massiah-Jackson. The nominee has written the President of the United States asking her nomination be withdrawn.

It is my understanding the President has withdrawn her nomination and, therefore, the Senate will not be conducting a rollcall vote relative to her nomination tomorrow at 2:15 p.m.

Again, it is my hope the Senate can consider today the resolution relative to human rights in Kosovo and conduct a vote regarding that resolution at 5:30 p.m. I understand there may be some objection to bringing up that resolution, but I cannot understand why any Senator would object to a timely consideration of the human rights considerations with regard to what has been happening in Kosovo. At the appropriate time, when we can get an agreement on the wording of the resolution, it will be my intent to bring it to the floor. If some Senator objects, he or she will have to appear and do so.

If not, the Senate should be prepared to consider the nomination of Susan Graber to be a circuit judge, with that vote occurring at 5:30 p.m. today. Susan Graber is a nominee from the State of Oregon to be on the circuit court in that region.

WITHDRAWAL OF NOMINATION OF FREDERICA MASSIAH-JACKSON

Mr. LOTT. Mr. President, back to the withdrawal of the nomination of Frederica Massiah-Jackson, I note that this is at her request in writing, and the President has, therefore, officially withdrawn her nomination. I think it is the right decision on the part of the nominee, and I think certainly it is the right decision for the President to accept that withdrawal and notify the Senate. This nominee had been given a considerable amount of time to clarify the record with regard to the objections that have been heard by the district attorney in the Philadelphia region in which this judge would have resided, and also from the Pennsylvania District Attorneys Association. Clearly, this nomination was in jeopardy. It probably would have been defeated. I think that would have been the right vote. All concerned have been spared further problems by this withdrawal. So, I am pleased that the nomination has been withdrawn.

EXTENSION OF MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that the period for the transaction of morning business be extended under the same terms as previously ordered.

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

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF SUSAN GRABER

Mr. LOTT. Mr. President, as in executive session, I ask unanimous consent that at 5:20 p.m. today, the Senate proceed to executive session, with 10 minutes of time to be equally divided between the chairman and the ranking member of the Judiciary Committee, and an immediate vote then occur after that time on the confirmation of the nomination of Executive Calendar No. 530, which is Susan Graber, of Oregon, to be U.S. Circuit Judge for the Ninth Circuit. I further ask unanimous consent that following the vote, the President be immediately notified of the Senate's action and that the Senate then return to legislative session.

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

Mr. LOTT. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the nomination, and I therefore ask for the yeas and nays.

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

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LOTT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BYRD. Mr. President, is the Senate in morning business?

The PRESIDING OFFICER. The Senate is in morning business. Each Senator will be recognized for up to 10 minutes.

Mr. BYRD. I ask unanimous consent I may proceed in an uninterrupted manner through the completion of my remarks which will last no longer than 20 minutes.

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

Mr. BYRD. I thank the Chair.

SENATOR WENDELL FORD: THE LONGEST-SERVING KENTUCKIAN IN THE HISTORY OF THE SENATE

Mr. BYRD. Mr. President, the Commonwealth of Kentucky has provided the United States Senate with some of its finer members. Take John Breckinridge, who in the early 1800's became his party's most effective spokesman and legislative leader during his first term in the Senate, and who would doubtless have achieved further greatness had he not succumbed to typhus fever at the age of 46. Despite this early death, Breckinridge did achieve a form of posthumous success when his son, John C. Breckinridge was elected first Senator and then vice-President. (It was, incidentally, the younger Breckinridge who, in 1859, provided such a moving tribute to the ''consecrated character'' of the old Senate chamber, before leading the Senators in procession to their new, and current home.)

Or consider the great Henry Clay, who promoted the American system, whose powerful oratory and forceful personality made him one of the dominant figures during the Senate's golden age of the 1830's, 1840's and 1850's. And what of Alben Barkley, Majority Leader during the 1940's, whose booming baritone and vast repertoire of humorous anecdotes made him one of the more popular Senators of his time?

Not to mention John Sherman Cooper, who sat right here on the floor during the year that we served together. John Sherman Cooper was a former Ambassador to India. I first met him in 1955, at which time I was a Member of the House of Representatives and was traveling with a subcommittee of the House Foreign Affairs Committee to the Pacific and the Far East. On that occasion we traveled 68 days. We went around the world in an old constellation. That would have been called a ''junket'' in these times. John Sherman Cooper was Ambassador to India when I and my House colleagues stopped there for a short time. John Sherman Cooper also played an outspoken role in the debates on the war in Vietnam. The list of outstanding Senators from Kentucky is a long list indeed.

Mr. President, today Kentucky has another native son of whom it can be equally proud. That man is WENDELL FORD, who on Saturday last, March 14, became the longest serving Kentuckian in the history of the State.

It seems only fitting that Senator FORD should hold this record, for few other politicians have served the great Commonwealth of Kentucky as ably or as successfully as has WENDELL FORD. After service in World War II, Senator FORD returned to his home state and in short order became a state Senator, then a lieutenant governor, then Governor, before his election to the Senate in 1974.

When WENDELL FORD came to the U.S. Senate, I was the majority whip. Since that date in 1974, Senator FORD has earned acclaim as a smart and savvy legislator, particularly during his excellent chairmanship of the Rules Committee from 1986 to 1994. I count it a great privilege and honor and a pleasure to have served on the Rules Committee during those years of WENDELL FORD's chairmanship. He did well. He was a mighty protector of the rules of the Senate and is one of the best chairman of any committee on which I have served. Senator FORD has also been prominent in the party leadership. He chaired the democratic senatorial campaign committee from 1976 to 1982 and he has served with distinction as party whip since 1990.

As a Senator, WENDELL FORD has endeared himself to colleagues and staffers alike with his warm personality and his vibrant sense of humor. He has also distinguished himself as a devoted and vigilant defender of the interests of his native Kentuckians. I should say of all Kentuckians, native or otherwise. I have always felt a kinship with Kentucky, which borders my own mountain II state. I have felt a kinship with the people of eastern Kentucky, whose rugged, mountainous terrain resembles that of West Virginia. And, as a fellow United States Senator representing another less well-off state whose needs have often been overlooked for too long, I have the utmost respect and admiration for Senator WENDELL FORD's courageous and tenacious efforts to serve the interests of his state and its noble people. In this regard, Senator FORD may be seen as an heir to the legacy of Henry Clay, whose ''American system'' favored federal spending on communications, transportation and other internal improvements. As a matter of fact, the Old Cumberland Road, as it is sometimes referred to, the Old National Road, began at Cumberland, MD, and went westward to Wheeling, WV and on to Vandalia, IL. The work on that road began in 1811, and by the year 1838 the Federal Government had invested the astounding sum of $3 million in that highway.

That was the highway which many settlers traveling from the east and going to the west, took, as they made their way to the Ohio River. I should say that Henry Clay was one of the foremost supporters of appropriations for the Old Cumberland Road, and we who live in the mountainous terrain of West Virginia, and particularly in the northern part of the State, have not forgotten that nor shall we forget it. Few Senators have been as dedicated to serving the needs of their constituents as the able senior Senator from Kentucky, and I salute him for that.

At the same time, Senator FORD has also done much good work on a national level. As a member of the Commerce Committee, Senator FORD has become a national leader on aviation issues, a leader who played key roles in shaping the 1994 Federal Aviation Administration Authorization Act and the 1987 Airport and Airways Capacity Expansion Act. On the Energy Committee, Senator WENDELL FORD has worked tirelessly to lessen our country's dependence on foreign oil and to support clean, environmentally friendly coal technologies. And whether fighting for campaign finance reform or sponsoring the motor voter bill, Senator FORD has been a valiant soldier in the ongoing struggle to make this country's political system as fair, as open, and as representative as possible.

Mr. President, the same words spoken by Senator Clay in his farewell address to the Senate 156 years ago could just as well be attributed to Senator FORD's career in the Senate. Senator Henry Clay declared in part:

. . . that I have been actuated by no personal motives—that I have sought no personal aggrandizement—no promotion from the advocacy of those various measures on which I have been called to act—that I have had an eye, a single eye, a heart, a single heart, ever devoted to what appeared to be the best interests of the country.

Senator FORD's good work has not gone unappreciated by his constituents. The host of state records that he holds testifies to his popularity with Kentuckians. After all, Senator FORD was the first candidate to carry all 120 countries against opposition and, he did this in 1980. In 1992, he won the highest number of votes cast for any state candidate. And in 1996, he surpassed Alben Barkley's record of having the longest consecutive service of any Kentucky Senator. Now, with this latest accomplishment to his name, there can be no doubting that Senator FORD's position is as one of the most successful and popular politicians in the state's history.

Mr. President, although Senator FORD has announced that he will not stand for re-election this fall, he may rest assured as he prepares to leave this chamber that his contributions and accomplishments have earned him a place in the Senate's and Kentucky's honor rolls. I am sure that I can speak for all of my colleagues when I say that Senator FORD will be sorely missed. His combination of personal charm and legislative skill is a rare one, and whoever fills his seat will have much to live up to.

My wife, Erma, and I shall regret to see him and his lovely wife go.

WENDELL FORD in his service here and in his service to the people of Kentucky, reminds me of a bit of verse by John G. Holland, entitled ''God Give Us Men'':

God give us men!
A time like this demands strong minds,
great hearts, true faith, and ready hands.
Men whom the lust of office does not kill;
Men whom the spoils of office cannot buy;
Men who possess opinions and a will;
Men who have honor; men who will not lie.
Men who can stand before a demagogue
And brave his treacherous flatteries without winking.
Tall men, sun-crowned;
Who live above the fog,
In public duty and in private thinking.
For while the rabble with its thumbworn creeds,
It's large professions and its little deeds,
mingles in selfish strife,
Lo! Freedom weeps!
Wrong rules the land and waiting justice sleeps.
God give us men!
Men who serve not for selfish booty;
But real men, courageous, who flinch not at duty.
Men of dependable character;
Men of sterling worth;
Then wrongs will be redressed, and right will rule the earth.
God Give us Men!

Mr. President, I yield the floor and I suggest he absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. 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. FORD. Mr. President, as has been obvious last Friday and today, this Senator succeeded the service of the distinguished Kentucky statesman, Alben Barkley. It is an extraordinary gift that the people of my State have given to me, because it is a gift only they have to give; that is, through their votes. If there is any significance to this period of service, it is that I have served my people well, have voted the way they would have hoped I would vote, and they understand that I work hard even though I do not accomplish everything that I hope to.

Mr. President, on Friday, one of the finest young men that I have known in a long time, Senator DASCHLE, said some very kind words about me and our association. I am grateful to him. JOHN GLENN, whom everybody knows—and you want to stand close to him so you can get your picture made—JOHN and his wife Ann and Mrs. Ford and I have become very close personal friends. JOHN is going to do what he feels he can still make a contribution to, and that is how we can prevent aging. I wish him all the success in the world. After I leave here, I intend to form the Government Education Center in my hometown for high school students. The JOHN GLENNs of this world will do what they can do best. I hope that WENDELL FORD can do what he does best and try to encourage young people to take an interest in government, whether it is local, State, or Federal. Maybe we can find another Henry Clay, or Henrietta Clay, as the times would dictate, in the class of high school students. We will begin that in January of next year when I leave the Senate.

HARRY REID, who talked about Searchlight, NV, a very small community, reminds me of Yellow Creek, KY, where I came from; the little town of Thruston.

Senator KENNEDY, for the remarks he made on Friday, I am grateful to him.

We have just listened to some words from the distinguished Senator from West Virginia, ROBERT BYRD. As he said, he was the whip when I came to the Senate, and he was almost a ''third Senator'' for Kentucky, because we had so much in common between West Virginia and Kentucky, particularly in eastern Kentucky.

I thought I knew the love of this institution until I met Senator ROBERT BYRD and understood his love for this institution. I thought I understood ''to defend and support the Constitution'' of these United States until I met ROBERT C. BYRD and saw his tenacious support of the Constitution and how sometimes he would stand alone in his defense of it. So the years with Senator ROBERT BYRD have been very meaningful to me. We need people such as him to give us the legislative history not only of our beginning and prior to that but so that we understand why we are here and how we work.

Mr. President, I may have formal remarks later on in this session before we leave, but I could not let this time pass without thanking my friends for their kind words and hope that somehow I may be able to develop and encourage young people to come and be a future ROBERT C. BYRD or a TOM DASCHLE or a HARRY REID or a TED KENNEDY.

I thank all of them for their kind words, and particularly the people of my State who have been so kind to me in the years we have worked together for its betterment. Maybe I ought to apologize to some of my colleagues for being so tenacious at times in trying to serve the people in my State, whom I love so much. A lot of them I love I have never seen or met, but the relationship is still there. As we go through this trying time as it relates to support for the farmer in my State, I probably have been more tenacious than I have ever been because it is the largest political problem I have had since I have been in politics some 35 years.

Mr. President, I thank you for the opportunity to speak. There being no

Senator wishing to be recognized, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Chair thanks the senior Senator from Kentucky, the longest serving Senator from the great State of Kentucky, and joins in the admiration of those who spoke of him.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. 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. McCONNELL. Mr. President, today marks another milestone in the extraordinarily successful tenure of my friend and colleague from Kentucky, WENDELL FORD. He becomes the longest serving Senator in Kentucky history. I remember well when Senator FORD got his start; I was in law school at the University of Kentucky. I remember reading a story about a State Senate primary in Owensboro, KY, in which the Senate majority leader of the Kentucky State Senate was upset in the primary by an impressive young man named WENDELL FORD, who had been involved in politics some time and had been in fact national president of the Jaycees.

Then in my senior year in law school, I remember this young State senator, who obviously didn't want to stay in the State senate too long, running for Lieutenant Governor and defeating the attorney general of Kentucky in that primary.

Then that November, an unusual thing happened in Kentucky—they elected a Republican Governor. It has not happened since. It is a fairly rare occurrence in our State. But State Senator Wendell Ford was elected Lieutenant Governor, so he beat one of those rare Republican tides in our State.

Then, as if that were not enough, 4 years later everybody in Kentucky thought that former Gov. Bert Combs, who subsequently had a distinguished career as a U.S. court of appeals judge, was a lead pipe cinch to be the next Governor of Kentucky and at the very least to win the Democratic primary. But Lt. Gov. Wendell Ford defeated, against everybody's expectations, former Governor Combs in the primary, and the rest is, as they say, history.

He came to the Senate, beating a Republican incumbent in 1974, and is into the final days of his fourth term. He has served Kentucky long and well, having had an extraordinarily successful public career. I join with all of my colleagues in congratulating him for his not only lengthy service but his excellent service on behalf of the Commonwealth of Kentucky and the people of the United States.

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

Mr. FORD. Will the Senator withhold?

Mr. McCONNELL. I withhold.

Mr. FORD. Mr. President, it is hard to take all these kind words that are being said about me, and I think I will notify my grandchildren to listen in. But I do thank my colleague for a bit of history as it relates to my political career. His is somewhat akin to mine. When he ran for office, he was not expected to win, and he did. So I think we can relate to those periods in our lives and our political tenure. I do thank him for his kind words today, and I look forward to working with him to accomplish things for our Commonwealth and this country in the next few months we will serve together. I am grateful to him.

I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF JEREMY D. FOGEL

Mr. McCONNELL. Mr. President, on behalf of the Republican leader, as in executive session, I ask unanimous consent that at 5:20 today the Senate proceed to executive session and there be 10 minutes of debate in the usual form on Executive Calendar No. 505, the nomination of Jeremy D. Fogel, of California, to be U.S. district judge.

I further ask unanimous consent that immediately following the debate, the Senate proceed to a vote on the confirmation of the nomination, and following the vote, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

Mr. McCONNELL. I now ask unanimous consent that it be in order at this time to ask for the yeas and nays on the nomination.

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

Mr. McCONNELL. I therefore ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. McCONNELL. All Senators should now be aware that at 5:30 today there will be a rollcall vote on Jeremy Fogel to be U.S. district judge.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

NOMINATION OF JUDGE MASSIAH-JACKSON

Mr. HATCH. Madam President, Judge Massiah-Jackson has made the right decision in withdrawing her nomination to the Federal bench, given the strong bipartisan opposition from law enforcement groups, her demonstrated leniency in sentencing convicted criminals, and the Judiciary Committee's concerns about her lack of candor throughout the nomination process. I believe withdrawing the nomination was the right thing for her to do. Despite the fact that the committee afforded two hearings for this nominee, and gave her ample opportunity to answer criticisms of her record, her responses were found to be unconvincing. After having heard the nominee's testimony and having considered the information provided to the committee by law enforcement officials about her treatment of police officers in court and her flawed judicial rulings, I would not have voted to confirm this nominee to a lifetime appointment to the Federal bench.

The events surrounding Judge Massiah-Jackson's nomination demonstrate the need for the Senate to scrutinize the President's nominees carefully. That is what we have been doing. This is not a numbers game. We have to look at these people very carefully. They are nominated and, if confirmed, are confirmed for lifetime positions. Some people say the closest thing to God put in this life is being put on the Federal bench, because nobody can criticize you under those circumstances once you make it there. So this particular nomination does demonstrate the need for scrutiny of any President's nominees.

Unfortunately, I think many in the legal community do not understand the Senate's role in the confirmation process. The Constitution obligates the Senate to advise the President with respect to his choice in nominees and ultimately consent to their appointment. No one has the right to a Senate confirmation anymore than he or she has the right to be nominated by the President. Federal judges serve for what amounts to life terms. They wield enormous power in our society, power that must be exercised fairly and impartially. When the President sends us nominees who lack the necessary qualifications to be elevated to the Federal bench, the Senate's duty is to bring these deficiencies to light.

In this case, given the bipartisan opposition of law enforcement and the nominee's problematic record, I believe withdrawal of the nominee was appropriate. But let me add, had this nominee come to a vote today, she would have been overwhelmingly defeated by both sides of the aisle. There were many Democrats who were going to vote against Massiah-Jackson, and I think most all Republicans were going to vote against her as well. And there were reasons to do so with regard to this nomination.

Having said that, let me just say that I was impressed with Massiah-Jackson's family. It is clear that she is a nice woman. It is clear that her husband is a very nice man. Her two children whom she introduced to the committee looked as though they were just outstanding in every way. So I commend her for that, and I hope she has learned from this process that people in Philadelphia expect her to be tough on crime, to be tough on criminals, and to support the law enforcement people when they are right. When they are wrong, she should correct them and she should do so vociferously.

But some of the things that were done really cast such a cloud over this nomination that we just could not vote for her in the end, so I was pleased that she did the right thing by withdrawing her nomination. I feel badly about it, because I believe her to be a nice person. I believe that she intends to be a very fine judge, and I commend her to work very hard to be that. Being a tough trial judge in Pennsylvania is a very great honor. The fact that she has not received consent to this nomination and this opportunity should not deter her from proving that she could be one of the best trial judges in the State of Pennsylvania if she wants to be. I certainly believe she is intelligent enough to be. My own personal belief is that she is good enough to be. But because of these problems in the past, she is going to have to redeem herself in the eyes of the law enforcement community.

If Judge Massiah-Jackson takes out vengeance against the law enforcement community and those who have raised these issues, then she will have proven us even more right and she will have proven that the action of withdrawal here today was even more right than I believed it to have been. I hope she will treat all law enforcement officials with the respect that they are due when they appear before her court. I practiced law in Pennsylvania for a number of years and I tried a number of cases in front of the Common Pleas bench in Pittsburgh, and I have to say these are very important judgeships. She still has that judgeship. I wish her the best. I am counting on her doing the very best she can from here on in, and I have counted on her proving that those who have criticized her, though perhaps just at this time, it appears, can have faith in the future because of what she has tried to do.

FAIRNESS TO THE NOMINEE

Madam President, it has been claimed that the process by which the Judiciary Committee has considered this nomination has been in some way unfair. I think that assertion is incorrect. In fact, the Committee has bent over backwards to ensure that this nominee has been treated appropriately.

The Committee received this nomination on July 31st of last year. Senator SPECTER encouraged the Committee to hold a hearing on the nominee even before her paperwork or the background checks were completed. That background work was not finished until September 25. Shortly thereafter, at Senator SPECTER's request, a hearing on the nominee was scheduled for October 29th. Moreover, I did not object, nor did I attempt to intervene, in Senator SPECTER's decision to hold a field hearing in Philadelphia.

In any event, the Committee held a hearing on the nominee on October 29th. Although some on the Committee wanted to delay taking action on this nomination, at Senator SPECTER's insistence, we forged ahead. As a consequence, the nominee was reported out of Committee on November 6th of last year.

Then, in a rather extraordinary turn of events, a bipartisan coalition of law enforcement groups organized to oppose this nominee. The Pennsylvania District Attorneys' Association, the Commonwealth Attorney General, the Fraternal Order of Police, the National Association of Police Officers and the Law Enforcement Alliance of America all mobilized to defeat this nominee. Through their efforts, the Committee became aware of a number of instances in which the nominee demonstrated hostility towards police officers and prosecutors. Indeed, the Committee came further to learn that the nominee had not been entirely forthcoming with the Committee. The number, and nature, of these allegations made it impossible for the Committee to turn a blind eye towards them.

In an effort to be fair, however, the Committee took the unusual step of affording Judge Massiah-Jackson the opportunity to respond to these charges in a second hearing. Unfortunately, the nominee's testimony in that hearing was not particularly compelling—in fact was otherwise.

Some have complained that this latest hearing was tilted against the nominee because she was asked about so-called new cases that she had been informed of only the night before.

While I can understand those concerns, I would note that each of the cases reviewed were actually Judge Massiah-Jackson's. Indeed, many of the cases that were discussed should have been provided to the Committee by Judge Massiah-Jackson herself. Thus, I hardly think it fair to say that the Judiciary Committee was somehow disingenuous in asking the nominee about her own cases.

In addition, claims have been made that the manner in which the Committee has received critical documents has worked to the nominee's disadvantage. While it is true that we have received documents in a hodge-podge manner, efforts have been made to ensure that the nominee was advised of cases that would be addressed. Moreover, I would again like to emphasize, that these are the nominee's cases.

I would add that the Committee learned that Senator SPECTER was also conducting his own investigation into the nominee's record. According to the Philadelphia District Attorney's Association, Senator SPECTER, as is his right, requested numerous transcripts from their office. In an effort to keep the record straight and to provide all members access to the information, the Committee sent a bipartisan letter, signed by myself and Senator LEAHY, to Senators SPECTER and SANTORUM requesting that they provide the Committee copies of all material relevant to Judge Massiah-Jackson's nomination.

I think it is safe the say the new information that the Committee has received this past month has been troubling because of the concerns it raised about the nominee, but I think it is also fair to say that the documents have come to the Committee from a variety of sources, and in a confused manner. This allegedly new material includes not only follow up information requested by the Committee in order to fulfill its ongoing duty to the Senate to evaluate the nominee, but also unsolicited material such as trial transcripts, statistical information from various entities including the Department of Justice, the Pennsylvania District Attorneys' Association, the Philadelphia Bar Association, the Philadelphia Bar Association Special Review Committee, and other individuals.

The Committee has had no control over the timing, or the manner in which it received these documents. I would just like to outline the process by which many of the more significant documents were received:

The January 30, 1998, Report from the Pennsylvania District Attorney's Association, with attached statistical and case analysis, which the Committee received the week of February 2, 1998. This was the first formal submission from District Attorney's Office concerning this nominee. It was promptly distributed to all Committee members.

A February 12, 1998, Report from the Special Review Committee of the Philadelphia Bar Association submission of in response to the District Attorney's document, which was received by the Committee February 13, 1998, was copied and distributed that same day.

The week of March 2, 1998, the Committee received word from Senator SPECTER's office that it had received material from Philadelphia District Attorney's Office. The Committee was unable to have immediate access to the materials because it was told that the materials were being analyzed by Senator SPECTER's staff. Only after the Committee insisted that it must have access to the material, and distribute it to the other members, including the Minority, did the Senator's staff provide access to a portion of the material. The Committee then had the portion—approximately ⅔ of the material—copied. Because the Committee was unable to have access to the remainder of the material immediately,

it was forced to wait until several days, and only then was it able to have the rest of the material copied and distributed to the rest of the members of the committee.

The March 6, 1998, Pennsylvania District Attorney's Association submission in response to the Philadelphia Bar Assoc., was received by senior Committee staff on Monday March 9, 1998, and distributed to members on Tuesday, March 10, 1998.

On March 9, 1998, Committee received notice from Senator SPECTER's office that it had received more case material from Philadelphia District Attorney's Office. The Committee obtained copies of that material from Senator SPECTER's office, made copies and distributed it to the members. The Committee was later informed that this material was actually sent to Senator SPECTER's staff on Friday, March 6. The Committee as a whole received it some three days later.

A March 10, 1998, Report from Philadelphia Bar Association with attachments was received on March 10, 1998, and was immediately distributed to members.

On March 10, 1998, the Committee received a report from Department of Justice, which was immediately distributed to members.

A Report dated March 11, 1998, from the Pennsylvania District Attorney's Association was submitted in response to a Philadelphia Bar Association submission. The material was submitted to senior staff on March 11, 1998, and distributed to the Committee on March 12, 1998.

On March 12, 1998, copies of twenty new cases submitted by Philadelphia District Attorney's Office were received by the Committee. The Committee made arrangements to copy that material the same day, for distribution early the following day.

In short, the collection of relevant information concerning this nomination has been trying and ad-hoc. We all share the frustration of having information presented to us at the last minute. Whether the information is exculpatory or further damaging, Senators have a right to be upset. However, it must be emphasized that, at least with respect to the cases, it is material within the nominee's control. After all, they are her cases we are discussing—many of which should have been provided to the Committee by the nominee herself. Indeed, concerned that Judge Massiah-Jackson had not been given the opportuntity to review adequately those cases presented during the second hearing, the final vote on the nomination was moved from last Thursday to this Tuesday, and the nominee was afforded the chance to respond, in writing, to any concerns expressed at the hearing. She availed herself of that opportunity, and provided the Committee with a written response to some of the allegations raised at the hearing. I find her responses wanting. In any event, while the process of receiving and distributing documents has certainly been aggravating at times, I do not think it has been particularly unfair to this nominee.

I ask unanimous consent to have printed in the RECORD the letter from Judge Frederica Massiah-Jackson, dated March 16, 1998, wherein she has withdrawn her nomination.

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

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA, COURT OF COMMON PLEAS, JUDICIAL CHAMBERS,
Philadelphia, PA, March 16, 1998.

Hon. WILLIAM J. CLINTON,
President of the United States, Pennsyvlania Avenue, Washington, DC.

DEAR MR. PRESIDENT. It is with great regret—and personal sadness—that I write to you today to ask that you withdraw my nomination as a judge to the U.S. District Court for the Eastern District of Pennsylvania.

You honored me and my family greatly by selecting me to be the first African American woman to sit on that court. I had looked forward to my service there as the next step of my public service to the city and citizens of Philadelphia, whom I care about so deeply.

After being found qualified to serve by the Specter-Santorum Judicial Selection Commission, the Department of Justice, the FBI, the American Bar Association and the Senate Judiciary Committee, I have recently been subject to an unrelenting campaign of vilification and distortion as I waited for a vote on my nomination by the full Senate.

All of these mischaracterizations occurred when I lacked a forum or platform from which to respond. Having finally been accorded a hearing to respond to these charges last week, I attempted to do so only to have hurled at me additional ''new'' charges. I have now responded to these new charges and believe the record has been set straight once again—at least the record to which I have been given full opportunity to respond.

Today, however, the Senate is set to debate my nomination for an unprecedented six hours—a process which will not accord me any role or opportunity to set the record straight yet one more time. I have been a fighter in what I believe all my life, but allowing still more and more selective, one-sided and unsubstantiated charges to go unanswered in this politicized environment is not acceptable to me after my long journey.

That journey has only reaffirmed for me the central belief that our system of justice and the independence of this third branch of government may be the most precious treasure bequeathed to us by the Founding Fathers. I hold it dear and will always try to do my part to ensure that the system works for all coming before the bar of justice.

Thank you again for standing by me and honoring me with your nomination, with your trust and with your confidence.

With sincere best wishes,
Very truly yours,
FREDERICA A. MASSIAH-JACKSON.

Mr. HATCH. Madam President, this is a letter written to the Honorable William J. Clinton. I am glad to have that in the RECORD.

Again, I express my sorrow that it had to end this way, and I wish the very best to Judge Frederica Massiah-Jackson. I hope she will take this in a way that will be instructive, informative and, hopefully, helpful to her if she continues to serve on the highest trial court in the State of Pennsylvania, the Court of Common Pleas. I hope she will benefit from this experience instead of it being a detriment to her. If she will treat law enforcement officials fairly, if she will be tough on crime when it is clearly shown, and if she will be totally honest in her dealings on that bench, I have great belief that she will yet serve in many, many good ways the people of Pennsylvania.

I wish her the best. I wish her family the best. And I, again, am sorry this has turned out this way, but I think it is the way it had to turn out under the circumstances.

Madam President, I ask unanimous consent to have printed in the RECORD the speech that I would have made had this nomination come to the floor and not been withdrawn. I feel it is incumbent upon me to do so because of Ms. Jackson's letter.

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

STATEMENT OF ORRIN G. HATCH IN THE UNITED STATES SENATE ON THE NOMINATION OF JUDGE FREDERICA MASSIAH-JACKSON, FEBRUARY 10, 1998

Mr. President, I rise today to discuss the record of Judge Fredrica Massiah-Jackson, President Clinton's nominee to be a United States District Court Judge for the Eastern District of Pennsylvania.

Judge Massiah-Jackson, who currently serves as a Philadelphia Court of Common Pleas judge, was nominated by President Clinton on July 31, 1997. The Judiciary Committee initially held a hearing on Judge Massiah-Jackson's nomination on October 29th of last year. She was reported favorably out of the Committee on November 6th. I was one of those voting to report her favorably to the floor. Since the nominee was reported out of the Judiciary Committee, however, certain allegations have been made regarding her fitness to serve as a district court judge. In particular, questions have arisen regarding the nominee's ability to weigh cases impartially and to treat police officers and prosecutors fairly.

Before I turn to those criticisms, however, I would like to state that I understand the difficulty of Judge Massiah-Jackson's situation and appreciate her willingness to have appeared before the Judiciary Committee not just once, but twice.

I would further add that I am impressed with Judge Massiah-Jackson's numerous accomplishments. She appears to have a lovely family and has plainly demonstrated a commitment to the legal profession. For those accomplishments, I commend her. Her family should be proud of her.

Nevertheless, it is important to remember that fitness for the federal bench is measured not solely by one's hard work, or even by her facility with the law. After all, federal judges are nominated by the President and confirmed by the Senate for what amounts to life terms. They wield enormous power in our society, power that must

be exercised fairly and impartially. The judicial role demands that a judge be willing to uphold the Constitution and abide by the rule of law. When an individual dons the judicial robes and ascends the dais to assume her seat on a federal court, she takes an oath to be impartial and to treat all individuals—regardless of social status—fairly.

As a consequence, no one has a right to Senate confirmation any more than she has the right to be nominated by the President. An important part of the Senate's responsibility is to advise the President with respect to his choice in nominees and ultimately to consent to their appointment. This is a function I take seriously. In fact, I believe that every member of this body takes his vote to confirm federal judges seriously. And it is with this measure of seriousness and deliberation that I approach the vote to confirm Judge Massiah-Jackson.

With that, I would like to address what I believe to be the three issues with which I have significant concerns regarding the nominee's record. First, I will discuss concerns about her candor with the Committee. Second, I will address allegations that she is particularly lenient in sentencing convicted criminals. And finally, I would like to speak to her animus towards prosecutors and police officers.

Candor: First, I would like to explore the nominee's candor before the Committee. During the Judiciary Committee's background investigation of Judge Massiah-Jackson, we called her attention to an article in the Philadelphia Dailey News. In that article, it was reported that the nominee identified two undercover officers in open court and warned the spectators to watch out for them. The article generated considerable interest because the nominee had acquitted a man accused of possessing $400,000 worth of cocaine because she did not believe the testimony of the police officers. It was the second time Judge Massiah-Jackson had acquitted alleged drug dealers apprehended by the same officers.

In the earlier case, the undercover officers had testified that they found two bundles of heroin on a table next to the defendant. Judge Massiah-Jackson not only disbelieved the testifying officer's statement, but she went one step further. As the officers were leaving the courtroom, it was reported that the judge told the assembled spectators to ''take a good look at these guys [the undercover officers] and be careful out there.'' [Philadelphia Dailey News (May 21, 1988)].

Committee staff asked the nominee whether the circumstances described in that article were true. The nominee told staff that she simply did not recall the incident. Thereafter, she was faxed a copy of the article and asked to provide the Committee with a letter commenting on the article's allegations. Although the Committee received the nominee's letter, she utterly failed to address the incident with the undercover police officers. At that time, at least, she did not repeat her claim that she could not recall the incident. Instead, she avoided discussing the incident altogether.

At the nominee's initial confirmation hearing, she was again directly questioned about this incident. Instead of answering the question directly, she indicated merely that she respected the role of law enforcement officers. She neither claimed that she could not recall the incident, nor, as she did most recently, state that she was actually admonishing school children in the audience to be respectful of police officers.

Shortly after the hearing, the Committee again gave the nominee the opportunity to respond to the allegations made in the news article. In response to a written question, the nominee changed her earlier claim that she could not recall the incident. Instead, the nominee categorically denied ever having warned spectators to beware of the undercover officers. She stated—in writing—that:

''I have read the 1988 article and it is inaccurate. I would not and did not make any such statement to the spectators. I have great respect for law enforcement officers who have very difficult jobs and work in dangerous situations.'' [Follow-up questions p. 17].

Now, given the fact that the undercover officers had not previously come forward, I was unwilling to credit an uncorroborated newspaper story over the nominee's direct testimony. I did not believe it fair to derail a nomination on the basis of a single, uncorroborated newspaper account.

Following her initial hearing, however, the undercover officers discussed in the article came forward and provided written statements to the Committee refuting her representations and corroborating the newspaper article. Detective Sergeant Daniel Rodriguez, who actually testified before Judge Massiah-Jackson, confirmed that the nominee said to courtroom spectators: ''take a good look at these guys, and be careful out there.'' Rodriguez further explained that ''What the judge said jeopardized our ability to make buys. And it put us in physical danger.'' Detective Terence Jones, who also submitted a statement to the Committee, corroborated Rodriguez's statement.

Judge Massiah-Jackson, in her subsequent hearing, retreated from her earlier denial that the event ever occurred and instead claimed that in ''reconstructing the incident,'' she now believes she was just talking to school children present in the courtroom and that the officers most likely misunderstood her comment. She further argued that she often talked in such a manner to visiting students, hoping that they would respect and acknowledge police officers.

Regardless of whether the officers should have felt concerned about their safety, I am troubled by two things: First, that the nominee denied that the event had ever occurred. If she had not remembered the event, she should have simply said that. I am concerned that, when it appeared to suit her, the nominee denied ever having made such a statement.

Second, I question her most recent assertion that she often lectured school children visiting her court room. In fact, Detective Rodriguez was to have appeared before Judge Massiah-Jackson in a subsequent narcotics in case. In that later case, the officer explained to the Assistant District Attorney that Judge Massiah-Jackson had recently placed him in danger by identifying him before a crowded courtroom. He further noted that she had also identified his partner, who was also in plain clothes and had not testified in the case. The Assistant DA was sufficiently concerned by Judge Massiah-Jackson's behavior that she sought to have the nominee recused. Although the nominee denied the Assistant DA's recusal motion, she admitted, on the record that she does tell criminal defendants to get a good look at undercover police officers. Her exact quote was: ''I do say that to certain defendants.'' [*Commonwealth* v. *Ruiz*, p. 4]. In other words, the nominee did not claim then, as she does now, that she routinely talked to school children in this fashion. Rather, she explained on the record that she often told ''certain defendants'' to watch out for undercover police officers.

The Newspaper article appears consistent with the officers' understanding of the events that transpired in the nominee's courtroom and with the nominee's statement in the record. Indeed, the newspaper reported that the DA's office was so ''concerned by some of the decisions made by the judge in drug cases'' that it decided to ''begin reviewing drug cases that come before Massiah-Jackson and decide, on a case by case basis, whether to ask her to disqualify herself'' on the ground of her inability to preside fairly. [Judge Overrules Cops, Clears Suspect, Philadelphia Dailey News (May 21, 1988)]. I thus find the nominee's explanation for her statements wanting. I doubt very much the DA's office was sufficiently concerned to urge the nominee to recuse herself in drug cases if all she was attempting to do was to connect with school children.

Unfortunately, this is not the only incident with which I am convinced that the nominee did not provide the Committee with complete information. As a routine matter, well before a hearing is scheduled, judicial nominees who are presently sitting judges are asked to provide the Committee with a list of all of the cases in which they have been reversed. Judge Massiah-Jackson, in response to that question, provided the Committee with a list of 14 cases in which she had been reversed. None of the cases she identified involved a sentencing issue.

At her hearing, concerned about her alleged leniency in sentencing, Judge Massiah-Jackson was expressly asked whether she had ever been reversed on a sentencing issue. She said no. I took her answer at face value.

After the hearing, the Committee again, in writing, whether there were any other cases in which the nominee had been reversed. In response, the nominee identified an additional reversal which, due to her oversight, she had failed to include in her original submission. Once again, however, the newly discovered reversal did not involve a sentencing issue.

Although the nominee brought no new reversals to the Committee's attention, the Committee was subsequently apprised of at least five additional cases in which the nominee was reversed. Now, it is certainly possible that a nominee could overlook a

case or two. What is troubling to me, however, is that among those additional reversals brought to the Committee's attention were at least two reversals on sentencing issues, one of which, *Commonwealth* v. *Easterling*, was a reported case. The other, *Commonwealth* v. *Williams*, presents a particularly troubling picture. There, the defendant, in attempting to take the victim's purse, viciously slashed the victim with a straight razor. He pleaded guilty to robbery and possession of an instrument of a crime. At sentencing, however, the nominee not only miscalculated, to the defendant's favor, the offense gravity score used to determine the sentence, but also refused to apply the deadly weapon enhancement provision of the Sentencing Guidelines. When the prosecutor tried to bring the nominee's error to her attention, she evidently accused him of being ''vindictive.'' On appeal, the Superior Court found that she used the wrong offense gravity score and erred in not applying the deadly weapon enhancement.

Now, I understand that the nominee has presided over a good many trials, perhaps even thousands. But the nominee herself testified that she thought her decisions had been appealed only about 89 times, which is not unusual. The vast majority of the cases that come before a judge sitting on the Court of Common Pleas are not the sort that result in an appeal. Ordinarily, they are cases that result in guilty pleas or settlements. So when we talk about appeals, we are not talking about an overwhelming number of cases.

However, when asked specifically to provide the Committee with each case in which she was reversed, the nominee failed to inform the Committee of at least two sentencing cases—one of which was publicly reported—in which she was reversed for imposing too lenient a sentence. Her failure to report these cases is particularly troubling in light of the fact that she was asked on three separate occasions to report her reversals and, in her testimony before the Committee, specifically denied that she had ever been reversed on a sentencing issue.

Leniency: In addition to these reversals for illegal sentences, I would like to provide you with an example of why I am so concerned about Judge Massiah-Jackson's ability to weigh the facts fairly and her leniency in sentencing. Before I speak to those concerns, however, I would like to say a word about the claim that the nominee is in reality a tough sentencer. I have been quite interested in the statistical data presented in this case by both the Pennsylvania Bar Association and the Pennsylvania District Attorney's Association. Statistical duels must always be carefully scrutinized. Nevertheless, provided they are used correctly, statistics can be very revealing. I've taken a look at the Philadelphia Bar Association's assertion that Judge Massiah-Jackson's conviction rate is actually higher than that of the average Philadelphia Court of Common Pleas judge. I am unpersuaded.

The Bar Association's assertion is based on a basic error in statistical analysis. The Bar Association took the nominee's bench trial convictions as a percentage of her overall dispositions. It found that, on average for the years 1984 through 1991, her conviction rate was 24%. In contrast, it found the average conviction rate for Philadelphia Court of Common Pleas judges during that period to be only 18%. Under the Bar Association's analysis, Judge Massiah-Jackson seems very tough on criminals. The Bar Association has made a fundamental error, however.

Overall dispositions include guilty pleas, jury trials, bench trials, transfers, decisions not to prosecute and a variety of other things. The category is a real mix. That wouldn't present a problem if all judges had about the same ratio of bench trials to overall dispositions. But they don't. It was therefore an error to calculate bench trial convictions as a percentage of overall dispositions.

The bottom line is that Judge Massiah-Jackson has a high bench trial conviction rate, because she has had a lot of bench trials, not because she is tough on crime. For the same reason, her bench trial acquittal rate is far above average too.

The proper thing to do in Judge Massiah-Jackson's case is to compare bench trials to bench trials. A disposition as a result of a bench trial, where no jury was involved, is likely a more accurate measure of an individual judge's leniency. When you do that, the picture completely changes. During the relevant period, 64.6% of Judge Massiah-Jackson's bench trials resulted in convictions, while 70.1% of Philadelphia Court of Common Pleas bench trials did so. In other words, the average Philadelphia Court of Common Pleas judge convicts more often and acquits less often than Judge Massiah-Jackson. If you look at bench trials only, you'll see that her acquittal rate is really 18.4% higher than the average acquittal rate for the Philadelphia Court of Common Pleas. Her conviction rate is correspondingly lower.

As a consequence, when scrutinized carefully, the statistics show that Judge Massiah-Jackson is less inclined than other judges on her court to convict after a bench trial and more inclined to acquit. In reality, then, the nominee is significantly more lenient than other Philadelphia judges in her treatment of criminal defendants.

Regardless of the statistical claims that are made, I think it is important to note the bi-partisan opposition that the nominee has engendered among law enforcement personnel. I think the people who work in the trenches—the prosecutors and the police officers—have a better handle on this than we can ever hope to have.

In particular, a few cases serve well to illustrate this point. I certainly do not have time to cover all the cases in which the nominee is alleged to have been lenient in sentencing, but I would like to offer a few examples that I think illuminate her overall record.

At the outset, I would note the frustrations of using individual cases to characterize a nominee's record. It is always difficult to accurately consider a nominee's overall fitness for office when we are forced to rely on individual cases. Nevertheless, when a nominee has been a judge for as long as this nominee has, decided cases are important indicators of how the nominee is likely to perform on the federal bench. After a fairly exhaustive review of this nominee's record when she sat on the criminal bench, I do not believe that the case sampling we have analyzed distorts her record. In fact, the 50 troublesome cases originally identified by the District Attorneys' Association occurred during a one year period in which the nominee rendered only some 200 verdicts. Similarly, in a two-year period wherein the nominee heard a total of 66 aggravated assault bench trials, it was discovered that she convicted as charged only 15 times. She acquitted in 37 cases and found the defendant not guilty of the more serious charge in 14 cases. Thus, I think the several cases I will highlight today serve to represent the nominee's overall leniency towards criminals and her animosity towards law enforcement.

In *Commonwealth* v. *Johnson*, for example, the defendant brutally raped a ten year old girl. Following a jury trial, the defendant was convicted of rape. Because the victim was only ten years old, a mandatory minimum sentence of five years applied. The nominee, however, had the discretion to impose a minimum term of ten years. The prosecutor, planning to argue in favor of a higher sentence, asked Judge Massiah-Jackson to order a presentence report and victim impact statement. The nominee refused, however, stating ''What would be the point of that?'' [Tr. 631–32]. She subsequently sentenced the defendant to the mandatory minimum—only five to ten years for raping a ten year old girl. The nominee stated on the record that she would not have imposed the sentence if it were not mandatory ''because I just don't think the five to ten years is appropriate in this case even assuming you were found guilty.'' [Tr. 9]. Perhaps the saddest part of this story is that it did not end with Judge Massiah-Jackson's exceptionally lenient sentence. Unfortunately, this defendant was arrested only last year for allegedly raping a nine year old boy.

Similarly, in *Commonwealth* v. *Freeman*, the nominee again demonstrated inappropriate leniency in sentencing. In that case, the defendant shot and wounded the victim in the chest, allegedly because the victim had laughed at him. Incredibly, the nominee convicted the defendant of a misdemeanor instead of felony aggravated assault. She sentenced the defendant to only two to twenty-three months' imprisonment and then immediately paroled him so that he did not have to serve prison time. The felony charge would have had a mandatory five to ten year prison term. Judge Massiah-Jackson explained her decision stating that ''the victim had been drinking before being shot and that [the defendant] had not been involved in any other crime since the incident.'' How the unarmed victim's drunkenness could have possibly mitigated the defendant's sentence is beyond me.

Finally, I would like briefly to address the nominee's alleged bias against the state, and how that particularly affects crime victims. In *Commonwealth* v. *Hicks* [549 A. 2d 1339 (Pa. Sup. Ct. 1987)], for example, the defendant was charged with robbery, theft, and aggravated assault, among other things. At trial, the defense motioned for a continuance because one of its witnesses, a police officer, was not present. Defense counsel had asked the DA two days prior to subpoena the officer as a favor. The DA subpoenaed the officer, but he did not receive it. Judge Massiah-Jackson did not believe that the DA had subpoenaed the officer. She then recharacterized the officer as a State witness and demanded the State drop the case. When the State refused to do so, explaining that it was prepared to go to trial and that the officer was not its witness, Judge Massiah-Jackson dismissed the case purportedly because the State failed to subpoena a defense witness. She then inaccurately entered in the court record that the state was not ready to go to trial. The appeals court reversed the decision stating it was ''unable to determine the basis for the trial court's decision,'' and that the trial court ''was unable to justify its decision by citation to rule or law.''

Her animus against police officers is similarly evident in *Commonwealth* v. *Nesmith*, [Opinion No. 2954 (June 26, 1995), *aff'd*, (Pa. Super. Ct. 1996)], where the defendant, while speeding in his car, hit a woman, stopped to observe that she was lying injured in the street, and then left the scene.

As the defendant fled the scene, one of the victim's relatives chased after him. After driving several blocks, the defendant stopped his car and attempted to flee on foot when the victim's relative confronted him. As the two men began to fight, the defendant's relatives jumped in the fight and beat the victim's relative unmercifully with fists and bottles. The victim's relative, whose head was split open, was taken to the hospital for his injuries.

The hit and run occurred shortly after the defendant had been released from prison on parole for an unrelated assault. In that case, the victim sustained severe injuries, including broken legs, back and pelvis. After a bench trial, Judge Massiah-Jackson convicted the defendant of aggravated assault, simple assault, reckless endangerment, criminal conspiracy, and leaving the scene of an accident. She advised the defendant that if he paid $3700 in restitution to the victims, the Court would find the restitution a ''mitigating factor'' at sentencing, even though the sentencing guidelines called for ''a lengthy period of incarceration.'' (R. at 139–140a). The State objected to any leniency at sentencing, but Judge Massiah-Jackson, all but ignoring the victim's injuries, responded, ''The only behavior here is this is a traffic accident case.'' (R. at 143a).

Despite the fact that the defendant had numerous prior convictions, including 8 adult convictions, and that the recommended guideline sentencing range was 38–54 months, the nominee sentenced the defendant to only two years probation for the aggravated assault. In justifying her excessive departure from the guideline range, the nominee cited the defendant's cooperation in making restitution over a three year period and the fact that the defendant was not a danger to the public. She claimed that the defendant's actions were ''not really criminal. He had merely been involved in a car accident.'' She further opined that the defendant's prior arrests might have been due to police officers like Officer Houck [Huck] who unlawfully stopped the defendant. (R. at 216–220a).

It took the defendant three years to pay the restitution amount of $3,700. During this period, the defendant alleged to the Court that the arresting officer in his case, Officer Houck, had been ''harassing'' him and had stopped him on several occasions. Judge Massiah-Jackson was extremely concerned and asked if there was anything she could do for the defendant. She even offered to ''write a letter to the commander of the 39th District.'' (R. at 161a). In contrast, the DA had no knowledge of any harassment and reminded the judge that she had not even heard from the police officer. Judge Massiah-Jackson asked the DA to speak with the officer to find out what had happened.

Without corroborating the allegations, the judge then directed her attention back to the convicted defendant, again expressing concern for his plight and distrust for law enforcement saying the following: ''It won't be Houck next time, it will be someone else and they'll say, 'Oh, I didn't know anything about it.' And we'll find you on the streets somewhere and that's what will happen. That's what will happen.'' (R. at 162a). Judge Massiah-Jackson told the defendant he did not have to explain anything to her because she knew ''what's going on'' and understood it ''very well.'' (R. at 166a).

At the next court appearance, the DA subpoenaed Officer Houck to explain the so-called harassing incidents to the Court. The officer explained that he had indeed stopped the defendant because the defendant was driving recklessly without a license. (R. at 174a). But the nominee refused to believe the officer. Judge Massiah-Jackson instead found the defendant's uncorroborated story to be credible, and warned Officer Houck that: ''[i]f any harm comes to Mr. Nesmith or his family or his friends, then the commissioner will be sent a copy of this transcript and *I'll volunteer to be a fact witness against you*.'' (R. at 187a) (Emphasis added).

This statement is outrageous. The nominee appears to be suggesting that the officer might at some point harm the defendant or his family. Judge Massiah-Jackson then admonished the DA stating the DA would be an ''accomplice in whatever may or may not happen to Mr. Nesmith'' because the DA had subpoenaed Officer Houck. When the DA reminded the Court that she subpoenaed Officer Houck only because the Court had asked her to do so, Judge Massiah-Jackson said nothing.

At her second hearing, the nominee inexplicably said she volunteered to be a ''fact witness'' for the defendant because she could not be a character witness. She failed to explain her refusal to credit the officer's account over that of an oft-convicted defendant.

Finally, in a case that demonstrates troubling disregard for a crime victim, as well as the State, in *Commonwealth* v. *Lafferty*, Nos. 3883–3888 (Feb. Term 1988), the nominee was notified prior to trial that the defendant and victim in a rape case may have had AIDS. Judge Massiah-Jackson responded ''Why are we having a trial? We are talking about life expectancy of three years for both of them. What difference? What kind of punishment can we give [the defendant]? * * * What's the purpose of the trial long range?'' (R. 3–4). When the State suggested that it may as well tell everyone who is HIV positive that they can do whatever they want because they will not be prosecuted, Judge Massiah-Jackson responded, ''It's just a thought.''

Based on the Court's extended diatribe on why AIDS defendants cost the State too much money, the State motioned for the judge to recuse herself. (R. at 13). Judge Massiah-Jackson denied the motion stating the DA had not articulated any specific reason warranting recusal and initially denied that the State had a right to appeal the recusal. (R. at 16). Although the prosecution pleaded with the court to allow it to try the case before another judge that same day to avoid the lengthy delay of an appeal, Judge Massiah-Jackson refused to allow another judge to hear the case and forced the State to appeal her denial of recusal. (R. at 34). She then reduced the defendant's bail to assure his immediate release pending appeal.

The victim died while the appeal was pending. The appeal was withdrawn and it went to trial before Judge Massiah-Jackson. Despite the Commonwealth's evidence which include:

(1) the deceased victim's prior testimony that the defendant had broken into her house, awakened her, raped her, and beat her when she tried to escape;

(2) the victim's taped 911 call to police reporting the rape;

(3) police photographs of the victim's injuries after the rape; and

(4) the emergency room medical report.

Judge Massiah-Jackson found the defendant not guilty of rape, not guilty of involuntary deviate sexual intercourse, and not guilty of aggravated assault. She convicted him only of simple assault and sentenced him to 1 year probation. Although the victim is no longer with us, the defendant is still alive today.

Conclusion: I believe these cases represent a troubling pattern of undue leniency towards criminal defendants and hostility towards the state. The Pennsylvania District Attorney's Association presented the Committee with over 70 separate cases detailing the nominee's troubling record. In a submission to the Judiciary Committee, the Pennsylvania Bar Association noted that the nominee presided over ''confused and tragic cases.'' Indeed, it was pointed out during our Committee hearings that North Philadelphia, where the nominee sits, is, sadly, plagued by crime, drugs, and the terrible human toll those tragic social ills take. Yet it is those citizens laboring in the shadow of rampant crime who would benefit most when our laws are applied and criminal conduct is appropriately dealt with.

I am disappointed to say that information that has emerged since the Judiciary Committee held its initial hearing on this nominee strongly suggests to me that she was somewhat less than candid with the Committee, is lenient in sentencing convicted offenders, and has demonstrated a certain degree of unfairness with respect to the police officers and prosecutors. Indeed, since the Committee's vote, it has been virtually deluged with letters from prosecutors and law enforcement agencies in Pennsylvania that document a disturbing pattern of open hostility toward the law enforcement community. These condemnations have been bi-partisan and overwhelming. In fact, I have never seen such widespread opposition to a nominee from the law enforcement community.

To date we have received letters from the Attorney General of Pennsylvania, the Philadelphia and the National Fraternal Orders of Police, the National Association of Police Organizations, the Law Enforcement Alliance of America, the Pennsylvania District Attorneys Association, and letters by numerous District Attorneys around the state including one from Lynn Abraham, District Attorney for Philadelphia. Each of these letters expresses opposition to this nominee's appointment because of her record of hostility to prosecutors, law enforcement and victims of crime. The Fraternal Order of Police, in an open letter to President Clinton and the Judiciary Committee declared that: ''Judge Massiah-Jackson consistently parades her anti-police bias by using her power and authority as a judge to belittle, harass, and threaten law enforcement officers who appear in her court. Her contempt for prosecutors appearing before her is so rancorous that a broad grassroots effort has been led by members of her own political party to oppose her elevation to the federal judiciary.'' I cannot turn a blind eye to such allegations.

Some of the nominee's supporters have asserted that law enforcement has attempted to distort her record. But it seems to me that the most expedient path here was for law enforcement to speak out in support of the nominee. They are the ones who will have to continue to appear before Judge Massiah-Jackson if her nomination is defeated. Thus, they have a great deal to lose in this process. Recognizing the political risks law enforcement had to take to oppose this nominee, I commend them for their willingness to come forward and do what they believed to be the right thing.

While her candidacy was in Committee, I resolved my serious misgivings about Judge Massiah-Jackson's nomination in her favor. My decision in Committee, however, was based largely on the representations made by the nominee, both in answer to the written questions and at her initial hearing. In my opinion, these recent developments call the nominee's statements before the Committee into serious question and oblige me to change my vote. After having heard the

nominee's testimony last week and having reviewed and considered the information that has been provided to the Committee by law enforcement officials about her conduct on the bench, her alleged bias against law enforcement, her flawed judicial rulings, and, above all, her apparent lack of candor with the Committee, I cannot in good conscience continue to give her the benefit of the doubt. I have the highest personal regard for Senator SPECTER, who has ably promoted her candidacy, but I now do not believe that Judge Massiah-Jackson should be confirmed to a position on the federal bench. I take no pleasure in voting against this nominee. She has obviously accomplished much in her life. Nevertheless, the Constitution obligates me to evaluate this nominee with an eye toward determining whether she will uphold the Constitution and whether she will abide by the judicial oath to ''administer justice without respect to persons . . . And impartially discharge all the duties incumbent [upon a federal judge].'' I am not now convinced that she can abide by that oath and thus I feel obligated to cast my vote against her.

Mr. HATCH. I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Madam President, I thank the distinguished Senator from Utah, the chairman of the Senate Judiciary Committee, for his leadership in this matter and in so many other matters. He is an outstanding legal scholar, an outstanding lawyer, a man of integrity, ability, and fairness who works extraordinarily hard to make sure everyone who comes before the committee has a thorough opportunity to express themselves and to defend themselves, and that others who have information to share are allowed to do so.

I think it was an extraordinary event that he allowed a second hearing to be held for the Massiah-Jackson nomination. That was a very fair thing to do. I agree with the distinguished chairman that it is a good idea and a good thing that this nomination has been withdrawn.

Ms. Frederica Massiah-Jackson has a number of problems with her nomination. I would just like to make a few points about the process and about her nomination.

District Attorney Lynne Abraham, a Democrat in Philadelphia, who has served a number of years, and has also served on the judicial bench in Pennsylvania with Judge Massiah-Jackson, wrote us a letter saying that she had not opposed or commented on nominees of any kind before, but she wrote a letter stating she felt that she should do so on this occasion.

Among other things, she said:

> This nominee's judicial service is replete with instances of demonstrated leniency toward criminals, an adversarial attitude toward police and disrespect toward prosecutors unmatched by any other present or former jurist with whom I am familiar.

That was a letter written reluctantly and in sadness, but a letter I think she felt she had to share with us. Her opinion was shared by the District Attorneys Association in Pennsylvania, the Fraternal Order of Police, and the National Fraternal Order of Police.

We were also presented a list of 50 cases in which we were given detailed statements of sentences and judicial rulings by this judge, prepared by district attorneys who had no obligation to do that but did so because they were concerned about it. Those cases have been around here for well over a month and have never really been effectively rebutted. So I think to say the newly uncovered twenty cases were somehow critical in this matter is not really accurate. I think the new cases were additional troublesome matters, but the whole list of cases previously submitted were quite troubling also.

Just briefly, Madam President, while I am relieved that this nomination has been withdrawn, I think it shows fully why the Senate should carefully and thoroughly examine judicial nominees. Specifically, I thank Senator JOHN ASHCROFT, who is here today, and Senator STROM THURMOND for placing a temporary hold on this nomination after it was voted out of the Judiciary Committee by a 12-to-6 vote last fall.

At that time, this nomination was moving toward confirmation last fall. It is a classic example of why the Judiciary Committee and the Senate as a whole should deliberately screen judicial nominees. President Clinton has suggested that the Senate should speed up confirmation of Federal judges. With all due respect, the Massiah-Jackson nomination demonstrates why the Senate should confirm Federal judges at a fair but careful pace.

Judge Massiah-Jackson's nomination was reported out of the Judiciary Committee with approximately a dozen other judicial nominees at the end of last year. There was an effort to confirm these judges quickly before the year ended. Without Senator ASHCROFT's and Senator THURMOND's temporary holds, this nominee would have been confirmed, I have no doubt. If this had happened, it would have been unfortunate, because many of Judge Jackson's unacceptable decisions had not yet been uncovered.

In addition, as of last fall, the abovementioned law enforcement organizations had not studied this nominee's record in detail. In fact, when Judge Massiah-Jackson's nomination was reported out of committee, none of these groups formally opposed the nomination. In fact, Senator SPECTER held a hearing in Pennsylvania to allow people to state objections. He gave them an opportunity to do so, but none came forth at that time. Without Senator ASHCROFT's and Senator THURMOND's hold, this nominee would have been confirmed, in all probability, before her record had been adequately examined.

A Federal judgeship is a lifetime appointment. The confirmation process is the only chance to review a judicial nominee's qualifications. The confirmation process is literally the point of no return. Unlike State judges, Federal judges cannot be recalled or voted from office. This is why it is so vitally important for the Senate to carefully fulfill its constitutional duty to advise and consent to the President's nominees. Judge Learned Hand, referring to the lack of control over federal judges, once said, ''They can't fired us. They can't even dock our pay.''

A Federal judge has extraordinary power. Many of those powers involve decisionmaking authority that is absolutely unreviewable on appeal. For example, if a judge, at the conclusion of a prosecutor's case, dismisses the case and grants a judgment of acquittal to a defendant, that is the same as a jury verdict of acquittal, and the Government cannot appeal. Such directed verdicts simply cannot be appealed. So I think it is important that this process be allowed to work, and it did work. I believe that Judge Massiah-Jackson will have the opportunity as a State judge to demonstrate her abilities and skills there, to continue to serve the people of Pennsylvania.

I was impressed with her demeanor and courtesy and the way she handled herself at her hearing, but I do feel like the just conclusion was reached.

Madam President, that is the conclusion of my remarks. I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. May I inquire as to the state of the proceedings.

The PRESIDING OFFICER. We are in a period for morning business, with statements limited to 10 minutes.

Mr. ASHCROFT. I ask unanimous consent that I be able to speak for up to 15 minutes.

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

Mr. ASHCROFT. Thank you.

CRISIS AT THE WHITE HOUSE

Mr. ASHCROFT. Madam President, the events surrounding the President of the United States and the White House of the United States find us in a peculiar and uncomfortable situation. It is, however, more than peculiar, and it is more than discomforting. It may, in fact, be disabling. The President has sought to defend his conduct and to defend his circumstance by saying it's OK to be able to become compartmentalized or to segment his personal life from his public life. At least this is the spin which comes from the White House. I perhaps should not say that that comes from the President's own mouth.

I think the Congress has sort of bought into the compartmentalization of this crisis at the White House. We discuss it on the talk shows, we discuss it in the cloakrooms, but we don't discuss it on the Senate floor.

The new allegations against President Clinton are grave. They carry serious implications, not just for the President but for the Nation as a whole, and it is time for us to consider them in the U.S. Senate.

Kathleen Willey is a longtime friend of the President. She was a strong Clinton supporter. She was his employee in

the White House. She accused this President of sexual assault just outside the Oval Office and of lying under oath. The President's response has been to tell us only that he is ''mystified'' and ''disappointed.''

Mystified and disappointed? My thoughts exactly. I am mystified that the President has refused to account fully for his actions and disappointed that President Clinton would sacrifice the Office of the Presidency in order to promote his own personal concerns or save himself.

Back in January when the Monica Lewinsky scandal erupted, I said if the allegations were true, the President had disgraced himself and his office and should resign. I stand here this afternoon to renew my call. If Mrs. Willey's charges are true, then the President should resign.

Permit me to make three observations about Mrs. Willey's accusations or charges.

First, the Willey allegations increase the likelihood that the House will be forced to open impeachment proceedings. The Clinton-Willey conflict brings the murky details of this sordid affair into the light of open day. The President is accused of committing sexual assault and lying under oath. Mrs. Willey and the President have sworn to irreconcilable versions of the facts. These charges are serious, and they must be resolved. They cannot both be telling the truth. And America cannot walk away.

The Congress, for our part, must have the courage to do what we know to be right. The alleged conduct, if true, I believe constitutes an impeachable offense. Congress should stop looking at the polls and start looking at the Constitution, stop thinking about self-preservation and start thinking about how justice can best be served. Madam President, justice should never be denied simply because it is uncomfortable.

Second, the White House must drop the myth that the President is not distracted by the maelstrom of allegations which are surrounding him. The President has lost control of his personal legal problems. Let us dispense with the fiction that the President is able to work in ''compartments,'' all the while hacking and clubbing at Ken Starr and the officials charged with learning the truth. Instead, he has chosen to stonewall. He now stands accused of an impeachable offense by a person who was his friend, political supporter, and employee.

Here is the truth. It is not possible for the President to do his job while dealing with this tide of accusations and innuendo. No one could do the job well. And neither can he. Already, the Washington Post has reported that the President behaves like a person overtaken with anger at Kenneth Starr. Already, David Broder and other respected commentators have suggested that the growing scandal is damaging the President's ability to lead.

Finally, President Clinton's moral leadership has been destroyed. It can be regained only if he proves that these charges are false, if he clears the air here, if he makes a complete statement understanding to the American people, and assures them of his situation.

I had hoped that Bill Clinton would address these charges through a direct and candid accounting to his employers, the American people. But, yes, he did choose to stonewall. He cannot hope to regain his moral authority to lead unless he makes a full and candid accounting to the people, and he does so immediately. It is inevitable that the truth will prevail. And I would prevail on the President to account fully for his actions without further delay.

A final point. These allegations are serious. They deal with charges of perjury, obstruction of justice, and sexual assault. For Kathleen Willey's sake, conservatives ought not be rejoicing, and we ought not to be laughing. I deeply regret having joked about the Lewinsky affair in remarks that I made earlier. It was inappropriate, and I was wrong. There is nothing funny here. The allegations of Kathleen Willey make clear to all of us that there is nothing funny here. This is not comedy; this is tragedy.

Mrs. Willey's appearance last night on the CBS program ''60 Minutes'' I think exposed America to an individual who was vulnerable, who was in distress, who was in need, and trusted the President of the United States. And it is very clear that she thoroughly believes that her trust was betrayed in a substantial and significant way.

A betrayal of trust by the President of the United States is an important matter, particularly if it relates to the way in which his office is conducted, particularly if it relates to an individual who is particularly vulnerable, an employee, particularly if it relates to an incident that takes place in the context of the White House and the Oval Office. And I found her testimony to be compelling and convincing. I believe it makes, again, the clear case for the necessity of the President to explain fully his situation to the American people.

NOMINATION OF FREDERICA MASSIAH-JACKSON

Mr. ASHCROFT. Madam President, I want to take just a few minutes to speak about the nomination of Frederica Massiah-Jackson to be a U.S. district judge for the Eastern District of Pennsylvania, a nomination that was withdrawn earlier today. I think this is the right move at the wrong time. It should have been clear to the administration over a month ago when we debated this nomination on the floor that this individual was not fit to serve as a Federal judge appointed for life.

At that time, I called for the President to withdraw the nomination. And I am glad that he has finally seen fit to do so, or that the administration finally saw fit to follow that course, although the letter is really a withdrawal request from the nominee herself. I remain troubled that this individual was nominated for a lifetime appointment in the first place, and, once nominated, did not withdraw sooner.

One enduring lesson of this nomination is that it is critical for the Senate to take its constitutional advice and consent role seriously. We have heard much in recent weeks about the so-called ''vacancy crisis'' in the Federal courts and that the Senate needs to speed up its processes to give judicial nominees a quick up-or-down vote. Today's action by the administration agreeing to withdraw this nomination demonstrates the danger of worrying more about filling the courts than fulfilling our constitutional obligation to screen judicial nominees.

Last November, this nomination was on the verge of confirmation. At the end of the last session, there was a tremendous effort to rush a number of nominations, including this one, through the Senate along with others in a series of confirmations at the close of business. I resisted those efforts because I felt this nomination had serious defects that demanded complete examination in the light of day. Once this nominee's record was examined in the open, it became clear—including clear, I think, ultimately to the President—that this nominee was not fit. I also resisted those efforts because law enforcement officials in Philadelphia informed me that they were gathering additional information concerning the nominee. In the light of these concerns, I placed a hold on this nomination, and I refused to lift it despite the insistence of several.

Some would point to this as an unnecessary delay that has contributed to the so-called ''vacancy crisis.'' But we would be creating an actual crisis, not solving an imagined one, by giving individuals confirmation when they do not deserve it. We would have been creating, in my judgment, a crisis by confirming Judge Frederica Massiah-Jackson with a lifetime appointment.

The Senate has a constitutional obligation to give its advice to the President with respect to judicial nominees and, in a case like this, to withhold our consent. I take this responsibility seriously, and we must all take this responsibility seriously, in the light of the nominees the President has sent to the Senate.

This nominee demonstrates the caliber of nominee the President has sent to the Senate. Notwithstanding his elaborate vetting process and the ABA screening, this is the nominee whom President Clinton chooses for a lifetime appointment. One has to wonder about any vetting process that raises no objections to a nominee like this one. And one has to wonder what kind of evaluation process the American Bar Association conducts that it deems Massiah-Jackson ''qualified.''

But the truth of the matter is this: The Constitution does not give the Justice Department, nor does it give the

White House Counsel's Office nor the ABA, a formal screening role in judicial nominations. The Constitution entrusts that to the U.S. Senate. It is an important responsibility. And we would not be taking our constitutional responsibilities seriously if we did not scrutinize nominees, as we have done in this case ultimately.

The Senate Judiciary Committee has now had its second hearing, and in my judgment, that hearing shed little additional light on this nomination. The hearing did make it clear that Judge Massiah-Jackson was less than forthcoming in her first hearing. It is now clear—as it was last month—that her claim that she had never been reversed in a sentencing appeal is false. It also was evident that she had failed to apprise the committee of other cases in which she had been reversed on appeal.

Indeed, a number of new cases were raised at the hearing that make it even more obvious that this nomination should be rejected. Case in which child rapists were given light sentences, or where Judge Massiah-Jackson wondered aloud from the bench whether the Commonwealth should have been wasting time and prison space on a defendant who had AIDS.

But, in general, the nominee's inability to remember key details of cases that had been raised publicly over a month ago—let alone the new cases raised at the hearing—rendered the hearing pointless.

Judge Massiah-Jackson failed, in my view, to provide compelling answers to the questions raised about her record. As a consequence, it is clearly time for the Senate to stand up and be counted and reject this nomination.

Nomination fights are not pleasant, but there is a principle worth fighting for here: America deserves better than this.

This nominee is so far below the minimum quality we should expect from a Federal judge it is tragic.

The local law enforcement community is horrified that they are about to be saddled with this judge for life. They are concerned that many in Washington seem to be willing to rubber-stamp nominees, no matter how unqualified.

The thrust of the objections of local law enforcement officials—and the basis of my own opposition—are fourfold. This nominee: has shown disrespect for the court by using the English language's most offensive profanity in open court; has recklessly risked the lives of undercover police officers by disclosing their identity; demonstrated hostility to prosecutors by suppressing evidence and dismissing charges against criminals; and shown leniency to criminals in sentencing violent criminals to probation-only, and using lesser-included offenses to avoid mandatory minimum sentences.

Philadelphia District Attorney Lynne Abraham, Democrat, at great political cost, came out against the nomination in a letter to Senator ARLEN SPECTER on January 8. Her letter captures the nature of the local law enforcement community's concern. She wrote:

> This nominee's judicial service is replete with instances of demonstrated leniency towards criminals, an adversarial attitude towards police and disrespect toward prosecutors unmatched by any other present or former jurist with whom I am familiar.

The Senate cannot confirm this nominee in the face of the strong opposition of local law enforcement community. To do so would be the height of arrogance and another example of the ''Washington knows best'' mentality.

The American people deserve a better caliber of nominee. This nomination sends the wrong message to criminals, to law enforcement and to victims of crime. The Senate should vote to reject the nominee now.

CONTEMPT FOR PROSECUTORS AND POLICE OFFICERS

Example One—Commonwealth v. Ruiz.

In this case, Judge Massiah-Jackson acquitted a man accused of possessing $400,000 worth of cocaine because she did not believe testimony of two undercover police officers, Detective-Sergeant Daniel Rodriguez and Detective Terrance Jones. It was the second time she had acquitted alleged drug dealers nabbed by the same officers. The first time, the two undercover officers had testified that they found two bundles of heroin on a table right next to the defendant's hand. The judge not only refused to believe this testimony, she went one step further. As the officers were leaving the courtroom, the judge reportedly told spectators in the court: ''take a good look at these guys [the undercover officers] and be careful out there.''

Detective-Sergeant Daniel Rodriguez confirmed this outrageous courtroom incident in a signed letter to the Senate. The detective-sergeant had the following comments regarding this incident:

> I thought, ''I hope I don't ever have to make buys from anyone in this courtroom.'' They would know me, but I wouldn't know them. What the judge said jeopardized our ability to make buys. And it put us in physical danger.

Detective Terrance Jones, the other undercover officer ''outed'' by Judge Massiah-Jackson in open court, also confirmed the facts in a signed statement to committee staff. He stated that the comments ''jeopardized our lives.'' Detective Jones also notes:

> [A]s a law enforcement officer who happens to be African-American I am appalled that self interest groups and the media are trying to make the Massiah-Jackson controversy into a racial issue. This is not about race, this is about the best candidate for the position of federal judge.

Example Two: Commonwealth v. Hicks, (6/12/87.)

In this case, in an action that led to a reversal by the appellate court, Judge Massiah-Jackson dismissed charges against defendant on her own motion.

Although the prosecution was prepared to proceed, the defense was not ready because it was missing a witness—a police officer who was scheduled to testify for the defense apparently had not received the subpoena. The defense requested a continuance to clear up the mix-up concerning the subpoena. The Commonwealth stated that it had issued the subpoena. The defense did not allege any wrongdoing or failure to act on the part of the Commonwealth. Nonetheless, without any evidence or prompting from defense counsel, Judge Massiah-Jackson decided she simply did not believe that the Commonwealth's attorney subpoenaed the necessary witness.

Judge Massiah-Jackson held the Commonwealth liable for the defense's unpreparedness and, on its own motion, dismissed the case.

As it turned out, the subpoena had been issued but the officer was on vacation and had not received it.

Judge Massiah-Jackson's decision was reversed on appeal as an abuse of discretion. The appellate court concluded that:

> Having carefully reviewed the record, we are unable to determine the basis for the trial court's decision to discharge the defendant. Indeed the trial court was unable to justify its decision by citation to rule or law.

JUDICAL TEMPERAMENT

Example One: Commonwealth v. Hannibal, 6/25/85.

In court, in response to prosecutor's attempt to be afforded an opportunity to be heard, the following exchange took place on the record:

> The COURT: Please keep quiet, Ms. McDermott.
>
> Ms. MCDERMOTT for the Commonwealth: Will I be afforded——
>
> The COURT: Ms. McDermott, will you shut your f***ing mouth.—Transcript of June 25, 1985 at 17.

Judge Massiah-Jackson was formally admonished by the Judicial Inquiry and Review Board for using intemperate language in the courtroom.

Example Two: Commonwealth v. Burgos & Commonwealth v. Rivera, 12/87.

During a sentencing proceeding the prosecutor told Judge Massiah-Jackson that she had forgotten to inform one of the defendants of the consequences of failing to file a timely appeal. Such a failure would prejudice the Commonwealth on appeal. Judge Massiah-Jackson responded to this legal argument with profanity, stating: ''I don't give a s**t.''

District Attorney Morganelli, of Northampton County, Pennsylvania, has suggested that the reason there are not more instances of foul language on the record is that Judge Massiah-Jackson's principal court reporter routinely ''sanitized the record.''

It does not appear to be a coincidence that both of these profane outbursts were directed at prosecutors. Instead, Judge Massiah-Jackson's foul language appears to be part and parcel of her hostility to law enforcement.

LENIENCY IN SENTENCING

Example one: Commonwealth v. Richard Johnson, 1988.

This case was one of the relatively few cases before Judge Massiah-Jackson where the defendant chose a jury trial over a bench trial. What transpired in this case will give you a sense of why defendants before Judge Massiah-Jackson would choose a bench trial.

In this case, the jury convicted the defendant of raping a ten-year-old boy. The verdict carried with it a minimum sentence of five years.

Judge Massiah-Jackson admitted in court to crying when she heard the verdict because she said she though that the resulting minimum sentence was too harsh. She said:

> In this case I'll be frank. If I had had the trial and if it was not a mandatory, I would not have imposed the five to ten year sentence because I just don't think the five to ten years is appropriate in this case even assuming that you were found guilty.

Judge Massiah-Jackson had discretion to impose a sentence at least twice the mandatory minimum for this heinous crime; instead, she cried at the thought of sending the child-rapist to jail at all.

Unfortunately, Judge Massiah's compassion did not extend to the young victim.

The judge refused to hear a victim impact statement. She asked the prosecutor, ''What would be the purpose of that? . . . [W]e know what the sentence is . . .''

The prosecutor stated, ''[U]pon reading about the impact on this victim, you may want to consider more than the five year mandatory minimum.''

Judge Massiah-Jackson replied, ''Why would it be important? There's a mandatory minimum of five years. Have a seat.''

Having apparently decided already that she was not going to use her discretion to give the defendant more than the mandatory minimum, Judge Massiah-Jackson prevented evidence of the crime's impact on the young victim from being introduced.

Example two: Commonwealth v. Nesmith, 1994.

The defendant had a criminal history of 3 prior juvenile arrests and 1 adjudication and 19 prior adult arrests, 8 convictions, 3 commitments, 3 parole violations and 2 parole revocations. He was tried and convicted of striking a pedestrian with his car, leaving her seriously injured—broken legs, pelvis and 4 bones of the back—by the side of the road, fleeing the scene of the crime and then beating into unconsciousness one of the women's relatives who tried to thwart his escape.

The defendant committed these crimes while on parole, having just been released from prison for an assault conviction. Over the Commonwealth's strenuous objection, Judge Massiah-Jackson sentenced him to two year's probation—well below the bottom of even the mitigated sentencing range. Judge Massiah-Jackson, however, explained that the defendant's actions were ''not really criminal. He had merely been involved in a car accident.''

Example three: Commonwealth v. Freeman.

Defendant shot and wounded a Mr. Fuller in the chest because Mr. Fuller had laughed at him. Judge Massiah-Jackson convicted the defendant of misdemeanor instead of felony aggravated assault. She sentenced him to two to twenty-three months and then immediately paroled him so that he did not have to serve jail time. The felony charge would have had a mandatory five to ten year prison term. Judge Massiah-Jackson explained her decision, stating that ''the victim had been drinking before being shot and that [defendant] had not been involved in any other crime since the incident.''

Example four: Commonwealth v. Burgos.

During a raid on the defendant's house, police seized more than 2 pounds of cocaine along with evidence that the house was a distribution center. The defendant, Mouin Burgos, was convicted. Judge Massiah-Jackson sentenced defendant only to one year's probation.

Then-District Attorney Ronald Castille (R) criticized Judge Massiah-Jackson's sentence as ''defying logic'' and being ''totally bizarre.'' He commented:

> This judge just sits in her ivory tower . . . She ought to walk along the streets some night and get a dose of what is really going on out there. She should have sentenced these people to what they deserve.

Example five: Commonwealth v. Williams.

I would like to provide just one more example of Judge Massiah-Jackson's leniency in sentencing—an example that I think is also relevant to whether we should have another hearing on this nominee.

In this case, Commonwealth v. Williams, the defendant robbed a 47-year old woman on the street at the point of a razor. The defendant used the razor to slash the woman's neck and arms, and then took her purse. The victim had to undergo surgery to repair the slashed tendons in her hand, and was forced to wear a splintering device that pulled her thumb back to her wrist. The defendant plead guilty to first-degree robbery. Under the Pennsylvania sentencing guidelines, that offense carries a range of 4 to 7 years, with a mitigated range of 3¼ to 5 years. Despite these sentencing ranges, Judge Massiah-Jackson sentenced defendant to a mere 11½ to 23 months. In order to do so, Judge Massiah-Jackson not only had to deviate substantially below the guidelines range, but also had to ignore a mandatory weapons enhancement that raises the minimum sentence 1 to 2 years.

The Commonwealth appealed this meager sentence and Judge Massiah-Jackson was reversed for her sentencing errors.

This decision is important not only because it demonstrates her leniency in sentencing, but also because of what it says about the equity of giving Ms. Massiah-Jackson an additional hearing. We have heard a lot about Judge Massiah-Jackson's right to be heard and have been given the impression that she has been the victim of sandbagging by her opponents. It is true that there is information that was not available at the time of the Committee's hearing. This sentencing case, for example, was not addressed at the hearing. But that is no one's fault but Judge Massiah-Jackson's. The committee's standard questionnaire asks every candidate to list any judicial decisions which were reversed on appeal. Judge Massiah-Jackson failed to list this case, and indeed testified that she had never been reversed on a sentencing appeal.

I point this out to make clear that this is not just a simple matter of giving someone a right to confront new allegations. It strikes me that we are creating a troubling precedent by affording nominees a second hearing, at least in part, to explain materials that were requested prior to the first hearing.

LENIENCY IN SUPPRESSING EVIDENCE

Commonwealth v. Smith.

Judge Massiah-Jackson has also demonstrated leniency in improperly suppressing evidence. The case that perhaps most dramatically illustrates this point is Commonwealth v. Smith, a case discussed by the Chairman of the Judiciary Committee on the floor yesterday.

In this tragic case, the victim, a 13-year-old boy, was raped at knife point in some bushes near a hospital. Eventually, the young boy managed to run away from his assailant, nude and bleeding. Two nurses at the hospital saw him, and he told them what had happened, pointing out the bushes where he was attacked. The two nurses called the hospital security guards. They saw the defendant emerge from the bushes with his clothing disheveled, and then saw him walk quickly away. The women yelled out for the man to stop, and the police arrived on the scene and apprehended the defendant. The defendant denied raping the boy, but the police searched him and found a knife matching the description of that used in the rape. At that point the police arrested the defendant. Shockingly, Judge Massiah-Jackson ruled that the police lacked probable cause to arrest the defendant, and suppressed all the evidence including the identification of the defendant by the two nurses.

Not surprisingly, the appellate court, when confronted with this dubious judgment, reversed Judge Massiah-Jackson.

It has been pointed out that, after remand to the trial court, the defendant was acquitted in a trial before a different judge. But what seems to have received less attention is that all this

occurred after Judge Massiah-Jackson was reversed by the appellate court. Unlike the second judge, who conducted a full trial, Judge Massiah-Jackson threw out evidence on the ground that the police lacked even probable cause to arrest the defendant—despite his proximity to the crime scene and the victim. It is, of course one thing to acquit someone after a trial, but the notion that the police officers did not even have probable cause to arrest the defendant is just shocking. And the appellate court agreed.

OPPOSITION FROM POLICE ORGANIZATIONS

Philadelphia F.O.P.

The Philadelphia Lodge of the Fraternal Order of Police announced its opposition to the confirmation of Massiah-Jackson on January 13. And just yesterday I had the privilege of attending a press conference in which Philadelphia F.O.P. President Richard Costello made his opposition to this nominee unmistakably clear.

National F.O.P.

The national Fraternal Order of Police announced its opposition on January 20th. In coming out against this nominee, National F.O.P. President Gilbert Gallegos stated, ''Judge Massiah-Jackson has no business sitting on any bench, let alone a Federal bench.'' After describing the incident in which Judge Massiah-Jackson pointed out undercover police officers in open court, Mr. Gallegos stated, ''I cannot adequately express my outrage.'' The National F.O.P. President concluded that: ''To confirm Judge Massiah-Jackson would be an affront to every law enforcement officer and prosecutor in the nation, all of whom have the herculean task of fighting crime. We shouldn't have to have [both] the judges and criminals against us.''

National Association of Police Organizations.

The National Association of Police Organizations announced its opposition on January 22.

OPPOSITION FROM LOCAL LAW ENFORCEMENT

Lynne Abraham, D.A., Philadelphia.

Philadelphia District Attorney Lynne Abraham, a Democrat, at great political cost, came out against the nomination in a letter to Senator ARLEN SPECTER on January 8. She wrote:

My position on this nominee goes well beyond mere differences of opinion, or judicial philosophy. Instead, this nominee's record presents multiple instances of deeply ingrained and pervasive bias against prosecutors and law enforcement officers—and, by extension, an insensitivity to victims of crime. Moreover, the nominee's judicial demeanor and courtroom conduct, in my judgment, undermines respect for the rule of law and, instead, tends to bring the law into disrepute.

This nominee's judicial service is replete with instances of demonstrated leniency towards criminals, an adversarial attitude towards policy and disrespect toward prosecutors unmatched by any other present or former jurist with whom I am familiar.

John Morganelli, D.A., Northampton County.

Northampton County District Attorney John Morganelli, a Democrat announced his all-out opposition to the nomination on January 6, 1998.

Mr. Morganelli provided members of the Committee with a letter detailing the numerous incidents of unprofessional conduct that have marked Judge Massiah-Jackson's tenure on the state trial bench. The concluding paragraphs of that letter are worth quoting at length:

[Judge Massiah-Jackson's] record is one of an unusually adversarial attitude towards the prosecution and police. Much [in her record indicates] personal animosity towards prosecutors and police in general. Other portions of her record indicate a tendency to be lenient with respect to criminal defendants.

This judge sat as a fact finder in the vast majority of her cases because criminal defendants almost always felt it advantageous to waive their right to a jury trial in order to present their case directly to the judge. . . . In addition, she has shown a lack of judicial temperament with respect to vulgar language from the bench on the record and much of it off the record. Also, as indicated above, Judge Massiah-Jackson has attempted to meddle with the appellate process in Pennsylvania by contacting appellate courts and improperly attempting to influence appellate decisions. Her comments, conduct, record and lack of judicial temperament by itself should call into question her stature to serve as a Federal Judge.

Numerous District Attorneys and police organizations in the Commonwealth of Pennsylvania oppose this nomination as a slap in the face to the law enforcement community.

Executive Committee, Pennsylvania District Attorneys' Association.

The Executive Committee of the Pennsylvania District Attorneys' Association, in a unanimous vote, officially opposed the nomination on January 8. The President of the Association wrote a letter on January 26th expressing the Association's opposition.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

NOMINATION OF JUDGE FREDERICA MASSIAH-JACKSON

Mr. SPECTER. Madam President, I have sought recognition to comment on the nomination of Judge Frederica Massiah-Jackson for the U.S. District Court for the Eastern District of Pennsylvania, and that nomination having been withdrawn this afternoon at the request of Judge Massiah-Jackson. I appreciate and understand the reasons leading to her withdrawal.

I commend Judge Massiah-Jackson for her tenacity and courage and for completing the record on all the new questions which were unexpectedly raised at last week's hearing, on Wednesday, March 11. At the outset, I want to thank our distinguished majority leader, Senator LOTT, for his courtesies on this matter and to thank my distinguished colleague, Senator SANTORUM, for his strenuous efforts in seeking the second hearing for Judge Massiah-Jackson in an effort to try to do the fair thing with Judge Massiah-Jackson.

I think it is important to future nominations to face up to exactly what happened in this matter to prevent a recurrence and to improve the system for the future. In my judgment, Judge Massiah-Jackson was unfairly treated by her opponents, and in my judgment, Judge Massiah-Jackson was unfairly treated by the Senate Judiciary Committee.

I believe it is important to find out about nominees who are submitted for the Federal bench because that is a very, very important appointment having lifetime tenure. I believe the law is the highest calling and that the courts have been established to adjudicate disputes between the government and the government's citizens and between people and among parties. I have spent my entire adult life as a lawyer, and I consider it a high calling. There are many of those attributes which are important in the course of working as a U.S. Senator, especially on the Judiciary Committee.

In my judgment, Judge Massiah-Jackson's opponents dealt with her unfairly at the outset by seeking to kill her nomination anonymously. If anyone had anything to say about Judge Massiah-Jackson, I believe they should have come forward and should have come forward at an early date. She was nominated for the judgeship on July 31, but it was not until almost 6 months later that her opponents came forward, after there had been two hearings and after the Senate Judiciary Committee had approved her nomination by a vote of 12–6.

When those anonymous complaints were filed—which led some people to say that she was soft on crime, and I thought without any basis to do so from those anonymous complaints—Senator SANTORUM and Senator BIDEN and I held an unusual field hearing in Philadelphia on October 3, and we invited people to come forward. We specifically invited some who later turned out to be among her most vocal critics. But no one came forward at that time. Instead, we had a group of judges who had served with her—I believe five in number—who said she was well within the mainstream. We had representatives of the distinguished mayor of Philadelphia, Edward Rendell, himself a former district attorney. Mayor Rendell said publicly and expressed to me privately, ''Stick with the public record; Judge Massiah-Jackson was an excellent nominee for the district court.'' Mayor Rendell said she had been appealed very little with respect to sentencing, that she had a very, very good record. While Mayor Rendell could not be present at the October 3

hearing, his representative was, as were others.

Then the Judiciary Committee held a hearing in late October, and in early November voted Judge Massiah-Jackson out by a vote of 12–6. It was not until later—I believe in early January—that opponents began to surface. Some of those opponents had previously said directly to Judge Massiah-Jackson that her nomination was applauded, that the celebration on swearing-in was an event to be looked forward to. When these opponents came forward, Senator SANTORUM and I said that we ought to have a full inquiry into what the objections were. Toward that end, on January 23, we met with district attorneys in my office in Philadelphia and heard complaints of a very generalized nature; very few cases were mentioned, with the district attorneys saying that they would file their objections within a week so that we would know what was on the record and we could make a determination as to what to do, because a vote had been scheduled for Judge Massiah-Jackson for January 28.

The vote was put off to give the district attorneys an opportunity to present their objections. They filed them on February 2, which was a Monday, a little late, but OK. Then Judge Massiah-Jackson went to work to respond to quite a number of cases which the district attorneys had raised. It seemed to me that, notwithstanding the fact that the district attorneys were very late in presenting their objections, they ought to be heard, there ought not to be a time limit. If they had not come forward early, let them come forward later and let us find out what their objections were, let us give Judge Massiah-Jackson an opportunity to respond, and then let the Senate make a judgment.

Then the hearing for Judge Massiah-Jackson was set for last Wednesday, March 11. By this time, the district attorneys had created a considerable crescendo of public opposition. They had done that on a selective citation of cases, illustrative of which was a case involving undercover officers who, Judge Massiah-Jackson's critics said, had been exposed in open court. But when that matter was pursued, it was determined that those officers had testified in open court and their identities had been disclosed. So there was hardly anything to be disclosed since it had already occurred in open court.

Another case which was widely publicized was a case where Judge Massiah-Jackson had deferred the imposition of sentence on a case involving a defendant motorist who had struck a pedestrian. When those facts were looked into in some detail, it was determined that the victim had asked for the postponement in order that the defendant could make restitution, that, in fact, the defendant had made restitution. That case was appealed to the Pennsylvania higher courts as to the adequacy of Judge Massiah-Jackson's opinions, and the appellate court said Judge Massiah-Jackson had acted properly.

In the totality of cases, Judge Massiah-Jackson handled some 4,000 cases between 1984 when she was appointed to the bench and 1991 when she stopped sitting on criminal cases. There were only four appeals taken from her sentences. In one of those appeals she was reversed because she had given too long a sentence. The guidelines had been exceeded, so said the appellate court. She was too tough. She imposed too long a sentence. In the other three cases, she was reversed twice and upheld once. But three appeals by the Commonwealth involving many, many sentences coming out of some 4,000 cases which had been heard—not all resulted in sentences because some were acquittals—is not too bad a record, to say it very, very plainly.

When the district attorneys had submitted, I believe it was 39 cases on February 2, not 50 which they said they would submit, in an analysis of the representations by the district attorneys to what the transcripts showed, there was a wide variance. The district attorneys had taken the facts as they represented them in the light according to the Commonwealth's witnesses but did not take into account witnesses for the defense or the issues of credibility or the other matters in which a judge might make a different finding. In the hearing on March 11, I put a number of those matters into the RECORD.

The hearing of March 11 was really a very extraordinary one, in my opinion. By the time these selective cases had been disseminated to law enforcement agencies, quite understandably, quite a number of law enforcement agencies came forward to object to Judge Massiah-Jackson. That is not surprising because they did not know the entire record.

It ought to be pointed out that this confirmation process for Judge Massiah-Jackson has come on the heels of a very unusual case captioned Commonwealth v. Lambert, a murder case out of Lancaster County, PA, where a judge on the U.S. District Court for the Eastern District of Pennsylvania—the same court to which Judge Massiah-Jackson had been nominated—where a Federal district court judge in Philadelphia had found constitutional error, which is not surprising, but it was surprising that the judge had ordered that there be no retrial in that case involving a conviction for murder. That was an extraordinary ruling, and in my legal research, unprecedented. I joined with Congressman Pitts and others in introducing legislation to clarify that jurisdiction of a district court judge. The finding of constitutional error is well within the purview of the court, the suppression of that evidence is well within the purview of the court, but it is not within the purview of the court to say that the case could not be retried. That is a matter for the State court in Lancaster County and for the Lancaster County district attorney. The district attorneys who had opposed Judge Massiah-Jackson were very explicit in saying that they were not going to see another judge sent to the district court like the one who had ravaged, they said practically ruined, the district attorney of Lancaster County.

So against that recent backdrop, it was not surprising that when law enforcement agencies saw a limited part of the record without knowing all of the facts, that they would be opposed to Judge Massiah-Jackson.

It is not irrelevant to point out that I was district attorney in Philadelphia for 8 years, from 1966 to 1974, and before that an assistant district attorney for 4 years and, obviously, have had considerable experience in the criminal courts of Philadelphia. The decisions which Judge Massiah-Jackson made were well within the keeping of the Philadelphia criminal courts. I take second place to no one in battling with the judges on the issues of sentencing. When I was district attorney of Philadelphia, I made it a practice to petition for reconsideration of a sentence when I thought the sentence was inadequate. I went right before the court, and on one occasion was so tenacious that I was held in contempt of court when I protested a lenient sentence imposed on someone convicted of selling drugs, 6 ounces of pure, uncut heroin. I was so insistent on battling the judges on the issue of sentencing that procedure was taken away from the district attorneys by a superior court opinion, saying it was double jeopardy and the courts of Pennsylvania had noted my opposition to sentencing. So that was gone.

I also took a common law appeal to try to appeal sentences when I was district attorney from 1966 to 1974. The D.A. did not have a right of appeal, and I drafted legislation to give the district attorney the right of appeal, and ultimately that statute came into existence. But when I was district attorney, I found three very egregious cases and decided to take an appeal to the Pennsylvania Supreme Court to argue a common law right of appeal.

One of the cases, as I recollect, was a motorist who had been convicted of drunken driving and was driving on a revoked license and killed two people and had gotten probation. I thought that was horrendous and thought there ought to be a right of appeal. Another case involved, as I recollect it, the deputy commissioner of licensing inspections, convicted of 40 counts of corrupt practices, and got probation. Another case which I considered an outlandish sentence and thought there ought to be a right of the district attorney to appeal involved a defendant named Arnold Marks. I have referred to the 6 ounces of pure, uncut heroin worth $280,000, as I recollect it, and 6½ months in jail. The Supreme Court of Pennsylvania disagreed with me, fairly unceremoniously, and said I did not have a right of appeal and dismissed

my effort. As I say, the district attorney's right to file an appeal was later upheld by statute, so if anybody today disagrees with the judge's sentence or anybody disagreed with Judge Massiah-Jackson's sentences, they could take it to appeal. As I say, it only happened three times by the district attorney's office in the handling of some 4,000 cases. There were occasions when I challenged the judges on the findings of the fact. In those days the Commonwealth district attorney had a right to demand a jury trial. We did not have a right of appeal, but we did have a right to demand a jury trial as party to the proceedings. And it was with some frequency that I exercised that right to demand a jury trial—so often that the supreme court changed the rule, and said the district attorney no longer had the right to demand a jury trial.

So I take second place to no one, Madam President, in terms of battling on findings of fact in criminal cases and battling on the issue of sentencing. And I take second place to no one since coming to the Senate, having been elected in 1980, and having authored the armed career criminal bill. This is a very strong statute dealing with 15-years-to-life sentences for career criminals who have three major convictions—not larceny of cookies, I might add, but robbery or burglary or sale of major drugs, and later found in possession of a firearm—to get a life sentence; 15 years to life—15 years is the equivalent of a life sentence in the Federal prisons.

There is legislation which I worked on for the better part of a decade, which abbreviates the amount of time there can be on appeal in the Federal courts from a State conviction with the death penalty from about 15 years, which the cases have taken 2 1/2 years; I have also been in the lead on getting adequate funding for the Federal Bureau of Investigation for a variety of State action and as well as for Bureau of Alcohol, Tobacco, and Firearms.

The March 11 hearing, Madam President, I thought was atrocious, to use a fairly mild word, because Judge Massiah-Jackson was confronted on that morning at 9:30, when the hearing started, with new batches of cases which the district attorneys had submitted by letter dated March 6, which was the Friday before. However, my staff did not get these until 10:40 p.m. on March 10, long after I had retired. I saw these cases at 9 o'clock when I came to my office. I did not have any time to review them, and Judge Massiah-Jackson did not see them at all.

Now, the most fundamental aspect of due process is notice and an opportunity to be heard and then a hearing. But the quintessential point about due process is notice. How can Judge Massiah-Jackson be called upon to respond to cases which she has not seen for a decade, or for 15 years? One of the cases involved a 1994 trial. Other cases involved 1988 and 1989 trials. It was said—and I think appropriately—that for Judge Massiah-Jackson to salvage her nomination last Wednesday she would have to hit a home run and the bases would have to be loaded. She was facing a very steep, uphill climb. But the reality was that she had no chance to do that because she was confronted with cases which were a decade old, or more. And when she said, ''I do not recall,'' it was taken that she should have recalled.

It may not be a matter that is realized by Senators who are used to attending hearings, but when a witness appears before a hearing in the U.S. Senate, there is a certain amount of trepidation, especially when a judicial nominee appears in a Judiciary Committee hearing. There is a substantial amount of trepidation because that person's appointment to the Federal bench is on the line.

I have seen many highly experienced trial lawyers with 30 years of practice at the bar, nominees who come from Pennsylvania whom I know very well, of great stature, of great aplomb, of great presence, come before the Judiciary Committee frightened like children in school, apprehensive, very, very nervous as to what is happening. And that is when they appeared before just a single Senator who is presiding at the hearing, or perhaps someone chairing the hearing and a ranking member from the minority party. Judge Massiah-Jackson walked into the hearing last Wednesday. The panel was loaded with people who were opposed to her, people who were asking her about cases which she had not had any notice of for a decade or for 15 years.

Then, in an even more astonishing development, some of the Senators had transcripts which had been provided, according to the fax notes—you could see it on the transcripts—the night before at 5 o'clock in the evening. One transcript bore the note of ''Philadelphia District Attorney's Office,'' and another transcript bore the note ''Philadelphia DA's Law Division.'' So they had at least two fax machines, and both were busy turning out these faxes going to selected members of the Judiciary Committee—not to ARLEN SPECTER, not to the chairman of the Judiciary Committee, but going to certain members, and not to Judge Massiah-Jackson, who was then asked questions about them.

It was true that the Senator said, ''Well, now, you may not recollect this, and I know you have not seen these cases''—which were submitted with transmittal letters, as I said, on March 6, and as I previously said, which I had not seen until the morning of March 11 and Judge Massiah-Jackson had not seen at all —''but let's see if you could respond to the questions.'' Well, when she says she doesn't remember, it doesn't look too good for her. When she is confronted with transcripts where the Senator's then say, ''Well, maybe this will refresh your recollection,'' and the transcript is read to her, and she does not remember, she doesn't look too good.

So when she walked out of the hearing and the comments were she didn't do very well, she didn't remember the cases—how could she remember the cases? How could she do very well? What the district attorneys had done was water torture—drip, drip, drip, drip, drip. It started early on when the materials came in anonymously, drip, drip, drip, leading one member of the Judiciary Committee to say, without any foundation, ''Looks like she is soft on crime''—drip, drip, drip. Then a hearing with Senator SANTORUM, Senator BIDEN, and myself in Philadelphia—nobody comes forward. Nobody has the courage to step forward and say, ''I am opposed to this nominee,'' as she had every right to expect, put her on fair notice, and give the Judiciary Committee a chance to evaluate their testimony. Then more anonymous materials—drip, drip, drip. In late October the Judiciary Committee has its hearings; and then drip, drip, drip. And it is true, they alerted some Members, who by last-minute holds deprived the Senate of having a vote at a time when the Senators were absent. Last week the majority leader did not schedule any votes, but materials came in in this matter.

There is an inevitable chilling effect, Madam President, on what has happened, and its repercussions go far beyond Judge Massiah-Jackson.

I said at the hearings that I thought it very unfortunate that Judge Massiah-Jackson should be called upon to answer questions put to her by district attorneys because there are so many State court judges in America who would like to be Federal court judges. I hardly know of any in Pennsylvania who do not want to be Federal court judges. The distinguished Presiding Officer came to see me last week with a member of the Supreme Court of Maine who wanted to be a judge on the First Circuit. That is the aspiration of so many lawyers and so many judges. If trial judges know that when they displease the district attorney who is trying a case before them that their records are likely to be sent anonymously and surreptitiously to the Judiciary Committee, what kind of an effect does that have on the administration of justice? How does a State court judge feel about ruling against a district attorney, or an assistant district attorney, in the context where Judge Massiah-Jackson was the victim of this water torture with people proceeding anonymously and then poisoning the waters in a way in which it was realistically impossible for her to answer?

There was no way that Judge Massiah-Jackson could appear last Wednesday and talk about the cases which the district attorneys had submitted on February 2 when at every question she was confronted with cases, some 15 years old, where she had no notice. There is no way she could respond intelligently. And it was impossible for her to respond in a way which

could convince fairminded people as to what the facts were.

I talked to Members of the Senate who saw only the headlines, who saw only the comments, who saw only two statements which she had made which she shouldn't have made. But if someone is to be disqualified for making two intemperate statements, I don't believe there would be anyone in the U.S. Senate—not just the 100 of us who are here now, but anybody. If somebody is disqualified for a job for two intemperate statements, nobody could hold a job anywhere.

So when you take a look at this record in its totality, what I have sought to do from the outset is to see that Judge Massiah-Jackson receives a fair hearing. It has been said that she is my nominee, which is not true. She is obviously the President's nominee. But she is not somebody who came from the Republican ranks. There is an arrangement which Pennsylvania has with the White House, with the President, that we will have the opportunity to name one Federal district court judge in Pennsylvania—Senator SANTORUM, and I—for every three nominees submitted from the Democratic Party. Pennsylvania is the only State, except for New York, which has had this arrangement, going back to the days of Senator Javits in the late 1970s. I am not obligated to back anybody whom the White House puts up. In fact, one of the nominees from Pittsburgh was rejected and withdrew earlier.

So when people say I have made a deal, it is not true. Judge Bruce Kauffman was sworn in on January 20. He was the nominee submitted by Senator SANTORUM and myself. I have not promoted the nomination of Judge Massiah-Jackson. I did not know her before she was nominated by the President to this position. But it seems to me, know her or not, she was entitled to fairness, and, if there were objections against her, I wanted to hear of them.

I have not begun to detail, Madam President, the lengths to which I went to find out what those objections were. When I heard comments through the grapevine, I called, or had my staff call, everybody who had a comment to make. When people wouldn't come forward, we asked them for the facts, and we proceeded with the objection. I personally made telephone calls to people and returned telephone calls to people to find out exactly what they had in mind, because if she was disqualified, let the chips fall where they may.

But the procedures which have occurred here and really culminated in the hearing on March 11, I think, represent an occurrence which is not the Judiciary Committee's finest hour. I believe that questions should not have been put to her. She should not have been called upon to answer questions on matters that she had not heard about until that morning, matters which are 10 or 15 years old.

There is ample precedent in the committees to exclude inappropriate lines of questions. One which received a great deal of notoriety was the Supreme Court nomination hearing for Justice Clarence Thomas. When someone had asked Justice Thomas about his video selections, the chairman of the Judiciary Committee, a Democrat, overruled his colleagues on that side of the aisle and said those questions were out of line. They may have had some relevancy, some tenuous relevancy. I don't think so, but some might have argued some attenuated relevancy to the issue before the Judiciary Committee at that time.

But certainly they were vastly prejudicial compared to any value which they may have had, and a courageous chairman of the Judiciary Committee excluded that line of questioning. At the hearing I did not mince any words, but the first time I had an opportunity to speak, I referred to these new cases which had just been dropped on me that morning, which Judge Massiah-Jackson had not seen, and made the point that they ought not to be the subject for questioning. And when others on the Judiciary Committee had those transcripts which bore the facts from the Philadelphia district attorney's office the night before, I strenuously questioned the propriety of that and interrupted the chairman to express my views in no uncertain terms.

Madam President, this case will not go away so easily. I agree with those who have said in the Chamber today that there has to be an adequate venting process and we have to find out about judicial nominees. I believe that the people who had objections to Judge Massiah-Jackson should have come forward many, many months ago. They had an opportunity to do so. There were inquiries by the FBI; there were inquiries by the American Bar Association; there were inquiries by the commission which Senator SANTORUM and I have established. They had an opportunity to raise those objections at a very early stage. But I do not deny them an opportunity to present adverse matters, however late they may come in, because a Federal judgeship is so important. But I do not believe that a nominee ought to be asked those questions without any notice and without any opportunity to review those cases. As we speak, there are units within the judicial conference and units within the bar association that are taking a very close look at what happened to Judge Massiah-Jackson.

In concluding, I compliment and congratulate Mark Aronchick and John Morris of the Philadelphia Bar Association for their pro bono work in analyzing the cases which were submitted by the district attorneys, the first batch submitted on February 2, and for their very strenuous efforts in an analysis to find out what the facts were. They supported Judge Massiah-Jackson because she had scored very well on the plebiscites where the members of the Philadelphia Bar Association had been questioned. I would also like to thank Charles Bowser, Esquire, who counseled Judge Massiah-Jackson.

I do appreciate and understand the reasons leading to Judge Massiah-Jackson's withdrawal. When she appeared in the hearings, she showed tenacity and courage, and she completed the record last week. But this is a time when the Senate Judiciary Committee has had better days, not a shining example for our Judiciary Committee, and the practices and procedures which were employed in this case need a thorough review so they will not be repeated.

In the presence of no other Senator, 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. THURMOND. Madam 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 South Carolina is recognized.

Mr. THURMOND. I thank the Chair.

(The remarks of Mr. THURMOND pertaining to the introduction of S. 1764 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

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

NOMINATION OF JUDGE MASSIAH-JACKSON

Mr. SANTORUM. Madam President, I rise today to talk about the issue that was going to be voted on tomorrow, the nomination of Judge Massiah-Jackson to the Eastern District Court of Pennsylvania. As you know, she withdrew her name today from consideration for that position. She did so, I believe, in light of the information that has come forward, the controversy surrounding her nomination, and what looked to be very little hope for that nomination to succeed here on the Senate floor. In fact, it has come to my attention that there would have been very strong bipartisan opposition to her nomination and the chances of it succeeding were not very good. So I think, under those circumstances, she decided to withdraw her name.

For her sake, I think she did the right thing. I think she has acquitted herself, as an individual, very well and was very restrained under this rather arduous process she has gone through. I know it has been a very difficult time for her and her family. For that she has my empathy and my sympathy, for

the difficult time that she had in what turned out to be a very prolonged process that somehow looked more like a Supreme Court nomination as opposed to an eastern district court nomination. That being said, I think it was the right thing for her to withdraw. As I said publicly last week, I was not going to be supportive of her nomination.

All in all, what I tried to accomplish from the very beginning of this process was to give Judge Massiah-Jackson—as I would any person nominated from my State by President Clinton—the benefit of the doubt, No. 1, and, No. 2, a fair process—that she would have a fair process, or anybody would have a fair process, when it comes to the commission that I set up with Senator SPECTER to review judicial nominees or potential judicial nominees from all across Pennsylvania for the district courts. We have what I believe is a stellar commission that is made of terrific people who work very hard to review those nominees. They are, in fact, hamstrung, however, by the limited amount of information that they have.

In the case of Judge Massiah-Jackson and others, they are given information, frankly, provided by the candidate—by the person who is interviewing for the position. There is—at least has been—very little done in the way of background checks beyond what the candidate provides or references given. If I can be self-critical here of that process, our process, I would say that probably has to change in the future, that we have to do a little better job of delving deeper into the background of some of the potential nominees for the court. So, in that sense, the process maybe didn't work as well as it should have.

The second step in the process was the process of nomination by the President. Again, I suggest the President's process probably did not work as well as it should have, because a lot of information continues to come out. Even today more cases have come forward.

The commission, in part, can take blame, but, in part, the White House has to take a little of the blame for not doing a thorough check of the record and finding these problems so these issues would not be coming up so late in the game, that we would have had all these issues before us when we were making the initial decision. In fact, it wasn't done, or, if it was done, it certainly was kept from me and other Members of the Senate until a very late date. So, again, the process, in a sense, failed.

Having said all that, we had a nominee in the committee. The committee, I believe, gave Judge Massiah-Jackson a fair hearing at the time given the information that they had. Again, more information continued to come to light, some because, I suspect, it was difficult to ascertain; others, I don't know why. But information continued to come to light and information that, frankly, we had to look at. That was statistical evidence as to the judge's abilities in office, or potential abilities in office.

Again, what I was striving for, for this nominee, as I do for all, is to give her a fair hearing, a fair process. That is why Senator SPECTER and I fought and persuaded the chairman of the Judiciary Committee, as well as the majority leader, to withhold any vote on the Senate floor, to allow Judge Massiah-Jackson to go back to committee after these more recent allegations came forward, to be able to respond—in a sense, almost redoing the process again and, in a sense, starting de novo from the second hearing to begin to set the record straight, if you will.

In that regard, I thank Senator LOTT for his willingness to stand by both Senator SPECTER and me in support of that second hearing. I think it has to be said that Senator LOTT had the right—and, frankly, any other Member in this Chamber had the right—to come forward and ask to table her nomination. When the nomination was before the Senate, anyone could have come out here on the day when it was before the Senate and could have asked for that nomination to be tabled. We would have had a vote, and I think it would have been unfortunate and untimely at that point because she would not have been given an opportunity to respond, as many Members were passionate in opposition to her and felt there was no way by what she said or did at that hearing that she could redeem herself in their eyes. But they were willing to defer to both Senator SPECTER and myself and to the leader, and to Senator HATCH, to give her an opportunity to respond to her critics.

In the end, she did not do so adequately. There were many issues brought up, and, to some, she was able to shed some light on some of the disconcerting information. In the end, at that hearing, she decidedly did not address the grave concerns that had been brought forward on a variety of different subjects, on a variety of different cases, a variety of extrajudicial activities that she was involved with in her courtroom.

At that point, I think my sense was, while this process took longer than it should, and certainly the way in which this information came out and all the other oddities with respect to this nomination, I think, in the end, she was given the opportunity to address those issues. I do not believe she did so to the satisfaction—certainly she didn't to my satisfaction, and I don't think she did to a very strong bipartisan majority in the U.S. Senate to overcome the opposition of so many in my State.

I received over 500 letters, the vast majority of which were in opposition to her nomination. I received letters from a variety of law enforcement agencies, as well as prosecutors and others in opposition, which I take very seriously. These are officers of the court who do not normally speak out on such issues. I have to take that kind of correspondence and that kind of communication very seriously. I thought they brought out some very relevant and cogent issues with respect to her nomination. I considered those. I wanted to give Judge Massiah-Jackson an opportunity to shed some light on those and perhaps change my perception of those issues. She did not do so in that hearing, in the final analysis. So, as a result, I announced late last week that I would end up opposing her nomination. I did so.

It was a very difficult decision. It was very difficult for me to arrive at that decision, as I said earlier in my remarks. I wanted to give, as I do with all nominees of the President—they are not my nominees; they are not people I would have selected. I understand he is the President, opposite party, opposite philosophy. I don't expect him to appoint people I would appoint. So I provide a lot of latitude to his nominees, but within certain range, within certain bounds.

In this case, while I tried to give the benefit of the doubt throughout the process, in the end, she was outside the bounds of what I believe to be reasonable conduct and temperament. As a result, I thought it better to oppose her nomination to be promoted to the Federal bench.

I will say in closing, I wish Judge Massiah-Jackson well. I, again, have great sympathy for what she went through in the process. Even though Senator SPECTER and I tried to make it a fair process, it was, nonetheless, a difficult process, one that became somewhat national in scope. Certainly in the city of Philadelphia, it was a very contentious and, unfortunately, overpoliticized atmosphere surrounding this nomination. I understand the difficult time she went through. She, again, has my sympathy.

In the end, the withdrawal of her nomination was probably the best thing for all concerned.

Thank you, Madam 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. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

WITHDRAWAL OF THE NOMINATION OF JUDGE FREDERICA MASSIAH-JACKSON

Mr. LEAHY. Mr. President, the President has withdrawn the nomination of Frederica Massiah-Jackson to be a United States District Judge for the Eastern District of Pennsylvania. Judge Massiah-Jackson continues as a respected Judge on the Philadelphia Court of Common Pleas and has reiterated her commitment to public service to the city and citizens of Philadelphia.

This nomination is a casualty of the confirmation process. As she described it: ''After being found qualified to serve by the Specter-Santorum Judicial Selection Commission, the Department of Justice, the FBI, the American Bar Association and the Senate Judiciary Committee,'' she was subjected to ''an unrelenting campaign of vilification and distortion as [she] waited for a vote on [her] nomination by the full Senate.'' She recognized that in the ''politicized environment'' in which this matter is being played out, she would have little opportunity to set the record straight once again. She has already devoted the better part of the last several days to that task, but the terrain keeps being shifted under her feet.

Last week the Judiciary Committee held a hearing, ostensibly to allow Judge Massiah-Jackson an opportunity to respond to charges leveled against her record as a Philadelphia Court of Common Pleas Judge. The hearing made a record that cleared up the most troubling allegation that had been made against her since her nomination was reported by the Judiciary Committee last November. No one who is familiar with the facts can continue to accuse her of having unmasked undercover narcotics officers sitting in her courtroom. That simply did not happen.

Unfortunately, the hearing veered off into characterizations about other cases than those the nominee had been notified raised concerns and there was no opportunity for her to prepare to respond to questions about those cases at the hearing. Late Friday evening Judge Massiah-Jackson sent a written response to the Committee on those additional matters. In fairness, I encourage anyone concerned about the Richard Johnson, Spagna, Kennedy, Nelson, Williams, Thomas, Walker, Parks, Hill, Kevin Johnson, Hairston, Evans and Gregory Johnson cases to consider her response and review the trial records before accepting second-hand characterizations by her critics.

Over the last several weeks a caricature of this nominee has emerged here in Washington rather than a true portrait of the woman who was elected to the bench in 1983 and retained by Philadelphia voters in 1993. No one should forget that the matters about which opponents are now complaining all took place before that 1993 retention election. Judge Massiah-Jackson's handling of important and complex civil matters over the last several years has been commended by the bar and not been criticized. The criminal cases from her earliest days on the court were concluded before the 1993 retention election and were not a source of controversy or criticism then.

Having been condemned by some on the Senate floor in early February, Judge Massiah-Jackson returned to appear before the Judiciary Committee last week to correct the record. I said at the outset of that hearing that it would be hard for anyone to counteract in a few minutes the weeks in which opponents engaged in a whispering campaign and then in a blitzkrieg public relations effort to kill her nomination without affording her a fair opportunity to be heard. Unfortunately, the tactics continued as she was surprised with questions about cases that had not been previously been raised.

I have searched my memory for any precedent for the way in which this nomination was attacked, but can think of none. It has too great an ''Alice in Wonderland'' quality to it. Senators were all too eager to accept any and every accusation without exploring its basis, allowing the nominee a fair opportunity to respond or reviewing the factual record. Like the King in Wonderland, on February 10 and 11, Senators had to be restrained from moving to a vote on the basis of accusations. The nominee was allowed a hearing on March 11 to respond, only to be met with new allegations.

The Senate was intent on voting down her nomination again last week without allowing an opportunity for the nominee to respond to the new allegations. I could almost hear the Queen of Hearts objecting that there need be no deliberation, just ''Sentence first—verdict afterwards.'' I can understand why Judge Massiah-Jackson chose to forestall the ''stuff and nonsense'' that had come to characterize Senate treatment of her nomination. I regret the ordeal that she and her family were made to endure.

I have noted before the respect I have for our colleague from Philadelphia and for his experience and judgment both as a prosecutor and as a Senator. Senator SPECTER has been a steadfast supporter of Judge Massiah-Jackson. He has done the work to evaluate the criticism of her record. He has looked at the trial records and the Philadelphia Bar Association report and compared the criticism to the facts. He knows the circumstances in Philadelphia that form the backdrop for the criticism of this nominee's record from local prosecutors and police. My own review of the cases leads me to the same conclusions that he has drawn: Prosecutors were disappointed in a number of her rulings but she had a basis in the record for the great majority of her orders. She has admitted to mistakes and been reversed on occasion, but that handful of errors should not have disqualified her from this appointment.

This nominee has broad ranging support from both Democrats and Republicans in Philadelphia, a number of prosecutors and former prosecutors, distinguished representatives of the bar, and numerous State and local judges. Mayor Rendell, himself the District Attorney in Philadelphia for many years, is one of her strongest supporters. The Philadelphia Bar's review of the initial accusations about her record found many errors in the report of the district attorneys and concluded that her nomination continued to merit support.

The Philadelphia Bar Association's report challenges many of the inferences and conclusions draw by the earlier submission of local prosecutors provided by the Pennsylvania District Attorneys Association. Ironically, using the methodology of the Pennsylvania District Attorney's Association indicates that Judge Massiah-Jackson had a substantially higher conviction rate—a 25 percent higher conviction rate— than the overall conviction rate for the Philadelphia Court of Common Pleas. The Philadelphia Bar also reports that Judge Massiah-Jackson actually imposed sentences above the Pennsylvania sentencing guidelines more frequently than other Philadelphia judges. Indeed, for the more serious offenses—including robbery, aggravated assault, rape, and drug felony offenses—by her last year hearing criminal cases she was five times more likely than other Philadelphia judges to impose tougher sentences than the guidelines required.

For purposes of the record, let me briefly comment on the allegation that Judge Massiah-Jackson purportedly unmasked undercover narcotics officers in her courtroom. The story related to the Senate on February 10 was that Judge Massiah-Jackson ''had ordered undercover policemen to stand up and be recognized in court so that any drug dealers that were there would recognize them if they saw them on the streets.'' On February 11 this alleged incident was recounted to the Senate as follows: ''In open court she told these arresting officers, who were working undercover, to turn around and told the drug dealers and other spectators to 'take a good look at the undercover officers and watch yourselves.'' She has been condemned for ''making undercover agents reveal who they are to the drug-running community.''

These are serious but unfounded charges and an example of the misinformation that has plagued this nomination. Judge Massiah-Jackson has consistently denied that she would ever have done anything to put police officers in danger and that she would not have publicly identified undercover officers who were concealing their identities.

The Committee obtained brief written statements from the two Philadelphia police officers about which the allegations were made. It struck me that both officers' written statements noted that on the day of the alleged incident school children were brought to the courtroom to observe cases. One of the officer's written statements noted that during a break between cases the Judge addressed the children and that the alleged incident took place ''after a short speech to the children.'' The officer wrote: ''I understand what she may have been trying to achieve with the kids.''

I can imagine the Judge making a crime prevention or crime deterrence

statement to a group of school children. It is possible that she told the school children not to commit crime, not to do drugs and not to be involved with drugs and that if they did they would likely be caught, tried and sent to jail. To drive home the deterrence point that they should not think that they can get away with anything, I can imagine the Judge directing the children's attention toward the officers dressed in their street clothes to make the point that officers do not always wear their uniforms and badges and that they could be anyone. One of the officers had already testified and identified himself as a police officer in open court. He was called ''Officer'' by the prosecutor. The transcript of that case indicates that the other officer was there and had been named in the course of the proceedings. The Commonwealth rested its case without formally calling the second officer to the stand.

I also note that neither of the officers' written statements indicate that the Judge said anything disparaging. Nowhere is there any basis for the contention that she ''ordered undercover police officers to stand up and be recognized in court'' or ''make undercover officers reveal who they are to the drug-running community.'' Neither of the officer's statements indicate that she referred to the men as ''undercover narcotics officers'' or ''undercover officers.'' Those characterizations only surface later in assertions by a prosecutor who was seeking to have the Judge recuse herself the next year in a different case and in that prosecutor's later comments to a Philadelphia Daily News staff writer.

The officers' written statements indicate that they have little more in the way of specific personal recollection of these matters than Judge Massiah-Jackson does. The written statements conflict with each other and with the subsequent newspaper account. Many of the specifics about the proceedings are simply incorrect.

It seems to this Senator that some have been intent to make this alleged incident into something it was not. To the extent Judge Massiah-Jackson made any reference to the presence of officers dressed in street clothes in the courtroom, it appears to me that it was after the officers had identified themselves to those present as officers. They do not appear to have been acting as undercover officers in the courtroom and were not unmasked. From the testimony offered in the case they both had been in contact with both defendants. To the extent the Judge made any comments, they were most likely directed at a group of school children visiting the courtroom and were made in the course of a speech urging those children to stay away from crime and drugs.

The Judge has long been involved with young people, often spent time as a classroom speaker, visited a number of Philadelphia's public and parochial schools and invited classes to visit her courtroom. Indeed, she visited an impressive array of schools to make presentations every year since joining the bench.

I trust that we will hear no more about the allegation that she unmasked undercover officers in her courtroom. I regret that the reputation of this Judge has been clouded. I hope that those who want to know the truth will consult the record made in connection with the March 11 Judiciary Committee hearing and the court records in the cases at issue.

In her letter to the President, Judge Massiah-Jackson noted that ''our system of justice and the independence of this third branch of our government may be the most precious treasure bequeathed to us by the Founding Fathers.'' I hope that in the future the Senate will show more respect for the independence of the judiciary and a more balanced approach in our review of judicial nominations.

EXECUTIVE SESSION

NOMINATION OF JEREMY D. FOGEL, OF CALIFORNIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Jeremy D. Fogel, of California, to be United States District Judge for the Northern District of California.

Mr. LEAHY. What is the parliamentary situation?

The PRESIDING OFFICER. There will be 10 minutes of debate evenly divided.

Mr. LEAHY. Mr. President, today there are 82 vacancies among the Federal judiciary. We can see another 15 vacancies on the horizon. If we confirm Jeremy Fogel to the U.S. District Court for the Northern District of California in a vote this evening, then we will have confirmed 11 judges so far this year. That is less than four a month. When you know that you have close to 100 vacancies, 4 a month doesn't cut it. The President spoke to this issue; the Chief Justice spoke to it. The Senate can do a better job.

At the end of last year the Senate was confirming on average three judges a week. In response to the plea by the Chief Justice in the 1997 Year End Report, the Senate can and should do better this year.

Some still resist acknowledging the judicial vacancies crisis and contend that there are plenty of Federal Judges to handle the work of the courts and criticize the Judges for expanding their own jurisdiction. That is certainly not the case among the Federal Judges I know or the Federal Courts with which I am familiar.

We should not perpetuate circumstances that require Chief Judges to impose so heavily on senior judges and visiting judges. That is why I introduced the judgeship bill recommended by the Judicial Conference that calls for creating 55 additional judges. Moreover, it appears to me that it is the Congress of the United States that has been expanding Federal Court jurisdiction and role—and may do so again if the Republican leadership has its way and passes its version of the juvenile crime bill and its takings bill.

There is a need—in a growing number of cases, the desperate need—to fill the almost 100 vacancies that continue to plague the federal justice system. The President has spoken to the issue both last September and in his most recent State of the Union. The Chief Justice spoke to the matter again in the 1997 Year End Report. I have spoken until I am blue in the face. The Senate can do a better job to fulfill its constitutional responsibility and to support the third co-equal branch of our government.

As the Chief Justice has pointed out, confirmations are taking longer and longer to the detriment of greater numbers of Americans and the national cause of prompt justice. I fear that the current delays will persist until each of you, concerned judges from around the country, begins to express outrage at the slowdown on judicial confirmations. Rather than have the Senate persist in efforts to micro manage the judiciary and attack its independence and integrity, I am seeking to have the Senate get on about the business of confirming judges and provided the resources courts need.

Today 7 judicial nominees are listed on the Senate calendar. Unlike earlier days in the Senate when nominees were not made to wait for weeks and months on the Senate calendar before they could be considered, that is now becoming the rule.

I calculate that the average number of days for those few lucky nominees who are finally confirmed is continuing to escalate. In 1994 and 1995 judicial nominees took on average 86 or 87 days from nomination to confirmation. In 1996, that number rose to a record 183 days on average. Last year, that number rose dramatically yet again. From initial nomination to confirmation, the average time it took for Senate action on the 36 judges confirmed in 1997 was 206 days.

During the entire four years of the Bush Administration there were only three judicial nominations that were pending before the Senate for as long as 9 months before being confirmed and none took as long as a year. In 1997 alone there were 10 judicial nominations that took more than 9 months before a final favorably vote and 9 of those 10 extended over a year to a year and one-half. Of the 10 judges confirmed so far this year, Margaret Morrow took 21 months, Ann Aiken took 26 months, and Hilda Tagle took 31 months.

Last year the President sent us 79 judicial nominations but the Senate

completed action on fewer than half of them. The percentage of judicial nominees confirmed over the course of last year was lower than for any Congress over the last three decades and, possibly, at any time in our history. Left pending were 42 judicial nominees, including 11 who were first nominated in 1995 and 1996, and 21 to fill judicial emergencies. Still pending before the Senate are 6 nominees first nominated in 1995 and 3 more first nominated in 1996.

Unfortunately, over the last three years, the Senate has barely matched the one-year total of judges confirmed in 1994 when we were on course to end the vacancy gap. We have less than 70 working days left in this Congress. The Senate has confirmed only 10 judges.

We should start by clearing the Senate calendar of judicial nominees this week. I would like to commend the Senator from Illinois, Senator DURBIN, for his action in strong support of the two outstanding judicial nominees from his home state who have been languishing on the Senator calendar for months. I know Senator DURBIN took action only after he had exhausted all his other options.

It is time for the Senate to consider the nominations of G. Patrick Murphy and Judge Michael McCuskey. The Senate Judiciary Committee unanimously reported these two nominations to the full Senate on November 6, 1997—more than 5 months ago. Their confirmations are desperately needed to end the vacancy crisis in the district courts of Illinois.

Pat Murphy is an outstanding judicial nominee. He has practiced law in the State of Illinois for 20 years as a trial lawyer. During his legal career, Mr. Murphy has made an extensive commitment to pro bono service—dedicating approximately 20% of his working time to representing disadvantaged clients in his community. The American Bar Association recognized this extensive legal experience when it rated him as qualified for this nomination.

Judge Michael McCuskey is an outstanding judicial nominee. Judge McCuskey served as a Public Defender for Marshall County in Lacon, IL from 1976 to 1988. In 1988, he left the Public Defender's office and the law firm of Pace, McCuskey and Galley to sit on the bench in the 10th Judicial Circuit in Peoria, IL.

The Chief Justice of the United States Supreme Court has called the rising number of vacancies ''the most immediate problem we face in the federal judiciary.'' There is no excuse for the Senate's delay in considering these two fine nominees for Districts plagued with judicial emergency vacancies.

I have urged those who have been stalling the consideration of the President's judicial nominations to reconsider and to work with us to have the Judiciary Committee and the Senate fulfil its constitutional responsibility. Those who delay or prevent the filling of these vacancies must understand that they are delaying or preventing the administration of justice. Courts cannot try cases, incarcerate the guilty or resolve civil disputes without judges.

The mounting backlogs of civil and criminal cases in the dozens of emergency districts, in particular, are growing more critical by the day. This is particularly true in the Central and Southern District Courts of Illinois, where these outstanding nominees will serve once they are confirmed.

I hope that the Majority Leader will soon set a date certain to consider the nominations of G. Patrick Murphy and Judge Michael McCuskey and do so promptly.

I hope there will be a realization by those in this body who have started down this destructive path of attacking the judiciary and stalling the confirmation of qualified nominees to the federal bench that those efforts do not serve the national interest or the American people. I hope that we can once again remove these important matters from partisan and ideological politics.

Mrs. FEINSTEIN. Mr. President, it is with enthusiasm and pride that I ask my colleagues to confirm Judge Jeremy Fogel for appointment to the Northern District Court in California.

I recommended to President Clinton the appointment of Judge Fogel.

Judge Fogel has been unanimously approved by the Senate Judiciary Committee and I hope that he will receive the same type of support today.

Judge Fogel is extremely well qualified for this appointment. He is a highly respected judge in the San Jose area.

For the past three years, in fact, Judge Fogel was ranked as the best Superior Court Judge in the Santa Clara County according to a survey of both prosecutors and attorneys.

Judge Fogel has earned a reputation for fairness and sound reasoning over the course of his 17-year career on both the Municipal and Superior Courts in California.

Let me provide a few details about Judge Fogel:

He obtained his Bachelors degree from Stanford University, graduating with ''great distinction,'' and went on to earn his Juris Doctorate from Harvard University, graduating cum laude.

Following law school, he served as a civil attorney at Smith, Johnson, Fogel & Ramo in San Jose and worked as executive director of the Santa Clara County Bar Association Law Foundation.

Appointed to the Municipal Court in 1981, he served as Presiding Judge of the Court's Felony Division and in 1984, Presiding Judge of the Municipal Court

Immediately after election to the Superior Court in 1986, he was assigned to be the Court's sole civil law and motion judge. Judge Fogel has also served as the civil team leader responsible for settlement and case management.

Judge Fogel is also a recognized expert in judicial ethics and discipline, having taught ethics to judges and lawyers since 1988.

He has served as an advisor on judicial ethics to the Judicial Council of California, the Commission on Judicial Performance and the California Judges Association.

His outstanding experience in the State Courts and his experience advocating for high judicial standards are just some of the reasons Judge Fogel is so well respected within the legal community and has such strong bipartisan support.

Judge Fogel's support—from Republicans and Democrats alike—includes many endorsements from law enforcement leaders, attorneys and Judges on the State Court who know him best.

In the law enforcement community, Judge Fogel has earned the strong support of Santa Clara County District Attorney George Kennedy and the California Narcotics Officers Association.

I'd like to quote from just some of the impressive letters of support we received on behalf of Judge Fogel:

State Court of Appeal Presiding Justice J. Clinton Peterson wrote:

> Judge Fogel is a highly disciplined jurist of exceptional intellect. . . . By reputation he has long been one of the leading members of the Santa Clara bench, noted particularly for his outstanding judicial demeanor and impartiality in applying the law.

Weldon Wood, principal of Robinson & Wood and officer of San Francisco Chapter of American Board of Trial Advocates said:

> My experience with Judge Fogel comes from several years of almost daily contact by me or members of law firm while he served as the Civil Law & Motion Judge. . . . In that position he was called upon to read, understand and rule on a huge volume of motions, many of which were quite complex. He was exceptionally impressive in his grasp of the facts and the law in ruling on those motions. His reputation for making the correct and legal ruling is excellent. He treats all who appear before him with courtesy, respect and proper judicial decorum.

Santa Clara County Bar Association President Richard Loftus wrote:

> The lawyers of this County believe him to be a bright, thoughtful person who is a leader of the local judiciary.

Retired California Court of Appeal Associate Justice Harry Brauer said:

> [Judge] Fogel is extraordinarily competent, and I am not given to hyperbole. He is conscientious and has good judgement. He works very hard . . . There is not a Superior Court judge in that District who is better qualified then he is. . . . You could not do better than to nominate Judge Fogel.

San Jose Attorney David Bennion wrote:

> He does not favor one side over another. He treats people and clients evenhandedly.

As these quotes indicate, Judge Fogel's sound judgement has earned him the highest respect of those in the legal community

Jeremy Fogel, quite simply, is one of the best and brightest Judges in California.

I urge my colleagues in the Senate to confirm his nomination to the Northern District Court.

Mr. LEAHY. Mr. President, I am advised that I can yield the time of the

distinguished senior Senator from Utah. I yield all of his time and my time so we can go to a vote on the nomination.

The PRESIDING OFFICER. All time is yielded back.

The question is, Will the Senate advise and consent to the nomination of Jeremy D. Fogel, of California, to be United States District Judge for the Northern District of California? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from Texas (Mr. GRAMM), the Senator from Oklahoma (Mr. INHOFE), and the Senator from Oregon (Mr. SMITH) are necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), the Senator from Maryland (Ms. MIKULSKI), the Senator from Illinois (Ms. MOSELEY-BRAUN), the Senator from New Jersey (Mr. TORRICELLI), and the Senator from Oregon (Mr. WYDEN) are necessarily absent.

The result was announced—yeas 90, nays 0, as follows:

[Rollcall Vote No. 33 Ex.]

YEAS—90

Abraham	Dorgan	Levin
Akaka	Durbin	Lieberman
Allard	Enzi	Lott
Ashcroft	Feingold	Lugar
Baucus	Feinstein	Mack
Bennett	Ford	McCain
Biden	Frist	McConnell
Bingaman	Glenn	Moynihan
Bond	Gorton	Murkowski
Boxer	Graham	Murray
Breaux	Grams	Nickles
Brownback	Grassley	Reed
Bryan	Gregg	Reid
Bumpers	Hagel	Robb
Burns	Harkin	Roberts
Byrd	Hatch	Rockefeller
Campbell	Helms	Roth
Chafee	Hollings	Santorum
Cleland	Hutchinson	Sarbanes
Coats	Hutchison	Sessions
Cochran	Jeffords	Shelby
Collins	Johnson	Smith (NH)
Conrad	Kempthorne	Snowe
Coverdell	Kennedy	Specter
Craig	Kerrey	Stevens
D'Amato	Kohl	Thomas
Daschle	Kyl	Thompson
DeWine	Landrieu	Thurmond
Dodd	Lautenberg	Warner
Domenici	Leahy	Wellstone

NOT VOTING—10

Faircloth	Kerry	Torricelli
Gramm	Mikulski	Wyden
Inhofe	Moseley-Braun	
Inouye	Smith (OR)	

The nomination was confirmed.

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

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

CLOTURE MOTION

Mr. ROTH. Mr. President, I now move to proceed to H.R. 2646 and send a second cloture motion to the desk to the motion to proceed.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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 H.R. 2646, the A+ Education Act:

Trent Lott, Paul Coverdell, Craig Thomas, Rod Grams, Chuck Hagel, Tim Hutchinson, Kay Bailey Hutchison, Mike DeWine, Bob Bennett, John McCain, Don Nickles, Chuck Grassley, Mitch McConnell, Wayne Allard, Phil Gramm, John Ashcroft.

Mr. ROTH. Mr. President, the majority leader will notify the membership as to when this vote will occur if, in fact, the vote is necessary. In the meantime, I withdraw the motion.

The PRESIDING OFFICER. The motion is withdrawn.

MORNING BUSINESS

Mr. ROTH. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 5 minutes each.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a withdrawal.

REPORT CONCERNING THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT—PM–111

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

I hereby report to the Congress on developments concerning the national emergency with respect to Iran that was declared in Executive Order 12957 of March 15, 1995, and matters relating to the measures in that order and in Executive Order 12959 of May 6, 1995, and in Executive Order 13059 of August 19, 1997. This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) (IEEPA), section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 505(c) of the International Security and Development Cooperation Act of 1985, 22 U.S.C. 2349aa–9(c). This report discusses only matters concerning the national emergency with respect to Iran that was declared in Executive Order 12957 and does not deal with those relating to the emergency declared on November 14, 1979, in connection with the hostage crisis.

1. On March 15, 1995, I issued Executive Order 12957 (60 *Fed. Reg.* 14615, March 17, 1995) to declare a national emergency with respect to Iran pursuant to IEEPA, and to prohibit the financing, management, or supervision by United States persons of the development of Iranian petroleum resources. This action was in response to actions and policies of the Government of Iran, including support for international terrorism, efforts to undermine the Middle East peace process, and the acquisition of weapons of mass destruction and the means to deliver them. A copy of the Order was provided to the Speaker of the House and the President of the Senate by letter dated March 15, 1995.

Following the imposition of these restrictions with regard to the development of Iranian petroleum resources, Iran continued to engage in activities that represent a threat to the peace and security of all nations, including Iran's continuing support for international terrorism, its support for acts that undermine the Middle East peace process, and its intensified efforts to acquire weapons of mass destruction. On May 6, 1995, I issued Executive Order 12959 (60 *Fed. Reg.* 24757, May 9, 1995) to further respond to the Iranian threat to the national security, foreign policy, and economy of the United States. The terms of that order and an earlier order imposing an import ban on Iranian-origin goods and services (Executive Order 12613 of October 29, 1987) were consolidated and clarified in Executive Order 13059 of August 19, 1997.

At the time of signing Executive Order 12959, I directed the Secretary of the Treasury to authorize through specific licensing certain transactions, including transactions by United States persons related to the Iran-United States Claims Tribunal in The Hague, established pursuant to the Algiers Accords, and related to other international obligations and U.S. Government functions, and transactions related to the export of agricultural commodities pursuant to preexisting contracts consistent with section 5712(c) of title 7, United States Code. I also directed the Secretary of the Treasury,

in consultation with the Secretary of State, to consider authorizing United States persons through specific licensing to participate in market-based swaps of crude oil from the Caspian Sea area for Iranian crude oil in support of energy projects in Azerbaijan, Kazakhstan, and Turkmenistan.

Executive Order 12959 revoked sections 1 and 2 of Executive Order 12613 of October 29, 1987, and sections 1 and 2 of Executive Order 12957 of March 15, 1995, to the extent they are inconsistent with it. A copy of Executive Order 12959 was transmitted to the Congressional leadership by letter dated May 6, 1995.

2. On August 19, 1997, I issued Executive Order 13059 in order to clarify the steps taken in Executive Order 12957 and Executive Order 12959, to confirm that the embargo on Iran prohibits all trade and investment activities by United States persons, wherever located, and to consolidate in one order the various prohibitions previously imposed to deal with the national emergency declared on March 15, 1995. A copy of the Order was transmitted to the Speaker of the House and the President of the Senate by letter dated August 19, 1997.

The Order prohibits (1) the importation into the United States of any goods or services of Iranian origin or owned or controlled by the Government of Iran except information or informational material; (2) the exportation, reexportation, sale, or supply from the United States or by a United States person, wherever located, of goods, technology, or services to Iran or the Government of Iran, including knowing transfers to a third country for direct or indirect supply, transshipment, or reexportation to Iran or the Government of Iran, or specifically for use in the production, commingling with, or incorporation into goods, technology, or services to be supplied, transshipped, or reexported exclusively or predominantly to Iran or the Government of Iran; (3) knowing reexportation from a third country to Iran or the Government of Iran of certain controlled U.S.-origin goods, technology, or services by a person other than a United States person; (4) the purchase, sale, transport, swap, brokerage, approval, financing, facilitation, guarantee, or other transactions or dealings by United States persons, wherever located, related to goods, technology, or services for exportation, reexportation, sale or supply, directly or indirectly, to Iran or the Government of Iran, or to goods or services of Iranian origin or owned or controlled by the Government of Iran; (5) new investment by United States persons in Iran or in property or entities owned or controlled by the Government of Iran; (6) approval, financing, facilitation, or guarantee by a United States person of any transaction by a foreign person that a United States person would be prohibited from performing under the terms of the Order; and (7) any transaction that evades, avoids, or attempts to violate a prohibition under the Order.

Executive Order 13059 became effective at 12:01 a.m., eastern daylight time on August 20, 1997. Because the Order consolidated and clarified the provisions of prior orders, Executive Order 12613 and paragraphs (a), (b), (c), (d), and (f) of section 1 of Executive Order 12959 were revoked by Executive Order 13059. The revocation of corresponding provisions in the prior Executive orders did not affect the applicability of those provisions, or of regulations, licenses or other administrative actions taken pursuant to those provisions, with respect to any transaction or violation occurring before the effective date of Executive Order 13059. Specific licenses issued pursuant to prior Executive orders continue in effect, unless revoked or amended by the Secretary of the Treasury. General licenses, regulations, orders, and directives issued pursuant to prior orders continue in effect, except to the extent inconsistent with Executive Order 13059 or otherwise revoked or modified by the Secretary of the Treasury.

The declaration of national emergency made by Executive Order 12957, and renewed each year since, remains in effect and is not affected by the Order.

3. On March 4, 1998, I renewed for another year the national emergency with respect to Iran pursuant to IEEPA. This renewal extended the authority for the current comprehensive trade embargo against Iran in effect since May 1995. Under these sanctions, virtually all trade with Iran is prohibited except for trade in information and informational materials and certain other limited exceptions.

4. There have been no amendments to the Iranian Transactions Regulations, 31 C.F.R. Part 560 (the ''ITR''), since my report of September 17, 1997.

5. During the current 6-month period, the Department of the Treasury's Office of Foreign Assets Control (OFAC) made numerous decisions with respect to applications for licenses to engage in transactions under the ITR, and issued seven licenses. The majority of denials were in response to requests to authorize commercial exports to Iran—particularly of machinery and equipment for various industries—and the importation of Iranian-origin goods. The licenses issued authorized certain financial transactions, transactions relating to air safety policy, and to disposal of U.S.-owned goods located in Iran. Pursuant to sections 3 and 4 of Executive Order 12959 and consistent with the Iran-Iraq Arms Non-Proliferation Act of 1992 and other statutory restrictions concerning certain goods and technology, including those involved in air-safety cases, the Department of the Treasury continues to consult with the Departments of State and Commerce on these matters.

The U.S. financial community continues to scrutinize transactions associated with Iran and to consult with OFAC about their appropriate handling. Many of these inquiries have resulted in investigations into the activities of U.S. parties and, where appropriate, the initiation of enforcement action.

6. The U.S. Customs Service has continued to effect numerous seizures of Iranian-origin merchandise, primarily carpets, for violation of the import prohibitions of the ITR. Various enforcement actions carried over from previous reporting periods are continuing and new reports of violations are being aggressively pursued. Since my last report, OFAC has collected six civil monetary penalties totaling nearly $84,000 for violations of IEEPA and the ITR.

7. The expenses incurred by the Federal Government in the 6-month period from September 15, 1997, through March 14, 1998, that are directly attributable to the exercise of powers and authorities conferred by the declaration of a national emergency with respect to Iran are reported to be approximately $1.3 million, most of which represent wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the U.S. Customs Service, the Office of the Under Secretary for Enforcement, and the Office of the General Counsel), the Department of State (particularly the Bureau of Economic and Business Affairs, the Bureau of Near Eastern Affairs, the Bureau of Intelligence and Research, and the Office of the Legal Adviser), and the Department of Commerce (the Bureau of Export Administration and the General Counsel's Office).

8. The situation reviewed above continues to present an extraordinary and unusual threat to the national security, foreign policy, and economy of the United States. The declaration of the national emergency with respect to Iran contained in Executive Order 12957 and the comprehensive economic sanctions imposed by Executive Order 12959 underscore the United States Government's opposition to the actions and policies of the Government of Iran, particularly its support of international terrorism and its efforts to acquire weapons of mass destruction and the means to deliver them. The Iranian Transactions Regulations issued pursuant to Executive Orders 12957, 12959, and 13059 continue to advance important objectives in promoting the nonproliferation and anti-terrorism policies of the United States. I shall exercise the powers at my disposal to deal with these problems and will report periodically to the Congress on significant developments.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 16, 1998.*

REPORT OF THE FISCAL YEAR 1999 BUDGET REQUEST OF THE DISTRICT OF COLUMBIA COURTS—MESSAGE FROM THE PRESIDENT—PM–112

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs.

To the Congress of the United States:

In accordance with the District of Columbia Code, as amended, I am transmitting the District of Columbia Court's FY 1999 budget request.

The District of Columbia Courts has submitted a FY 1999 budget request for $133 million for its operating expenditures and authorization for multiyear capital funding totalling $58 million for courthouse renovation and improvements. My FY 1999 Budget includes recommended funding levels of $121 million for operations and $21 million for capital improvements for the District Courts. My transmittal of the District Court's budget request does not represent an endorsement of its contents.

I look forward to working with the Congress throughout the FY 1999 appropriation process.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *March 16, 1998.*

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BYRD:

S. 1761. A bill to provide that the performance of duties by Federal officers of certain vacant offices of the Federal Government shall comply with the requirements of sections 3345 through 3349 of title 5, United States Code (commonly referred to as the ''Vacancies Act''), and for other purposes; to the Committee on Governmental Affairs.

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 1762. A bill to amend the Agricultural Market Transition Act to authorize the Secretary of Agriculture to extend the term of marketing assistance loans; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WELLSTONE:

S. 1763. A bill to restore food stamp benefits for aliens; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. THURMOND (for himself and Mr. LOTT):

S. 1764. A bill to amend sections 3345 through 3349 of title 5, United States Code (commonly referred to as the ''Vacancies Act'') to clarify statutory requirements relating to vacancies in certain Federal offices, and for other purposes; to the Committee on Governmental Affairs.

By Mr. THOMPSON:

S. 1765. A bill to suspend temporarily the duty on the chemical DEMT; to the Committee on Finance.

By Mr. MCCAIN:

S. 1766. A bill to amend the Communications Act of 1934 to permit Bell operating companies to provide interstate and intrastate telecommunications services within one year after the date of enactment of this Act; to the Committee on Commerce, Science, and Transportation.

By Mr. DODD:

S. 1767. A bill to amend the Federal Food, Drug and Cosmetic Act to require notification of recalls of drugs and devices, and for other purposes; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAUCUS (for himself and Mr. BURNS):

S. 1762. A bill to amend the Agricultural Market Transition Act to authorize the Secretary of Agriculture to extend the term of marketing assistance loans; to the Committee on Agriculture, Nutrition, and Forestry.

THE EMERGENCY MARKETING ASSISTANCE ACT

Mr. BAUCUS. Mr. President, I rise today to introduce the Emergency Marketing Assistance Act of 1998. I am pleased to be joined in this effort by the rest of the Montana delegation—Senator BURNS and Congressman HILL. The Emergency Marketing Assistance Act is the product of cooperation between our Montana delegation, local communities, and agricultural producers in our state.

Farming is never easy. It is a challenge that requires work, knowledge, faith and courage. But this year has been a particularly difficult time for producers. A large number of wheat growers in our state and across America are facing a bleak market year.

Many have not even sold their 1997 crop. Instead, they have taken out nine-month USDA Marketing Assistance Loans which will soon come due. But unless there is a dramatic upsurge in our current prices, they will be forced to sell at a low price, inadequate to cover their debts.

Currently, the total volume of grain under loan in Montana is 43.5 million bushels. This is not an unusual figure during normal marketing years when farmers know they'll get a fair price for their product.

Two years ago we could get over five dollars a bushel for our wheat. But today the current price languishes under the three dollar mark. Couple that with our abnormally high shipping rates, and it is no wonder our farmers are reluctant to sell. They would a serious hit. And some might lose the farm.

However, it is important to remember, Mr. President, this difficult situation is temporary. In time, prices will rebound and wheat producers will be able to sell their grain at a fair price. That is why we are asking the Secretary of Agriculture to extend these loans for up to six months. Our producers would be able to weather the storm of these dreadful prices.

For many of our farmers, this is a make-it or break-it year. They have survived tough winters and dry summers. They compete with the monopolistic practices of the Canadian Wheat Board. They struggle to overcome the high cost of shipping. And they are completely shut out of China's market.

But we expect them to somehow go into the field day after day, season after season, to make certain that we have an abundant supply of food at a fair price. A six-month marketing assistance loan extension is a partial solution to the problems our farmers are facing. And that is why I am speaking here today.

We also need to take immediate action to ensure that this price depression does not happen again. As we give our producers this tool to stay on their farms, we must also work to improve markets and stimulate prices. I am constantly reminded that many of our producers got behind the Freedom to Farm bill with the express understanding that the U.S. Department of Agriculture would aggressively seek export markets.

Clearly, we need to do a better job of moving our products, especially wheat. I believe that by using a combination of the Export Enhancement Program, food aid and credit programs available through the USDA, we can assist our farmers during this difficult period. If we do not take action now, the results will be disastrous in farm country.

I would like to thank my Montana colleagues for their assistance in this endeavor. I also want to recognize the efforts of our producers back home who have worked hard to make ends meet this past winter and brought this idea forward. You do a good job, and we are pulling for you.

Mr. President, I strongly encourage my fellow senators to join me in supporting this important effort.

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. 1762

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF MARKETING ASSISTANCE LOANS.

Section 133 of the Agricultural Market Transition Act (7 U.S.C. 7233) is amended by striking subsection (c) and inserting the following:

''(c) EXTENSION.—The Secretary may extend the term of a marketing assistance loan made to producers on a farm for any loan commodity for 1 6-month period.''.

Mr. BURNS. Mr. President, I rise today and join with my colleague from Montana, Senator BAUCUS, to introduce an amendment to the current farm program. The amendment will assist our farmers in Montana. I think we have sort of an isolated circumstance in Montana. But I think it will also help others, too, because of the depressed price in wheat.

This bill is not a fix. It doesn't do everything maybe that we want to do. But it will assist many of our farmers in getting back in the fields this season, and it will also allow a little time to deal with some of the pressures that

we are experiencing along the Canadian border.

As we enter a week commemorating agriculture and celebrate what agriculture provides for us, I am glad to come to the floor and help in the introduction of this bill.

America and the general public need to learn more about this great industry. It is the largest industry in our country—and again, with insight into the role that agriculture plays in our everyday lives—not only from an economic standpoint, but at least three times a day for most of us, and some of us more, for the role that it also plays.

Two years ago we passed the freedom-to-farm bill—the Federal Agricultural Improvement and Reform Act. We anticipated at that time that it would give us the flexibility on the farm to do some things that we want to do. That was only a year ago. Now, with that flexibility, of course, farmers operate on a big calendar called a year. Sometimes that flexibility takes a little bit longer than planned. We have some circumstances that are beyond the control of our grain farmers. Everything that we had hoped would occur has not happened. One is the Canadian situation. Prices have continued to drop, making it very difficult for our operators to meet their commitments on time.

So this amendment would not give them anything extra. It will just give them a chance to make those payments in a timely manner.

Today, Senator BAUCUS and I, with our colleague in the House, Representative HILL, are moving forward to correct a portion of that contract we made with our agricultural producers. We are seeking a minor adjustment in the law that passed Congress and was signed by this President. The portion that we seek to correct is the timeframe for repayment on marketing loans. We are not seeking a major change in that portion of the contract—just a minor adjustment. This adjustment will provide farmers with a slightly larger window in which to repay their marketing loans—an extension of only 6 months; nothing major; just enough for the producers to contract with purchasers to move their grain into the market.

A large number of our producers have not yet priced their 1997 wheat crop—the one harvested last fall. Many have taken out loans with the Commodity Credit Corporation and USDA-sponsored programs to assist farmers with marketing their wheat. A large number of these loans are coming due in May and June of this year. With the world wheat market already being depressed due to additional grain on the domestic market, it will do nothing but really compound the whole problem. The farmer deserves just this little bit of assistance. They will provide us with a reliable, safe, and inexpensive food supply all around this country, and now I think they need just a little relief.

This is a minor step that we are making today with the introduction of this bill. The legislation will help a little, but it will not solve the major problem that we face in agriculture. The plain and simple fact is we need to move our grain into world markets.

Unfortunately, the Department of Agriculture seems determined not to assist our producers in this endeavor. In 1996 Congress made a contract with the farmer in exchange for reducing the amount of money they receive from the Government for their crops. We contracted with them to move grain into the market—namely, the world market.

So the farmer in Montana and across the Nation accepted this contract. They have done their part. Now it is time for Congress and the Department of Agriculture and this administration to live up to their end of the deal.

As a member of the Subcommittee on Agriculture Appropriations, I have made my thoughts known to the committee and to the administration. However, this past week, while I visited with the wheatgrowers in Montana, I learned one thing that would ease the burden. Today, we stand before the Senate, and I call for the administration to move at least 100 million tons of grain as soon as possible. This will not solve the problem we face on the farm. But it will ease the pressure and allow farmers to think about the future. Today they think only about the future and about how it would be like without the farm.

So, I call on President Clinton, the Secretary of Agriculture Glickman, and the U.S. Trade Representative to make an effort to assist the man and woman on the ground, to do something to show that you are concerned about them.

We had a situation last fall that was not the making of our producers. In the railroad industry, Houston was tied up so badly that it left us without any way to ship grain. We still received tons and tons of grain from Canada in this country. We have to deal with these measures.

The legislation will allow us some time to do that and also will allow our farmers to get back in the fields. It is my hope that the legislation that we introduce today will assist in some little measure to give the farmer the hope to continue. I also hope that the administration will see their role in this and move forward in providing what they can to make life a little more bearable for our agricultural producers in our country.

There is also another situation that was not created by us or the farmers; that is, we are not allowed to access about 11 percent of the world market due to embargoes—by governments and countries that probably have some problems in the area which the State Department usually handles. And, denied that market, there are other producers in other nations taking advantage of that. They get a premium for their grain and then dump the rest of theirs onto the world market for which we have to compete at a lower price. We have to address that problem also.

Mr. President, I join with my colleague in introducing this legislation.

By Mr. WELLSTONE:

S. 1763. A bill to restore food stamp benefits for aliens; to the Committee on Agriculture, Nutrition, and Forestry.

THE FOOD STAMP BENEFITS FOR ALIENS RESTORATION ACT OF 1998

Mr. WELLSTONE. Mr. President, the bill I offer today will restore food stamps for all legal immigrants who lost eligibility under the 1996 welfare reform law. Representative GUITERREZ and I began developing this legislation last fall, and in the second week of March he introduced an identical bill in the House. Today I introduce our legislation in the Senate.

This bill is more comprehensive than the proposal included by the President in his budget request for FY 1999. I commend the President for making the effort to address this problem, but his proposal does not go far enough. It overlooks 100,000 immigrants who were formerly eligible. It seems to me wholly unreasonable to leave these people out, given their relatively small number.

I say we must go further. It was a mistake to deny food stamp eligibility in the first place, and now is the time to make amends. The legislation Congressman GUTIERREZ and I have developed will restore eligibility for all legal immigrants. While the President proposes spending $2.43 billion dollars over the next 5 years, the cost of our bill would be only marginally higher—closer to $3 billion.

The 1996 welfare bill denied legal immigrants the means to meet basic nutritional needs in order to save some money. But I believe that, in the end, this provision will not save us any money at all. In the long run, we as a society will have to pay this bill, and pay it in full. We will pay with more family conflict, more medical problems, and lower student achievement. The cost of this mistake will far outweigh the money saved. Indeed, I believe we are already paying the price.

In searching for ways to save money, Congress conveniently chose to target a group of people who do not vote. On one level, it is easy to understand the politics of this decision. But on another level, I find it incomprehensible. Consider how much these hard-working people contribute to our society and our economy. They pay taxes and often perform jobs that American citizens refuse to do. The fact that they have no right to vote should not mean that we single them out for this kind of treatment.

It was especially irresponsible to deny eligibility knowing that two thirds of those affected would be children. Denying basic nutrition to children is not what this country is about, nor should it be. But that is essentially what Congress did in 1996. An estimated 900,000 legal immigrants lost

their eligibility with passage of welfare reform. Another 600,000 children—children who are American citizens but whose parents are legal immigrants—have seen their family's food stamps reduced. Denying nutrition to parents will affect these children. Nutrition is a basic need which, if denied or reduced, has enormous negative effects on a family. This is no way for a country with a proud history of compassion and community to go about reducing the deficit.

Today I offer legislation that would recognize this mistake and correct it. Ending hunger, whether among legal residents or anybody else, should remain a national responsibility. It cannot be done on a piecemeal basis. As of today, only three states have provided full eligibility for legal immigrants. A total of eleven states are providing coupons or the equivalent for some or all legal immigrants. Two states have set up independent programs to serve some of the legal immigrant population. But each of these thirteen states has the option and ability to change or terminate these commendable efforts at any time. That's not good enough.

In my own state of Minnesota, food stamp cuts have had a major impact on our immigrant communities. While the state has offered temporary and partial food assistance for legal immigrants to make up for the loss of federal benefits, it has not been enough. Food banks have experienced a noticeable increase in demand for their services, especially in the Hmong and Somali communities. In fact, all across this nation the need for food assistance is on the rise, especially among immigrants.

We can alleviate at least some of this problem by passing the bill I offer today. I believe we have a responsibility to both the children suffering under this new law who are American citizens, and to the legal immigrants who lost coverage. If we reinstate food stamp eligibility, these immigrants will once again be able to provide adequate nutrition for themselves and for their children. I believe this is what we must do to meet our responsibility, and it is the right thing to do.

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. 1763

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 ''Food Stamp Benefits for Aliens Restoration Act of 1997''.

SEC. 2. LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR CERTAIN FEDERAL PROGRAMS.

(a) IN GENERAL.—Section 402(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)) (as amended by section 5301, 5302(a), 5303(a), and 5304 of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 597, 598, 600)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking clause (ii);

(ii) by striking ''ASYLEES.—'' and all that follows through ''paragraph (3)(A)'' and inserting ''ASYLEES.—With respect to the specified Federal program described in paragraph (3)''; and

(iii) by redesignating subclauses (I) through (IV) as clauses (i) through (iv) and indenting appropriately;

(B) in subparagraph (D)—

(i) by striking clause (ii); and

(ii) in clause (i)—

(I) by striking ''(i) SSI.—'' and all that follows through ''paragraph (3)(A)'' and inserting the following:

''(i) IN GENERAL.—With respect to the specified Federal program described in paragraph (3)'';

(II) by redesignating subclauses (II) through (IV) as clauses (ii) through (iv) and indenting appropriately;

(III) by striking ''subclause (I)'' each place it appears and inserting ''clause (i)''; and

(IV) in clause (iv) (as redesignated by subclause (II)), by striking ''this clause'' and inserting ''this subparagraph''; and

(C) in subparagraphs (E) through (H), by striking ''paragraph (3)(A)'' each place it appears and inserting ''paragraph (3)''; and

(2) in paragraph (3)—

(A) by striking ''means any'' and all that follows through ''The supplemental'' and inserting ''means the supplemental''; and

(B) by striking subparagraph (B).

(b) CONFORMING AMENDMENTS.—

(1) Section 402(b)(2)(F) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(b)(2)(F)) (as added by section 5305(b) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 601)) is amended by striking ''subsection (a)(3)(A)'' and inserting ''subsection (a)(3)''.

(2) Section 403(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(d)) (as added by section 5303(c) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 600)) is amended by striking ''subsections (a)(3)(A)'' and inserting ''subsections (a)(3)''.

SEC. 3. FIVE-YEAR LIMITED ELIGIBILITY OF QUALIFIED ALIENS FOR FEDERAL MEANS-TESTED PUBLIC BENEFIT.

Section 403(c)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(c)(2)) is amended by adding at the end the following:

''(L) Assistance or benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq).''.

SEC. 4. AUTHORITY FOR STATES TO PROVIDE FOR ATTRIBUTION OF SPONSORS INCOME AND RESOURCES TO THE ALIEN WITH RESPECT TO STATE PROGRAMS.

Section 422(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1632(b)) is amended by adding at the end the following:

''(8) Programs comparable to assistance or benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq).''.

SEC. 5. DERIVATIVE ELIGIBILITY FOR BENEFITS.

Section 436 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1646) (as added by section 5305(a) of the Balanced Budget Act of 1997 (Public Law 105–33; 111 Stat. 601)) is repealed.

SEC. 6. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT.

Section 213A of the Immigration and Nationality Act (8 U.S.C. 1183a) is amended—

(1) in subsection (a)(1)(B), by striking ''(as defined in subsection (e) of this section)''; and

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

''(g) MEANS-TESTED PUBLIC BENEFIT DEFINED.—In this section, the term 'means-tested public benefit' does not include assistance or benefits provided under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq).''.

SEC. 7. STATUS OF CUBAN AND HAITIAN ENTRANTS.

Section 6(f) of the Food Stamp Act of 1977 (7 U.S.C. 2015(f)) is amended in the first sentence by inserting before the period at the end the following: ''; or (G) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96–422; 8 U.S.C. 1522 note))''.

SEC. 8. EFFECTIVE DATE.

This Act and the amendments made by this Act shall be effective as if included in the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2105).

By Mr. THURMOND (for himself and Mr. LOTT):

S. 1764. A bill to amend sections 3345 through 3349 of title 5, United States Code (commonly referred to as the ''Vacancies Act'') to clarify statutory requirements relating to vacancies in certain Federal offices, and for other purposes; to the Committee on Governmental Affairs.

THE VACANCIES CLARIFICATION ACT OF 1998

Mr. THURMOND. Madam President, I rise today to introduce legislation to address a serious, ongoing problem between the Executive and Legislative branches of our government. I am pleased to do so on behalf of myself and our distinguished majority leader, Senator LOTT.

The issue is the advice and consent role of the Senate under the Constitution, and the failure of the Administration to properly respect this authority in Presidential appointments. Too often, when an official holding an advice and consent position leaves the Administration, the President or lesser officials will appoint someone to serve in the vacancy on an acting basis for a long period of time without submitting a nomination to the Senate. The Administration routinely disregards the advice and consent role of the Senate in this manner.

The Framers of the Constitution surely would not be pleased. The Appointments Clause of Article II, Section 2, of the Constitution is one of the fundamental checks and balances included within our great system of government. As Justice Scalia stated for the Supreme Court last year, ''[T]he Appointments Clause . . . is more than a matter of etiquette or protocol; it is among the significant structural safeguards of the constitutional scheme.''

The Congress has long recognized the danger of the Executive Branch ignoring its role. The Vacancies Act was enacted to prevent this problem, and it has existed with few revisions since at least 1868. The Act sets forth limitations on acting appointments. It sets forth a logical procedure whereby the first assistant or another confirmed appointee takes over until a new nominee is confirmed. Importantly, it limits the

time this acting person may serve to 120 days unless the President has submitted a nomination to the Senate.

There are two problems with the Vacancies Act today. The first is that it is being ignored. The second is that there is no enforcement mechanism to prevent the Administration from ignoring it.

Today, vacancies in advice and consent positions are a serious problem in this Administration, and many of the people who are serving in these positions in an acting capacity are doing so in violation of the Vacancies Act. Consider the Department of Justice. The President has just nominated someone to head the Criminal Division. That position has been vacant since August 31, 1995, which is for two and one-half years. Also, when the Solicitor General left in June 1996, Walter Dellinger was made Acting Solicitor General without any effort to seek Senate confirmation. He then served for an entire term of the Supreme Court before the President nominated the current Solicitor General.

The issue that has pushed the Vacancies Act into the headlines in recent months is the President's designation of Bill Lann Lee to serve as chief of the Civil Rights Division in an acting capacity. After allowing the position to remain vacant for six months, which itself violated the Act, the President nominated Mr. Lee. The Judiciary Committee could not support sending his nomination to the Senate floor. However, rather than sending a new, consensus candidate for confirmation, the President blatantly circumvented the confirmation process by appointing Mr. Lee in an acting capacity.

I believe it is essential that the Senate act to stop the ongoing abuse of its confirmation role. Today, I am introducing the Vacancies Clarification Act of 1998 to help preserve our role by addressing two primary problems with the Act today: its alleged coverage and its enforcement.

The Administration has an explanation for ignoring the Vacancies Act. The Department of Justice says the Act does not apply to it because of the administrative authorizing statutes that reorganized the Department in the 1950s. In my view, this argument has no merit. These statutes make no mention of vacancies and were certainly never intended to cover what the Vacancies Act already clearly covered. The most obvious flaw in Justice's argument is that all Executive departments have similar authorizing statutes. Therefore, if Justice is not bound by the Act, the other departments are equally free to ignore it, as many of them do. To address this, I propose that the Vacancies Act provide that it is applicable to all advise and consent appointments, unless a different statute provides that the Act is not applicable to a particular position.

The second problem is that the Vacancies Act has no enforcement mechanism. There is no way to force the Administration to comply except to retaliate against it or to sue in court. Thus, I propose that any person who serves in violation of the Vacancies Act may not be paid while they are in violation of the law. This would be a simple but effective way to bring the Administration into compliance.

My bill accomplishes these objectives by rewriting the Vacancies Act. The current language is somewhat intricate and dated. After all, the Act has existed with few revisions since 1868. Thus, I have attempted to rewrite the statute as it currently exists but in language that makes its requirements and exceptions as clear as possible. Hopefully, this will close any loopholes that lawyers have created in the words of the Act in its current form.

It is my hope that this bill can serve as a starting point for bipartisan discussions on reform in this area. It is possible that the Administration may raise legitimate concerns with some of the requirements in the current law, such as that the 120 day period to submit a nomination is not enough time. This is an issue that could be discussed in hearings.

Indeed, I am very pleased that the Governmental Affairs Committee has scheduled a hearing on the Vacancies Act this week. It is important that the Senate study this matter and address the flaws in the current process.

Madam President, this is a matter of great Constitutional significance. We cannot allow the Administration to continue to disregard the advise and consent role of the Senate. By revitalizing the Vacancies Act, we can require the Administration to respect the Senate's Constitutional duty.

At this time, I ask unanimous consent that the text of the bill be included in the RECORD.

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

S. 1764

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 ''Vacancies Clarification Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) Congress enacted the Act entitled ''An Act to authorize the temporary supplying of vacancies in the executive departments'', approved July 23, 1868 (commonly referred to as the ''Vacancies Act''), to—

(A) preclude the extended filling of a vacancy in an office of an executive or military department subject to Senate confirmation, without the submission of a Presidential nomination;

(B) provide an exclusive means to temporarily fill such a vacancy; and

(C) clarify the role of the Senate in the exercise of the Senate's constitutional advice and consent powers in the Presidential appointment of certain officers;

(2) subchapter III of chapter 33 of title 5, United States Code, includes a codification of the Vacancies Act, and (pursuant to an amendment on August 17, 1988, to section 3345 of such title) specifically applies such vacancy provisions to all Executive agencies, including the Department of Justice;

(3) the legislative history accompanying the 1988 amendment makes clear in the controlling committee report that the general administrative authorizing provisions for the Executive agencies, which include sections 509 and 510 of title 28, United States Code, regarding the Department of Justice, do not supersede the specific vacancy provisions in title 5, United States Code;

(4) there are statutory provisions of general administrative authority applicable to every Executive department and other Executive agencies that are similar to sections 509 and 510 of title 28, United States Code, relating to the Department of Justice;

(5) despite the clear intent of Congress, the Attorney General of the United States has continued to interpret the provisions granting general administrative authority to the Attorney General under sections 509 and 510 of title 28, United States Code, to supersede the specific vacancy provisions in title 5, United States Code;

(6) the interpretation of the Attorney General would—

(A) virtually nullify the vacancy provisions under subchapter III of chapter 33 of title 5, United States Code;

(B) circumvent the clear intention of Congress to preclude the extended filling of certain vacancies and provide for the temporary filling of such vacancies; and

(C) subvert the constitutional authority and responsibility of the Senate to advise and consent in certain appointments;

(7) it is necessary to further clarify the intention of Congress to reject the interpretation of the Attorney General by modernizing the intricate language of the long-standing Vacancies Act; and

(8) to ensure compliance by the executive branch with the Vacancies Act, the Act needs an express enforcement mechanism.

SEC. 3. FEDERAL VACANCIES.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended by striking sections 3345 through 3349 and inserting the following:

''§ 3345. Acting officer

''(a)(1) If an officer of an Executive agency (other than the General Accounting Office) whose appointment to office is by the President, by and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the functions of the office, the President may direct a person described under paragraph (2) to perform the functions and duties of the office temporarily in an acting capacity, subject to the time limitations of section 3346.

''(2) The person referred to under paragraph (1) is any person who on the date of death, resignation, or the beginning of inability to perform serves—

''(A) in the position of first assistant to the officer who dies, resigns, or is otherwise unable to perform; or

''(B) in an office for which appointment by the President, by and with the advice and consent of the Senate is required.

''(b) With respect to the office of the Attorney General of the United States, the provisions of section 508 of title 28 shall be applicable.

''§ 3346. Time limitation

''(a) The person serving as an acting officer as described under section 3345 may serve in the office—

''(1) for no longer than 120 days; or

''(2) if any nomination for the office is submitted to the Senate within the 120-day period beginning on the date the vacancy occurs, for the period that the nomination is pending in the Senate.

''(b)(1) If the nomination for the office is rejected by the Senate or withdrawn, the person may continue to serve as the acting officer for no more than 120 days after the date of such rejection or withdrawal.

''(2) Notwithstanding paragraph (1), if a second nomination for the office is submitted to the Senate during the 120-day period after the rejection or withdrawal of the first nomination, the person serving as the acting officer may continue to serve—

''(A) until the second nomination is confirmed; or

''(B) for no more than 120 days after the second nomination is rejected or withdrawn.

''(c) If a person begins serving as an acting officer during an adjournment of the Congress sine die, the 120-day period under subsection (a) shall begin on the date that the Senate first reconvenes.

''§ 3347. Application

''Sections 3345 and 3346 are applicable to any office of an Executive agency (other than the General Accounting Office) for which appointment by the President, by and with the advice and consent of the Senate, is required, unless—

''(1) another statutory provision expressly provides that such provision supersedes sections 3345 and 3346; or

''(2) the President makes an appointment to fill a vacancy in such office during a recess of the Senate.

''§ 3348. Vacant office

''Subject to section 3347, if an office is not temporarily filled under sections 3345 and 3346 within 120 days after the date on which a vacancy occurs, the office shall remain vacant until a person is appointed by the President, by and with the advice and consent of the Senate.

''§ 3349. Enforcement

''(a)(1) An acting officer who serves in a position in violation of section 3345 or 3346 may not receive pay for any day of service in violation of section 3345 or 3346.

''(2) Pay not received under paragraph (1) shall be forfeited and may not be paid as backpay.

''(3) Notwithstanding section 1342 of title 31, paragraph (1) shall apply regardless of whether such acting officer is performing the duties of another office or position in addition to performing the duties of the vacant office.

''(b) The head of an affected Executive agency (other than the General Accounting Office) shall submit to the Comptroller General of the United States and to each House of Congress—

''(1) notification of a vacancy and the date such vacancy occurred immediately upon the occurrence of the vacancy;

''(2) the name of any person serving in an acting capacity and the date such service began immediately upon the designation;

''(3) the name of any person nominated to the Senate to fill the vacancy and the date such nomination is submitted immediately upon the submission of the nomination; and

''(4) the date of a rejection or withdrawal of any nomination immediately upon such rejection or withdrawal.

''(c) If the Comptroller General of the United States makes a determination that an officer is serving longer than the 120-day period including the applicable exceptions to such period as provided under section 3346, the Comptroller General shall report such determination to each House of Congress, the President, the Secretary of the Treasury, and the Office of Personnel Management.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the items relating to sections 3345 through 3349 and inserting the following:

''3345. Acting officer.
''3346. Time limitation.
''3347. Application.
''3348. Vacant office.
''3349. Enforcement.''.

SEC. 4. EFFECTIVE DATE AND APPLICATION.

This Act shall take effect on the date of enactment of this Act and shall apply to any office that—

(1) becomes vacant after such date; and

(2) is vacant on such date, except sections 3345 through 3349 of title 5, United States Code (as amended by this Act), shall apply as though such office first became vacant on such date.

By Mr. MCCAIN:

S. 1766. A bill to amend the Communications Act of 1934 to permit Bell operating companies to provide interstate and intrastate telecommunications services within one year after the date of enactment of this Act; to the Committee on Commerce, Science, and Transportation.

THE TELECOMMUNICATIONS COMPETITION ACT OF 1998

Mr. MCCAIN. Mr. President, today I am introducing the Telecommunications Competition Act of 1998. This legislation is aimed at encouraging the development of competition in telecommunications and thus allowing consumers to enjoy the benefits of competition including lower prices, universal availability, increased variety of new services.

The Telecommunications Act of 1996 was enacted two years ago with great promise that increased competition would rapidly emerge on both the local and long distance telecommunications markets. The last two years have instead brought forth rampant litigation challenging everything from the constitutionality of the Act itself to the legality of the Federal Communications Commission's implementation rules. Within that same time frame, consumers have seen prices rise instead of fall, carriers merging instead of competing, and more regulation rather than deregulation.

Mr. President, it is time to consider whether the Telecommunications Act of 1996, particularly section 271 of the Act that keeps Bell Operating Companies (BOCs) from competing in the interLATA telecommunications market prior to their fulfilling a set of market opening requirements, has been a success or failure.

Section 271 requires BOCs to satisfy a detailed fourteen point competitive checklist that claims to guarantee that competitors have access to a BOC's services and facilities at rates, terms, and conditions that are nondiscriminatory. Section 271 also requires that BOCs seek approval for their applications from the Department of Justice, the relevant state commission, and the Federal Communications Commission; each of which may have a different interpretation of the requirements. Finally, beyond all of the other requirements a BOC must satisfy to gain section 271 approval, the Act gives the FCC the ability to reject an application based on a vague and undefined public interest, convenience, or necessity requirement.

It is time to reevaluate whether the regulatory intensive approach to deregulation that was followed in section 271 is the best method for encouraging the development of competition. I realize that in 1996 Congress passed the Telecommunications Act while reacting to pressure from all sides of the telecommunications industry. I understand that any modifications to the Act will require that we seek compromise from those same industry forces. I am thus currently working to find such compromises and hope to introduce a different bill that will further the goal of competition through a framework that will focus on the truly pertinent factors while minimizing current incentives to game the process for anticompetitive ends.

The bill I introduce today is what I believe to be the most deregulatory approach to encouraging competition in telecommunications. This bill takes a straightforward approach to bringing the benefits of competition to consumers by permitting all carriers to enter each others' markets and compete to bring the best and lowest priced services to consumers.

The bill requires that all providers of telecommunications and information services be subject to equivalent regulation. The bill also states that if all providers of telecommunications services do not have the opportunity to provide all telecommunications and information services, it would be in the public interest to remove barriers to entry to intrastate telecommunications services such as telephone exchange service, intrastate intraLATA telecommunications services, and telephone exchange access services.

When barriers to entry to intrastate telecommunications services are removed, all lines of business restrictions should be eliminated for existing providers of these services. The elimination of such restrictions will result in the creation of substantial numbers of new jobs and the deployment of advanced telecommunications services. This will enhance the quality of life and promote economic development, job creation, and international competitiveness.

Advancements in the nation's telecommunications infrastructure will enhance the public welfare by helping to speed the delivery of services such as telemedicine, distance learning, remote medical services, and distribution of health information.

Rural and sparsely populated areas will not receive the benefits of advanced telecommunications services unless all providers of telecommunications services have eliminated the restrictions on the lines of business in which they may engage.

Existing regulatory devices no longer work, and the regulatory asymmetries that exist today are inconsistent with competitive marketplaces. Oversight of the telecommunications industry

should be conducted from the perspective of the antitrust laws by the Department of Justice and from the regulatory perspective by the Commission for interstate telecommunications services and the states for intrastate telecommunications services.

Finally Mr. President, this bill removes the current perverse incentives that some parties have to use the regulatory process to delay BOC entry into long entrance. By permitting all competitors to compete one year from the date of enactment, all parties will have the incentive to bring the benefits of competition to consumers as soon as possible.

Mr. President, I ask unanimous consent that the text of the bill appear in the RECORD.

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

S. 1766

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 ''Telecommunications Competition Act of 1998''.

SEC. 2 FINDINGS.

The Congress finds that—

(1) competition in telecommunications will encourage infrastructure development, have beneficial effects on the price, universal availability, variety and quality of telecommunications services, and improve our economy, our culture, and our political system;

(2) all telecommunications markets should be open to competition and all providers of telecommunications services should be able to provide such services and be subject to equivalent regulation when offering such services;

(3) all providers of telecommunications should be subject to equivalent regulation;

(5) the elimination of the restraints on the lines of business will result in the creation of a substantial number of new jobs;

(6) if the removal of the restrictions on the lines of business are delayed, the job creation resulting from the removal of these constraints will also be delayed;

(7) advanced telecommunications services can enhance the quality of life and promote economic developments, job creation, and international competitiveness;

(8) advancements in the nation's telecommunications infrastructure will enhance the public welfare by helping to speed the delivery of services such as telemedicine, distance learning, remote medical services, and distribution of health information;

(9) improvements in the telecommunications infrastructure will be greatly enhanced if all providers of telecommunications services are permitted to offer these services on the same basis and subject to equivalent regulatory requirements;

(10) rural and sparsely populated areas will not receive the benefits of advanced telecommunications services unless all providers of telecommunications services have eliminated the restrictions on the lines of business in which they may engage;

(11) existing regulatory devices no longer work, and the regulatory asymmetries that exist today are inconsistent with competitive marketplaces; and

(12) oversight of the telecommunications industry should be conducted from the perspective of the Antitrust Laws by the Department of Justice and from the regulatory perspective by the Commission for interstate telecommunications services and the States for intrastate telecommunications services.

SEC. 3. ONE-YEAR MAXIMUM START DATE FOR BOC INTERSTATE AND INTRASTATE SERVICES.

Part III of title II of the Communications Act of 1934 (47 U.S.C. 271 et seq.) is amended by inserting before section 271 the following:

''SEC. 270. DATE CERTAIN FOR START OF BELL OPERATING COMPANY SERVICES.

''(a) IN GENERAL.—Notwithstanding any provision of this Act to the contrary, on the date that is one year after the date of enactment of the Telecommunications Competition Act of 1998, a Bell operating company, and any affiliate of a Bell operating company, may provide interstate and intrastate telecommunications services.

''(b) STATE LAW SUPERSEDED.—No State or local law may prohibit or prevent a Bell operating company, or an affiliate of a Bell operating company, from providing interstate and intrastate telecommunications services after the date specified in subsection (a).

''(c) APPLICAITON WITH OTHER PROVISIONS.—Any prerequisite established by any other provision of this Act that conditions the right to provide services regulated under this Act in any area upon the satification by a Bell operating company of any requirement under this Act shall be for all purposes of this Act, deemed to have been met on the date specified in subsection (a).''.

By Mr. DODD:

S. 1767. A bill to amend the Federal Food, Drug and Cosmetic Act to require notification of recalls of drugs and devices, and for other purposes; to the Committee on Labor and Human Resources.

THE DRUG AND DEVICE RECALL REPORTING ACT OF 1998

Mr. DODD. Mr. President, I rise today to introduce a critical measure that has the potential to save many lives—''Matthew's Law.'' This bill is named after a very lucky third-grader from Bridgeport, Connecticut, whose life was endangered by the failure of his pharmacy to notify his family that an unsafe medical device had been pulled from the market.

It is both unfortunate and remarkable that no Federal legislation currently exists that requires notification of consumers when unsafe drugs or devices are recalled. State laws also fail to guarantee consumers the right to know of recalls. Although 18 States recommend that pharmacists notify their patients of recalls, as part of professional standards of care, only one State (Vermont) explicitly requires that patients be contacted.

This bill will amend the Federal Food, Drug, and Cosmetic Act to impose the commonsense requirement that when pharmacies are notified of a class I or II recall of a drug or device dispensed by prescription, they must notify their patients that the product has been pulled from the market.

Class I recalls include those drugs and devices that could reasonably cause serious adverse effects on health or death. Class II recalls include drugs and devices that may cause temporary or medically reversible adverse effects on health.

For over the counter drugs and devices, the bill requires that a notice regarding the recall be displayed in the pharmacy. Pharmacies that fail to comply will be subjected to fines of up to $10,000.

Matthew McGarry, for whom this bill is named, has a life-threatening allergy to peanuts. In case he should accidentally eat one, he carries a device with him that injects a drug to counteract an allergic reaction, called an ''EPI–E–Z'' pen.

When it was found that a few of the devices in one batch were leaking the life saving drug, all pharmacies were notified that the product was being recalled. And almost all pharmacies, acting in the best interest of their patients, in turn notified consumers. The McGarry's pharmacy, however, did not contact its patients.

Thanks to the vigilance of his school's nurse, Betty Patterson, Matthew escaped unharmed—the defective device was replaced.

Under current law, consumers have the right to be notified their automobiles are defective or when the toys that their children play with are found to be unsafe. It is only logical that we should have the same peace of mind when it comes to products like drugs and medical devices that directly affect our health.

Most pharmacists do the right thing. Most pharmacists contact their customers when a drug or device is recalled. However, it takes just one incident, like that experienced by the McGarry family, to point out a dangerous loophole in the law.

With Matthew's law, we will close that loophole and protect all American families from the McGarry's frightening experience.

Mr. President, I ask unanimous consent that a copy 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. 1767

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 ''Drug and Device Recall Reporting Act of 1998''.

SEC. 2. RECALLS.

Subchapter E of chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb et seq.) is amended by adding at the end the following:

''SEC. 564. NOTIFICATION OF RECALLS.

''(a) NOTIFICATION TO CUSTOMERS.—A pharmacy that receives notice from a recalling firm regarding a Class I or Class II recall of a drug or device shall provide notification about the recall to customers that received the drug or device as follows:

''(1) In the case of a drug or device dispensed by the pharmacy to customers on the prescription of a licensed practitioner, by providing, at a minimum, written notification to each of the customers.

''(2) In the case of another drug or device, by public display in the pharmacy of a notice regarding the recall.

''(b) CIVIL PENALTY.—Any pharmacy that violates subsection (a) shall be liable to the United States for a civil penalty in an

amount not to exceed $10,000 for each such violation.

''(c) DEFINITIONS.—In this section:

''(1) CLASS I OR CLASS II.—The term 'Class I' or 'Class II' refers to the corresponding designation given recalls in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation.

''(2) RECALL.—The term 'recall' means—

''(A) a recall, as defined in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation; and

''(B) a recall under section 518(e).

''(3) RECALLING FIRM.—The term 'recalling firm' means—

''(A) a recalling firm, as defined in subpart A of part 7 of title 21, Code of Federal Regulations, or a successor regulation; and

''(B) a person subject to an order issued under section 518(e)(1).''.

ADDITIONAL COSPONSORS

S. 26

At the request of Mr. DASCHLE, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 26, a bill to provide a safety net for farmers and consumers and to promote the development of farmer-owned value added processing facilities, and for other purposes.

S. 61

At the request of Mr. LOTT, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 61, a bill to amend title 46, United States Code, to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 328

At the request of Mr. HUTCHINSON, the name of the Senator from Idaho (Mr. KEMPTHORNE) was added as a cosponsor of S. 328, a bill to amend the National Labor Relations Act to protect employer rights, and for other purposes.

S. 472

At the request of Mr. THOMAS, his name was withdrawn as a cosponsor of S. 472, a bill to provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes.

S. 606

At the request of Mr. HUTCHINSON, the name of the Senator from Idaho (Mr. KEMPTHORNE) was added as a cosponsor of S. 606, a bill to prohibit discrimination in contracting on federally funded projects on the basis of certain labor policies of potential contractors.

S. 1151

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1151, a bill to amend subpart 8 of part A of title IV of the Higher Education Act of 1965 to support the participation of low-income parents in postsecondary education through the provision of campus-based child care.

S. 1333

At the request of Mr. FRIST, the name of the Senator from Tennessee (Mr. THOMPSON) was added as a cosponsor of S. 1333, a bill to amend the Land and Water Conservation Fund Act of 1965 to allow national park units that cannot charge an entrance or admission fee to retain other fees and charges.

S. 1335

At the request of Ms. SNOWE, the name of the Senator from North Carolina (Mr. FAIRCLOTH) was added as a cosponsor of S. 1335, a bill to amend title 5, United States Code, to ensure that coverage of bone mass measurements is provided under the health benefits program for Federal employees.

S. 1406

At the request of Mr. SMITH, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Georgia (Mr. COVERDELL), and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 1406, a bill to amend section 2301 of title 38, United States Code, to provide for the furnishing of burial flags on behalf of certain deceased members and former members of the Selected Reserve.

S. 1464

At the request of Mr. HATCH, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1464, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, and for other purposes.

S. 1534

At the request of Mr. TORRICELLI, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1534, a bill to amend the Higher Education Act of 1965 to delay the commencement of the student loan repayment period for certain students called to active duty in the Armed Forces.

S. 1621

At the request of Mr. GRAMS, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1621, a bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes.

S. 1677

At the request of Mr. CHAFEE, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1677, a bill to reauthorize the North American Wetlands Conservation Act and the Partnerships for Wildlife Act.

S. 1702

At the request of Mr. ROCKEFELLER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1702, a bill to amend the Harmonized Tariff Schedule of the United States to change the special rate of duty on purified terephtalic acid imported from Mexico.

S. 1705

At the request of Ms. MOSELEY-BRAUN, the name of the Senator from California [Mrs. BOXER) was added as a cosponsor of S. 1705, A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

S. 1722

At the request of Mr. FRIST, the names of the Senator from Ohio (Mr. DEWINE), and the Senator from North Carolina (Mr. FAIRCLOTH) were added as cosponsors of S. 1722, a bill to amend the Public Health Service Act to revise and extend certain programs with respect to women's health research and prevention activities at the National Institutes of Health and the Centers for Disease Control and Prevention.

SENATE JOINT RESOLUTION 41

At the request of Mr. SARBANES, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of Senate Joint Resolution 41, a joint resolution approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE CONCURRENT RESOLUTION 65

At the request of Ms. SNOWE, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of Senate Concurrent Resolution 65, a concurrent resolution calling for a United States effort to end restriction on the freedoms and human rights of the enclaved people in the occupied area of Cyprus.

SENATE RESOLUTION 155

At the request of Mr. LOTT, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of Senate Resolution 155, a resolution designating April 6 of each year as ''National Tartan Day'' to recognize the outstanding achievements and contributions made by Scottish Americans to the United States.

SENATE RESOLUTION 176

At the request of Mr. DOMENICI, the names of the Senator from Oklahoma (Mr. INHOFE), and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of Senate Resolution 176, a resolution proclaiming the week of October 18 through October 24, 1998, as ''National Character Counts Week''.

NOTICES OF HEARINGS

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a hearing of the Senate Committee on Labor and Human Resources will be held on Tuesday, March 17, 1998, 10 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is

retirement security. For further information, please call the committee, 202/224–5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a Executive Session of the Senate Committee on Labor and Human Resources, will be held on Wednesday, March 18, 1998, 9:30 a.m., in SD–106 of the Senate Dirksen Building. The Committee will consider S. 1648, Preventing Addiction to Smoking among Teens (PAST) Act.

For further information, please call the committee, 202/224–5375.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. JEFFORDS. Mr. President, I would like to announce for information of the Senate and the public that a Executive Session of the Senate Committee on Labor and Human Resources, will be held on Thursday, March 19, 1998, 10:00 a.m., in SD–430 of the Senate Dirksen Building. The subject of the hearing is Health Insurance Portability and Accountability Act of 1996: First Year Implementation Concerns. For further information, please call the committee, 202/224–5375.

SUBCOMMITTE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on National Parks, Historic Preservation and Recreation of the Committee on Energy and Natural Resources.

The hearing will take place on Tuesday, March 24, 1998 at 2:00 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 887, a bill to establish in the National Park Service the National Underground Railroad Network to Freedom program, and for other purposes; S. 991, a bill to make technical corrections to the Omnibus Parks and Public Lands Management Act of 1996, and for other purposes; S. 1695, a bill to establish the Sand Creek Massacre National Historic Site in the State of Colorado; and, Senate Joint Resolution 41, Approving the location of a Martin Luther King, Jr., Memorial in the Nation's Capital.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on National Parks, Historic Preservation and Recreation, Committee on Energy and Natural Resources, United States Senate, 364 Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Jim O'Toole of the Subcommittee staff at (202) 224–5161.

AUTHORITY FOR COMMITTEES TO MEET

SPECIAL COMMITTEE ON AGING

Mr. GRAMS. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on March 16, 1998, at 1 p.m. for the purpose of conducting a hearing.

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

ADDITIONAL STATEMENTS

CONFIRMATION OF JUDITH M. BARZILAY

● Mr. LAUTENBERG. Mr. President, I'm pleased that the Senate confirmed the nomination of Judith M. Barzilay to a seat on the Court of International Trade.

Over the past 16 years, Ms. Barzilay has had a unique mix of experiences that I believe will make her an excellent Judge on this most specialized court. I strongly supported her nomination.

Ms. Barzilay has worked as an attorney in the field of international law for both the government and the private sector. In the private sector, she also worked as a manager and business advisor.

Ms. Barzilay began her career in international trade law in 1983 as an attorney with the International Trade Field Office of the U.S. Justice Department in New York City. In that position it was her job to represent the U.S. Customs Service before the Court of International Trade on matters such as import classification and the valuation of imported goods. It was also her job to defend the legality of Customs' seizures and import prohibitions before the court.

She also represented United States manufacturing interests in fair trade cases.

In 1995, Ms. Barzilay was appointed by Secretary of the Treasury Robert Rubin to his advisory committee on Customs Service Operations and was recently reappointed for a second term.

Currently, Ms. Barzilay is the Vice President of Government Affairs with Sony Electronics, where she handles such cutting edge trade issues as world standards for High Definition Television and the Information Technology Agreement.

She also sits on the executive board of the American Association of Exporters and Importers and chairs its committee on trade policy.

Ms. Barzilay's expertise in international law is well known and she has lectured before groups such as The National Association of Manufacturers, The Council on Logistics Management and the World Trade Association of Southern California.

Although she has a busy professional life, Ms. Barzilay has always found time to do volunteer work in her community. She often speaks at local high schools, educating students on the importance of international trade. She also works as an advisor to the Bergen County, New Jersey, court system in an innovative program that tries to reduce repeat crime by putting juvenile offenders through mock trials.

When you put it all together, Judith Barzilay will be a welcome addition to the Court of International Trade and I again applaud her confirmation.●

INDICTMENT AND PROSECUTION OF SADDAM HUSSEIN (S. RES. 179)

● Mr. FAIRCLOTH. Mr. President, on Friday, March 13, the Senate considered a resolution calling for an international criminal tribunal to indict and prosecute Saddam Hussein for his crimes against humanity. Mr. President, I was unavoidably absent for the vote due to the passing of a dear friend in North Carolina, but I would like the record to reflect that I would have strongly supported this resolution.

I commend Senator LOTT for his efforts to bring this resolution before the Senate. It is needed. Saddam Hussein is a remorseless murderer with absolutely no regard for the well-being of his people, the welfare of his nation, and the value of world peace.

Seven years ago, Saddam Hussein recklessly sacrificed international stability with his invasion of Kuwait. Since then, he has continually threatened the security of the world's people. Time and again, he has demonstrated his willingness to build, store and possibly deploy chemical and biological weapons. His actions have led to two decades of suffering among his neighbors and his people, and for his crimes he should be tried and punished.

Mr. President, I am pleased that diplomatic resolution was brought to our most recent clash with Iraq, and I hope that it will last. But, in the end, this fragile agreement is nothing more than a renewal of broken accords from the past. It is by no means unreasonable to believe that Saddam Hussein will again return to his lying ways. We must remain vigilant and prepare for that time.●

REAUTHORIZATION OF ISTEA

● Mr. FEINGOLD. Mr. President, I come to the floor today to discuss my vote against the reauthorization of the Intermodal Surface Transportation Efficiency Act, also known as ISTEA.

As we all know, the ISTEA bill is vital to the transportation needs of each state in the nation. Not only does the bill affect highway construction, but it supports mass transit, highway safety, and many other important programs.

The original ISTEA bill of 1991 was a landmark in transportation policy. In Wisconsin, it was a blighted landmark. That bill continued Wisconsin's historical standing as a state that contributed more in Federal gas taxes than it received in return. Unfortunately, this bill continues this sorry legacy.

With this bill, certain states continue and make out like bandits when

we allocate transportation money. Other states continue to be denied a fair share. Wisconsin is one of the states getting an unfair shake.

The senior Senator from Wisconsin and I worked hard to improve this bill and get Wisconsin a fair share of Federal transportation money. We were successful in getting almost $130 million per year more than we received last year. That is certainly a great win for Wisconsin, but we must do more.

While greatly increasing the total dollars coming to Wisconsin, this bill actually decreases Wisconsin's share of Federal transportation money. We get a smaller piece of a bigger pie. That is unacceptable. As the House works on its bill, and the Senate and House work to reach a compromise, I will continue to work vigorously to get Wisconsin a fair shake.

Mr. President, there are other objectionable provisions in this bill as well. This bill creates more Federal mandates. I want to speak briefly to the amendment offered, and passed, by Senators LAUTENBERG and DEWINE.

I commend their desire to reduce the incidence of drunk driving and the tragedies it breeds. I disagree, however, with their methods. Establishing national blood alcohol content standards and blackmailing states into complying is simply not the method by which the Federal government should work. Wisconsin and the other states can make those decisions for themselves.

I agree that drunk driving must be eliminated and we must do everything in our power to increase highway safety. As a father of four, I shudder at the thought of any of my children being behind the wheel or a passenger in a car sharing the road with a drunk driver. I believe the Wisconsin Department of Transportation and the state and local police should be given full authority to get these thoughtless people off the roads. Let me repeat, the state and local authorities should get these drivers off the road, not the Federal government.

Mr. President, under the proposed sanctions in this amendment, Wisconsin would have to give up almost $14 million in the year 2001 if it does not pass this Federally mandated law. In later years, Wisconsin would lose $29 million.

This blood alcohol content issue raises the fundamental question of the Federal government's appropriate role in policy areas traditionally reserved to the states. The relationship between the Federal government and the States has required a delicate balance since the founding of this nation. The practical and legal consequences of the Constitutional division of state and Federal powers continue to fuel debate. Having served in the state legislature for ten years, I know quite well the frustrations of state officials at the sometimes incomprehensible Federal bureaucracy. This much-debated relationship is frequently at issue in the discussion of Federal requirements on seatbelts, helmets, speed limits, and, now drunk driving.

Mr. President, I have opposed certain legislation mandating Federal transportation standards for the States, such as requiring a uniform national speed limit or drinking age, or the mandatory use of seatbelts and motorcycle helmets. I feel most strongly about that principle when States are, in effect, ''blackmailed'' with the threat of losing Federal transportation dollars if they don't bow to the Federal will. I believe this sort of decision-making is generally best made at the state and local level and therefore, oppose Federal legislation mandating a national blood alcohol standard. It is unfortunate that this important bill continues to compromise our Federal system with the BAC amendment and the ban on open containers.

Mr. President, there are numerous positive elements to the bill. The transit program is supported like never before. Safety programs are given the assistance they deserve. We take a small ax to some pork-barrel projects, known as demonstration projects. These projects disadvantage many states, including Wisconsin, because the projects are funded not on merit, but on which state is represented at the bargaining table. As a donor state that has historically done poorly with demonstration projects, this is a much-needed boost.

It is my hope that the House corrects many of the inequities and problems not addressed in our bill. I will continue to work for a fair national transportation policy that delivers back to Wisconsin taxpayers more than 90 cents on the dollar. I look forward to working with our state's delegation to get that fair shake and I hope to support the conference report that comes back to the Senate.●

TRIBUTE TO GOVERNOR JAMES S. GILMORE

● Mr. WARNER. Mr. President, on Saturday, January 17, 1998, I had the privilege of joining other members of the Virginia Congressional delegation in Richmond for the inauguration of James S. Gilmore III as the sixty-eighth Governor of the Commonwealth of Virginia.

In the weeks prior to his inauguration, Governor-elect Gilmore crisscrossed the state and captured the confidence of Virginians who embraced his initiatives to revamp education and roll back the car tax. He returned to the State Capitol to issue this challenge to every Virginian: ''Now we stand at the end of one century, and the beginning of another, and—in the life of man—the end of one millennium and the beginning of another. Can we in Virginia, the home of the American idea of the rights of man—can we set the course for the future? If we do, we can make Virginia's future worthy of its great past.''

I am convinced, and there should be no doubt, under Governor Gilmore's stewardship, the future of Virginia is as bright as ever. On a historic day last November, Jim Gilmore was overwhelmingly elected as Governor after proving to a vast majority of Virginians that he has the character and distinct qualities necessary to guide our state well into the 21st Century. In his inaugural address, which I will enter into the CONGRESSIONAL RECORD today, Jim Gilmore remarked, ''I am a common man with an uncommon chance to serve the people as Governor.'' I rise today to pay tribute to this self-described 'common man' as he embarks on the most important endeavor of leading our great Commonwealth.

Over the years, I've had the great opportunity and privilege to work with many Governors of Virginia. I am extremely pleased with the decision the citizens of this Commonwealth have made in choosing Jim Gilmore to steer Virginia into the next millennium. Governor Gilmore will, undoubtably, prove a worthy resident of the Governor's mansion in Richmond and I look forward to working closely with my good friend in the coming years.

Mr. President, I ask that Governor Gilmore's inaugural address be printed at the appropriate place in today's CONGRESSIONAL RECORD.

The address follows.

INAUGURAL ADDRESS JAMES S. GILMORE, III, JANUARY 17, 1998

Mr. Speaker, Mr. President, Members of the General Assembly, My Fellow Virginians,

Virginia's march into the 21st century begins today. Virginians have energized me with a contagious spirit and common purpose. We again unite to make history.

It is incumbent upon us to pause and pay tribute to the great Virginians who nurtured our unique heritage. We recognize the awesome responsibility of our inheritance.

We can focus our vision on the next millennium because of the leadership provided by Governor Allen. Governor Allen, your leadership and reforms, have, as you said Wednesday evening, made this a great time to be a Virginian. Governor, Virginia thanks you and your family.

I am humbled to stand in the shadow of Virginia's great Governors. It seems appropriate that I begin my service as Governor by asking you to join me in prayer for wisdom and guidance.

Let us pray.

Almighty father, we thank you for the many blessings bestowed on us as individuals, families, and Virginians. As we move into a new millennium, we ask you most of all . . . to unite us as one Virginia. A Virginia where no one is left out. A Virginia where all families will experience renewal in values and commitment of service to our fellow man.

I ask for your guidance in leading the Commonwealth of Virginia over the next four years. We look to you for constant inspiration. May our debates be characterized by civility, fairness and justice. May we govern with long term vision.

Help me to be open to the ideas of others while adhering to the fundamental belief that your will is done when the people are free to achieve their hopes and to follow their faith and their dreams.

With your blessing, we devote ourselves to the goal of improving the lives of all Virginians. Amen.

I have been blessed by parents who instilled in me the values of hard work, honesty, and service. Together, with Roxane, we have done our best to pass these values onto our sons, Jay and Ashton. To my family, to Roxane, to Jay and to Ashton, you give me continued strength.

I am a son of Virginia. Born here in the Fan District of Richmond—attended William Fox Public Elementary School. I went to Public Schools in Henrico suburbs; I attended a great Public University of this state; as well as its law school. I have worked in grocery stores, I've been a bank teller, and I have practiced law. I served my country when it needed me in the U.S. Army.

My home has been Virginia all my life, and my life has been the same experience of my fellow Virginians, from all walks of life. Abraham Lincoln said, ''God must love the common people because he made so many of them.'' Well, God has blessed this common man with a truly uncommon chance to serve the people as Governor.

Over the past week, we crisscrossed the state making this a time for all Virginians. We celebrated this inauguration in Abingdon in Western Virginia and in Northern Virginia with a technology showcase and in Hampton Roads home of our great Port.

And we have renewed our heritage of freedom at Gunston Hall, the home of George Mason, and Raleigh Tavern in Williamsburg, where the patriots met, and at Mr. Jefferson's Rotunda at the University of Virginia; and at the place of Patrick Henry's ''Liberty or Death'' speech at St. John's Church here in Richmond.

It is good to remember on this day these great Governors—Patrick Henry and Thomas Jefferson, and their historic leadership of our state and our nation.

Now we stand at the end of one century, and the beginning of another and—in the life of man—the end of one millennium and the beginning of another. Can we in Virginia, the home of the American idea of the rights of man—can we set the course for the future? If we do, we can make Virginia's future worthy of its great past.

We live in a day of great cynicism; which endangers the American spirit. Let us as Virginians reaffirm our commitment to live as a free people—empowered to do what is best for our families, committed to building a more perfect democracy where our votes and voices genuinely affect the course of our public affairs—that we not be frozen by our fears, but enabled to reach for our hopes and dreams.

Virginians from all walks of life have told me that they want their government to empower them to meet their needs. This should not be a request any citizen has to make. But too many citizens feel forgotten and isolated as they pay their income taxes, sales taxes, utility taxes, meals taxes, gas taxes and car taxes. Certainly the people responded to this concern when they voted—concern that their families were not being full considered in the halls of government.

Today we live within a political culture where people are expected to pay and pay taxes, yet feel detached from the expenditure of their money. Today some in government view citizens as nothing more than a source of revenue—some glory in the growth of government revenue because it means more and more can be spent, without considering the impact that taxation has on the lives of people.

Let us never allow the complexities of billion dollar budgets and highly technical new issues to cloud our minds and prevent us from remembering that it is the people who ultimately pay every dollar.

The young woman working the drive-through window at our local bank should be the light casting common sense on our decisions.

The grandmother whose fixed income doesn't allow her enough money to buy each grandchild a Christmas present sheds light on why we need to give her a tax cut.

The father commuting from Dale City to Dulles with despair in the little time he spends with his children is reason enough for us to make his commute as easy as we can.

Individual Virginians, their daily lives and problems are a light too often dimmed by the process of government. Let their lives guide us to a better Virginia.

Unlike the nation, Virginians have not been complacent in the face of tax increases. Through their votes, our citizens delivered a strong message, not of selfishness, but of an insistent demand that their ability to make decisions over their own lives must be just as important as someone else's decision to spend tax money for someone else's priority.

In the spirit of Patrick Henry, Virginians are saying we don't work for the purpose of funding government. We work to provide for ourselves and our family. We have the right to decide how we spend our own money.

Virginians are generous people, and over the next two years, 40 billions of dollars of the people's money will be spent for public purposes, and most often the spending is needed to lift up the quality of life for all Virginians—but the spending goals of the influential must not overbear the capacity of everyday Virginians to lift themselves up to independent lives. Who speaks for these Virginians? The Governor of all the people must—and I will!

Since the first Virginians settled at Jamestown, Virginia has been a shining example of the right way to govern. To be that beacon for our nation and the world is our aspiration and our fate. I believe at the end of this century and the beginning of another, history looks to us again. As with every generation we are challenged to prove that government can be the servant of the people and not their master.

Let there be no doubt, I am here because working Virginians embraced this very message. They delivered a clear mandate. Now we must deliver on our promise to the people.

The ''No Car Tax'' pledge grew from the understanding that working families would no longer allow themselves to be left out while watching government prosper.

We have a moral obligation to help families by eliminating this harsh tax on the mobility of people in a modern mobile world. I do not care how they spend their tax savings. It's not government's business how private citizens spend their earnings. My desire is to give them the opportunity to make that decision.

My determination to make government work for the people is just as intense as my determination to provide tax relief.

As we improve government services, I will have the honor and privilege of working with one of Virginia's most valuable assets. Our state employees need to know that they march by my side as we lead Virginia into the next century.

State employees must have the resources to perform their job. Experience in managing public servants has taught me many lessons. I know productivity requires an atmosphere of high morale. Ours is a united mission.

We have an ambitious agenda. On Monday night, I will outline that agenda before the Joint Session of the General Assembly. However, some key items deserve mention today.

Welfare reform is working. We will fully implement these reforms. I will veto legislation to weaken current reform in any way, shape or form.

Violent crime continues to decline but we will not stop strengthening criminal laws and punishment until it can be declared that the war has been won. Our administration commits to protect natural resources, build a better transportation system, and serve Virginians who use state health and long term care services.

I am passionate in my love for Virginia. With this passion, I will recruit new jobs to Virginia to give new opportunities for our young people, and to improve their quality of life.

We have exciting plans to bolster our growing information technology industries. The economic return these efforts generate will benefit every single Virginian. Virginia is the Information Technology state!

Education requires urgent attention.

I have yet to meet the first public official who is not sincere in support for public education. Virginians are united in support for public education. With all of us seeking the same goal, we can certainly do more for the children of Virginia.

My vision is to demand no less than excellence from our public schools.

No goal could be more noble as we advance into the 21st Century than making Virginia's system of public education, from Kindergarten to post graduate, the very best.

Virginians gave us their strong endorsement to move forward on two fronts that will have significant impact as we strive for excellence in education. Voters told us to implement the Standards of Learning and hire 4,000 additional teachers. We are well prepared to move forward.

While raising expectations for Virginia's public schools, more teachers must be hired. No student should be shortchanged in the instruction required to master the Standards of Learning.

Crowded classrooms test the limits of even our best teachers. We are going to reduce class size!

While higher education has become the topic of healthy public debate, global leaders recognize Virginia as home to some of the world's best colleges and universities.

Higher education faces new challenges in the 21st Century because Virginia lacks a formal policy or direction on higher education. We need to chart our course for the future and give direction to our Colleges and Universities. A Blue Ribbon Commission on Higher Education in Virginia will help us chart that course. I am going to sign an Executive Order creating such a commission right now!

Let us advance into the 21st Century united, leaving behind the 20th Century barrier of regionalism.

The success of Northern Virginia depends on the success of Southwest Virginia.

The prosperity of Hampton Roads depends on the prosperity of Southside.

The standard of living in Central Virginia depends on the standard of living in the Shenandoah Valley.

We are one Virginia. Let us forever be united in common purpose.

At every juncture in time, issues come and go. We must be ever mindful of our obligation to lead, fully focused on our vision for the 21st century.

Governors and legislators are citizens temporarily given power to perform the awesome requirements of self Government. Governors make mistakes and so will I, but be sure no mistake will be of intentional origin.

Democracy is a fragile institution. I am intent on strengthening that institution, so when it passes to Virginia's next Governor, it will be a little less fragile.

Let no person underestimate our commitment to the vision of a prosperous Virginia filled with strong families and optimism. We march united as one Virginia into the 21st Century. We go forward with the idealism

that people can define and control their own lives, and live independent lives which is the essence of free men and women.

As we go forth, into this new century and millennium—we can have courage and confidence that we can fulfill our hopes and dash our fears, and we can control change, and make it our servant and that the ideals and lessons of our great past can light the way for the future in an even greater Virginia.

May God bless the Commonwealth of Virginia and the United States of America.●

INCONGRESS

● Mr. CLELAND. Mr. President, I would like to call my colleagues' attention to an article which appeared in the Washington Post on January 27, 1998 entitled ''Web Venture Links Lobbies, Legislation.'' The article discusses INCONGRESS (www.incongress.com), an exciting new Web site that promises to open up our legislative process and make it possible for our constituents to have access to the same documents that we receive from lobbyists.

INCONGRESS enables interest groups that lobby the Congress to put their policy statements and press releases—on issues and legislation before the Congress—on one single Web site in an organized and targeted manner. This information is maintained in the INCONGRESS data base so that it can be retrieved at any time by our staffs or any other user of the site, including our constituents.

Personal subscriptions to INCONGRESS are free for Members of Congress and their staffs, as well as for all other government employees, the media and members of the general public. The INCONGRESS Web site is supported entirely by the private sector lobbyists who pay an annual fee to transmit their data from personal computers in their offices right into the site.

INCONGRESS enables all of us, both here in Washington as well as our constituents back home, to see the position papers of lobbyists and interest groups at the same time. The information is retrievable seven days a week, 24 hours a day to any subscriber. This is a major step toward our goal of making the legislative process a more open and informed one.

My reasons for calling this matter to the attention of my colleagues are twofold. First, INCONGRESS promises to make a great contribution in our access to information and differing viewpoints of pending legislation. It will enable all of us to see the same information at the same time—assuming the interest groups use it, and as the article mentions, several of them have apparently already begun to do so.

Secondly, I am proud to point out to my colleagues something which the Washington Post article did not mention. The INCONGRESS Web site was designed and constructed in my home state of Georgia by IBM Interactive Media in Atlanta. As many of you know, IBM is quickly emerging as the leader in electronic business—or e-business as some refer to it—and I am proud that the men and women at IBM Interactive Media in Atlanta are playing such a major role in this effort.

In addition, I want to observe that two great Georgia companies, AFLAC, Inc. of Columbus and Bell South of Atlanta, were among the first companies to sign up as INCONGRESS Advocates and agree to put their public policy positions on this Web site for all to see. I commend both of these fine companies for being good corporate citizens and for setting an example which I hope all interest groups—including corporations, trade associations, and unions—will soon follow.

The text of the article follows:

[From the Washington Post, Jan. 27, 1998]

WEB VENTURE LINKS LOBBIES, LEGISLATION

(By Bill McAllister)

Some of Washington's biggest lobbyists are betting that the future of lobbying may lie on the Internet. They have invested in InCongress, a new Web site that its creators say may presage the electronic way to lobbying Capitol Hill.

The new site www.incongress.com has been under development for two years, but it will be getting its first full-scale test this week as Congress reconvenes. The site brings together the texts of proposed legislation and the policy positions that various interests have issued on the proposals, as well as links to congressional and governmental sites.

Although Congress and other groups have their own Web sites with some of the same information, InCongress developers say their operation is the only one that brings all the information together at a single site.

''Congress couldn't have created this site and turned it over to Gucci Gulch lobbyists,'' said developer DeLancy W. Davis, a vice president of the lobby shop Jolly/Rissler Inc. Davis and lobbyist Thomas R. Jolly, who started InCongress as a separate venture from Jolly/Rissler, said they have gotten a highly favorable response from hundreds of congressional aides who want a quick way to tell the boss where all the players stand on legislation.

A number of other online information services provide updated copies of pending legislation, and other groups are attempting to cash in on the move toward feeding Washington's booming special interest business electronically.

Jolly and Davis's InForum Group, which owns the site, already has signed up several interest groups eager to post their policy papers on the site and pay the reduced introductory fee of $6,000 to be among InCongress's charter ''advocates.'' Those charter advocates include lobbyists and other officials from Arco, AFLAC, BellSouth, IBM Corp., the Interstate Natural Gas Association, the Mortgage Bankers Association, the Career Colleges Association and the Reinsurance Association.

But perhaps as impressive as the first clients are the lobbyists who are financially backing the venture: William H. Cable, chairman of Timmons & Co.; Nicholas E. Calio of O'Brien Calio; Thomas J. Corcoran of O'Connor and Hannan; Patricia F. Rissler, president of Jolly/Rissler Inc.; Thomas M. Ryan of Oldaker, Ryan, Philips & Utrecht; and Craig G. Veith, managing director of American Strategies.

The public can get free access to the site by filling out a sign-up form, but lobbyists who wish to post their position papers have to pay. Jolly and Davis are betting that there are enough of them to make their site profitable, although perhaps not in the first year.

The site is run by a contractor based in Schaumburg, Ill. InCongress's meat and potatoes, such as new legislation, is pulled down from government-operated sites. Lobbyists can post their views using a simple transfer mechanism.

''It's a great way to level the playing field,'' said Jolly, previously an aide to former Rep. Bill Ford (D-Mich.), who predicts the site could have strong appeal to small groups who often feel undermanned on Capitol Hill.

The online venture, along with others, is another step toward moving many aspects of lobbying and government onto the Internet to meet the changing nature of the process of government, Jolly and Davis said.

''Our profession is fundamentally changing. We're moving toward a much more antiseptic, more fact-based type of lobbying,'' Davis said. ''The days of going to a chairman and cutting a deal are over.'' ●

TRIBUTE TO THE CAMP FIRE BOYS AND GIRLS OF AMERICA

● Mr. GRAMS. Mr. President, I rise today to pay tribute to the Camp Fire Boys and Girls of America on the occasion of the 88th anniversary of its founding in March 1910.

The Camp Fire Girls, now the Camp Fire Boys and Girls since being incorporated in 1978 to include boys' programs, was started in 1910 by Dr. and Mrs. Luther Halsey Gulick of Sebago, Maine. The Gulicks founded this nonprofit organization to encourage girls to reach beyond traditional limitations. Across the country, Camp Fire was integral in developing America's view of children as an investment in the future of our nation. Within two short years, the new organization of Camp Fire Girls, Inc. was organized in 42 states, one of which was my home state of Minnesota.

Camp Fire clubs grew quickly in Minnesota, making headlines when girls marched off to camp at Square Lake near Stillwater. With groups consisting primarily of high school and university students, nearly 400 girls were involved in Minneapolis Camp Fire. A 1912 article in the Ladies Home Journal inspired a group of girls from St. Paul to start their own chapter. Dr. F.S. Cone, pastor of the St. Anthony Park Methodist Church, agreed to sponsor this group of eight girls and their 21-year-old leader.

Currently serving approximately 670,000 participants annually, 45 percent of whom are male, Camp Fire Boys and Girls is organized in 42 states and the District of Columbia. In 1997, the Minnesota Lakes Council alone served 10,865 youth, aiming to provide them with the necessary tools to live their lives productively in an ever-changing environment.

The Camp Fire Boys and Girls is centered on three concepts: Work, Health and Love (WOHELO). The organization's objective is to provide opportunities for youth to realize their potential as caring, responsible and self-directed individuals. This objective is achieved

by providing three main categories of youth development programs: club programs, outdoor programs and Self Reliance programs. Through these efforts, the Camp Fire Boys and Girls offer a variety of courses to provide youth with an opportunity to build their self-esteem, develop leadership skills, practice cooperation and conflict resolution skills and provide service to their community.

None of this would be possible were it not for the adult volunteers who are the foundation of the Camp Fire Boys and Girls. Currently there are more than 571 men and women in Minnesota who, in the spirit of Dr. and Mrs. Gulick, invest their time and talents to ensure that our youth are prepared for the challenges of tomorrow. Adult volunteers touch the lives of young people by serving as excellent role models and teachers, as well as caring friends.

Mr. President, for 88 years the Camp Fire Boys and Girls of America has been teaching our youth the skills they need to become effective leaders and responsible citizens. This is truly grounds for celebration.●

10TH MOUNTAIN DIVISION

● MR. MOYNIHAN. Mr. President, I rise today to pay tribute to some very special members of our armed forces—the men and women of the 10th Mountain Division at Fort Drum, New York. Earlier this year, New York was hit with the worst ice storm in its history. Six counties in the North Country, including Jefferson County where Fort Drum is located, were devastated by this storm, which also caused tremendous damage in Northern New England and Southern Quebec.

Nine individuals lost their lives as a result of the storm which knocked out power to over 150,000 customers in New York alone. Some of these people were without power for over a month. The ice was so thick that not only were thousands of utility poles destroyed, but huge transformer towers were crushed under the tremendous weight. The loss of power was especially difficult for area dairy farmers, who could not milk their cows for several days.

As devastating as the storm was, it would have been much worse had it not been for the tremendous relief efforts of the thousands of New Yorkers who helped respond to this disaster. The State Emergency Management Office, the Federal Emergency Management Agency, the National Guard, the Red Cross, the volunteer firefighters from across the state, and countless other federal, state, and local government personnel and private individuals all chipped in to help the North Country respond.

One of the greatest contributions to this effort came from the people of Fort Drum. Army personnel not only made sure that everyone on the base was safe, they went out into the community to help the City of Watertown and Jefferson County respond. Fort Drum was also the central distribution point for supplies coming in from outside the region. I want to commend the Commanding General of the 10th Mountain Division, Major General Lawson MacGruder, for the fine work he and his troops did during the disaster.

General MacGruder, I salute and thank you for your efforts.●

CONGRATULATIONS TO LARRY DOBY ON HIS INTRODUCTION TO THE BASEBALL HALL OF FAME

● Mr. LAUTENBERG. Mr. President, I have risen on a few occasions before to pay tribute to a good friend and a man I much admire, Larry Doby. And I have excellent cause to do so again. Just last Tuesday, Larry Doby was elected to the Baseball Hall of Fame, not only for being a great baseball player, but also for being a person of outstanding character and drive.

On July 5, 1947, Larry Doby became the first African-American to play in the American League with the Cleveland Indians, only 11 weeks after the famed Jackie Robinson stepped onto the major league diamond with the Brooklyn Dodgers. Because Robinson was the first African American to play professional baseball, Larry has often been overlooked as a deserving player of Hall of Fame status. But he is worthy of that distinction beyond the shadow of a doubt.

I knew Larry when we were both students at Eastside High School in Paterson, N.J. He had already astounded all his observers by his exceptional skill in four sports—baseball, basketball, football and track. We would watch with envy and amazement as he won prize after prize in any of the sports in which he competed. All who knew him believed he would be successful. I was not surprised when he went to the Indians, only disappointed that it didn't happen sooner. He had to wait his turn, but then played with elegance and class. He waited his turn to enter the Hall of Fame, which he also did with same elegance and class.

Mr. President, Larry Doby did more than play a good game of baseball in the major leagues. Larry swung at racism with every crack of his bat, opening the doors of opportunity to future generations of Americans.

Larry weathered the racist insults and vicious invectives hurled at him both on and off the playing field as Jackie Robinson did. While traveling, he stayed alone in dingy hotels only for blacks, while the rest of his team stayed together across town. The color barrier had been broken when Larry started playing, but the blockades of prejudice in people's minds against blacks still stand.

Mr. President, each of us takes a great measure of satisfaction that Larry Doby, this great athlete and superb human being, survived all of the obstacles put in his way to be recognized as the champion that he is. In honor of Larry Doby and his election to the Baseball Hall of Fame, I would like to share some recent commentary on this milestone with my colleagues. I ask that the text of the articles be printed in the RECORD.

The articles follow:

[From the Star Ledger, Mar. 4, 1998]

HALL SELECTION CAPS DOBY'S HARD JOURNEY

(By Jerry Izenberg)

It was the punctuation mark that finally ended baseball's most shameful unfinished business.

Yesterday, down in Tampa, the Major League Baseball Veterans Committee voted Larry Doby into the Hall of Fame.

Fifty-one years after he integrated the American League by following an agonizing trail that left him alone and friendless through 90-mph beanball nights and lonely and segregated through separate and unequal days, baseball formally acknowledged the role Doby played in bringing its mores into the 20th century.

Along with Doby, the committee chose Lee MacPhail, former American League president; ''Bullet'' Joe Rogan, a Negro Leagues pitcher, and George Davis, a turn-of-the-century shortstop.

When a friend called Doby with the news out in California, where he was visiting former Dodgers pitcher Don Newcombe, he spoke, as you might expect, about his wife, Helen, and the bond they share that helped him endure what no man should have had to endure simply because he wanted to play professional baseball.

He spoke about his grandmother, Augusta, and his mother, Etta, and the quiet dignity they projected to him, starting through his early years in South Carolina and Paterson, and the way that dignity carried him on a journey through baseball's version of Hell.

And then he paused, because deep within the back roads of his mind there was yet another memory—one of people he never met and whose names he never knew but whose emotions were joined at the heart with the pain he felt as he ran his initiation miles in the kind of spiked shoes nobody else will ever have to fill.

They shaped his life and he promised he would never forget them.

He didn't.

Not after his bat helped win a World Series for Cleveland in 1948 . . . not after he won two American League home run titles . . . not when he couldn't get a job in baseball . . . not later when he wound up as a manager.

Not then.

And not yesterday, when the Hall of Fame doors finally swung open for him.

Not ever.

In his mind's eye he still sees them—an ocean of black faces in the left-field and center-field seats in St. Louis and Washington, bracketed by the grandstand and the box seats where they were not allowed and by faces that were always whiter than the baseball. And when he thinks of them, he can still hear the echoes of the Niagara roars they triggered that grew in a steady crescendo that seemed to say:

''We are here. You can seat us in the outfield and make us come in through the back door but we are not going to go away. Swing that bat, Larry, and remind them that this is our game, too, and we have come to claim a piece of it.''

''I always hit well in those parks,'' Doby said. ''I could see them out there in the Jim Crow seats. I felt like a high school quarterback with 5,000 cheerleaders of his own. I knew who was making the noise and I knew where it was coming from. And they made some noise. When I hit a home run, it was deafening.

''Most of them had never been in a major-league ballpark before except maybe for an occasional Negro Leagues game. They weren't comfortable. They were nervous and some of them couldn't afford it. But I knew why they came and I knew what they wanted. Part of this honor today belongs to them.''

They needed each other. They leaned on Doby with the same intensity that a camel driver leans on the map that will point the way to the next oasis. He, in turn, leaned on them for strength in ballparks in towns like Boston and St. Louis and Washington and . . . well, no place was easy.

From the very beginning, he was virtually alone . . . alone the day that Lou Boudreau, the Indians manager who didn't want him, introduced him to a roster that felt the same way and, with three exceptions, wouldn't even shake his hand . . . alone that first day when he went out to warm up and nobody would throw him the ball until Joe Gordon, a class act, waled over and said, ''Are you gonna pose or throw with me?''

''I feel relieved,'' he said over the phone yesterday, ''that this is off my shoulders. I never really thought it would happen all these years, but then the last two or three, people started talking about it and I got to thinking about it. And now that it's happened, I thank God that I could make it through all those years without losing my self control, or who knows if Mr. Veeck (Bill, the Indians' owner) would have been allowed to hire other African-Americans?''

Bear in mind the way it was when Doby became the first African-American in the American League in 1947. That same year, Tom Yawkey, the owner of the Red Sox, had said, ''Anyone who says I won't hire blacks is a liar. I have about 100 working on my farm down south.''

Now, at 73, Doby would be less than human if he did not remember the worst of it as if it were yesterday . . . the Philadelphia shortstop who spit tobacco juice in his face . . . the knockdown pitches that were thrown behind him . . . the red-necked chain of segregated spring-training towns . . . the barrage of beer bottles aimed at the back of his head from the outfield seats in Texarkana . . . the exhibition game crowd that drowned out the announcer with its boos and curses down in Houston and the roar that shot back from the Jim Crow seats when Doby hit the longest homer in the history of the park . . . the times he put on his uniform in all-black boarding houses because he was forbidden to use the dressing rooms in Washington and St. Louis and the times, wearing that same Cleveland Indians uniform he had to enter the stadiums through a back door.

Small wonder there came a time when a heckler's comments about Doby's wife were so vicious and so salacious that Larry, who was in the on-deck circle, dropped his bat and headed into the stands.

''I would have been gone except for Bill McKechnie (a coach, who wrestled him to the ground),'' he said. ''He was one of the guys who cared . . . him and Gordon and Jim Hegan. And Mr. Veeck, who I believe did something courageous for America.

''I remember something else.

''After the World Series game against Boston that I had won with a home run, Steve Gromek (the winning pitcher) and I were photographed embracing. That picture made all the papers . . . a white man and a black man sharing a triumph.

''I believe America needed that picture and I'm proud I could help give it to them.''

[From the Trenton Times, Mar. 5, 1998]

HONORING LARRY DOBY

The first person to achieve something great gets the fame. The second person to do it often is forgotten. Who was the second pilot to fly the Atlantic solo? The second athlete to run a sub-four-minute mile? The second surgeon to perform a successful heart transplant? Though they faced many of the same physical and psychological obstacles as their predecessors, their names are far less familiar.

One such ''second'' broke through this veil of obscurity this week. Larry Doby of Paterson, N.J., the second black man to play major league baseball in modern times, was voted into the Hall of Fame at Cooperstown, and no one deserved the honor more. Three months after Jackie Robinson took the field with the Brooklyn Dodgers to integrate the National League, Doby was hired by the Cleveland Indian's Bill Veeck to be the first of his race in the American League. Doby suffered the same kind of appalling treatment as the far more famous Robinson—beanball pitches at the plate and brutal tags on the basepaths from opponents, the silent treatment or worse from teammates, boos and insults from fans, segregated accommodations on the road—and he endured it with the same kind of quiet dignity and outstanding on-field performance that distinguished Robinson's career. These unbelievably courageous and self-disciplined men did much to change American attitudes and pave the way for the civil rights revolution of the 1960s.

Doby's baseball skills were impressive. His bat helped Cleveland win the 1948 World Series, he collected two league home run championships and an RBI title, and he made the all-star team seven times. But it was as a pioneer that his place in the history of baseball, and of American society, is permanent.

[From the Asbury Park Press, March 5, 1998]

DESERVING HALL-OF-FAMER—NEW JERSEY'S LARRY DOBY EARNED THE HONOR

New Jersey's Larry Doby, the second black man to play Major League Baseball, has always said Jackie Robinson deserves most of the attention for breaking the color barrier in 1947. Yet Doby, the first of his race to play in the American League, faced the same dangers, the same insults and the same pervasive discrimination when he began playing for the Cleveland Indians 11 weeks after Robinson's National League debut.

One Tuesday, Doby received some long overdue recognition, joining Robinson as a member of baseball's Hall of Fame. Doby helped Cleveland win pennants in 1948 and '54. He led the American League in home runs twice, with eight consecutive seasons of 20 or more. He was a six-time all-star.

Now 73 and battling cancer, Doby lives in Montclair, where he has made his home since his retirement as a player. But he grew up in Paterson, where he starred at Paterson High. In his honor, the Paterson Museum will keep an exhibit, ''Larry Doby, Silk City Slugger: First in the American League'' open through Oct. 31. Last week, Congress approved a bill to name a post office in Paterson for Doby.

At the Statehouse ceremony in his honor last year, Doby noted that baseball has ''a ways to go'' to eliminate all vestiges of racism, but that in 1947, the game showed America that people of different races ''could get together and be successful.''

Because he had to play in a different league with different cities and different players, Doby faced obstacles equal to those of Robinson. He did so with equal dignity and professionalism. It is fitting that he, like Robinson, has been recognized as one of the truly remarkable men who have played the game.

[From the Bergen Record, Mar. 6, 1998]

A BASEBALL PIONEER

Larry Doby's baseball statistics only tell half of his story.

Mr. Doby, elected into the Baseball Hall of Fame on Tuesday by its Veterans Committee, will be remembered by some as The Second. He became the second black player in the major leagues when he signed with the Cleveland Indians in 1947 and its second black manager when he took over the White Sox in the 1970's.

But Mr. Doby—who grew up in Paterson and starred in four sports at Eastside High School—was as much of a pioneer as Jackie Robinson, who made it to the big leagues 11 weeks before him.

Both endured hatred and scorn from fans, teammates, and coaches. They were allowed to shine on the field, but couldn't socalize with their teammates and were forced to stay in separate hotels on the road.

Despite those obstacles, Mr. Doby was a seven-time All-Star and won two American League home run titles. During his career with the Indians, White Sox, and Detroit Tigers, Mr. Doby had a career batting average of .283, knocked in 960 runs, and hit 253 home runs.

And he had some firsts of his own, including being the first black to play in and to hit a home run in the World Series. His election to the Hall of Fame was long overdue.

More important, by holding his head high and refusing to let racism stop him, Mr. Doby inspired millions and helped open the doors for other black players.

[From the New Jersey Herald and News, Mar. 6, 1998]

LARRY DOBY A HALL OF FAMER

Larry Doby, the former Paterson Eastside High School baseball star, should have been elected to the Hall of Fame years ago. But, characteristically, after years of patient waiting, Mr. Doby expressed only joy and excitement earlier in the week when he was finally selected for the honor he certainly earned.

In 1947, Mr. Doby became the second black to play in the Major Leagues and the first to play in the American League. Mr. Doby, 73, appeared in seven consecutive All-Star games with the Cleveland Indians, became the first black to compete on a World Series championship team, and twice led his league in home runs.

He was a pioneer, breaking the American League color barrier 11 weeks after Jackie Robinson played his first game for the Brooklyn Dodgers in the National League.

Mr. Doby persevered in a racist environment and he paved the way for other blacks to follow in his footsteps. He was a leader in fighting prejudice, although that meant he was often alone and friendless in his pursuit of equality.

Over the years, both Mr. Doby and Mr. Robinson have talked about the indignities, other players spitting in their faces and being told not to respond.

It is coincidental but fitting that Mr. Doby is being honored by a display in the Paterson Museum.

Mr. Doby did not need the Hall of Fame honor to validate either his life or career. However, he fought for this place in sports history, and he has now been formally recognized by the 13-member Veterans Committee for his vast contribution to both baseball and civil rights.●

ORDER FOR BILL TO BE PRINTED—S. 1173

Mr. ROTH. Mr. President, I ask unanimous consent that S. 1173, the ISTEA bill, be printed, as amended by the Senate on March 12, 1998; and I further ask unanimous consent that the text of the

committee substitute, as amended and modified, be printed in the Congressional RECORD.

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

The text of the Committee substitute, as amended, as modified, reads as follows:

S. 1173

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Intermodal Surface Transportation Efficiency Act of 1998''.

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

SEC. 2. DEFINITION.

In this Act, the term ''Secretary'' means the Secretary of Transportation.

TITLE I—SURFACE TRANSPORTATION

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Surface Transportation Act of 1998''.

Subtitle A—General Provisions

SEC. 1101. AUTHORIZATIONS.

(a) IN GENERAL.—For the purpose of carrying out title 23, United States Code, the following sums shall be available from the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—For the Interstate and National Highway System program under section 103 of that title $11,977,000,000 for fiscal year 1998, $11,949,000,000 for fiscal year 1999, $11,922,000,000 for fiscal year 2000, $11,950,000,000 for fiscal year 2001, $12,242,000,000 for fiscal year 2002, and $12,659,000,000 for fiscal year 2003, of which—

(A) $4,600,000,000 for fiscal year 1998, $4,609,000,000 for fiscal year 1999, $4,637,000,000 for fiscal year 2000, $4,674,000,000 for fiscal year 2001, $4,773,000,000 for fiscal year 2002, and $4,918,000,000 for fiscal year 2003 shall be available for the Interstate maintenance component; and

(B) $1,400,000,000 for fiscal year 1998, $1,403,000,000 for fiscal year 1999, $1,411,000,000 for fiscal year 2000, $1,423,000,000 for fiscal year 2001, $1,453,000,000 for fiscal year 2002, and $1,497,000,000 for fiscal year 2003 shall be available for the Interstate bridge component.

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title $7,000,000,000 for fiscal year 1998, $7,014,000,000 for fiscal year 1999, $7,056,000,000 for fiscal year 2000, $7,113,000,000 for fiscal year 2001, $7,263,000,000 for fiscal year 2002, and $7,484,000,000 for fiscal year 2003.

(3) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title $1,150,000,000 for fiscal year 1998, $1,152,000,000 for fiscal year 1999, $1,159,000,000 for fiscal year 2000, $1,169,000,000 for fiscal year 2001, $1,193,000,000 for fiscal year 2002, and $1,230,000,000 for fiscal year 2003.

(4) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title $200,000,000 for each of fiscal years 1998 through 2003.

(B) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title $90,000,000 for each of fiscal years 1998 through 2003.

(C) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title $172,000,000 for each of fiscal years 1998 through 2003.

(b) REDUCTION FOR AMOUNTS MADE AVAILABLE FOR FISCAL YEAR 1998 UNDER SURFACE TRANSPORTATION EXTENSION ACT OF 1997.—Notwithstanding any other provision of this Act, the Secretary shall reduce the amounts made available under this section, other provisions of this Act, and the amendments made by this Act for fiscal year 1998 by the amounts made available under the Surface Transportation Extension Act of 1997 (Public Law 105–130) in the following manner:

(1) INTERSTATE MAINTENANCE.—

(A) REDUCTION.—The amount made available to each State under the Interstate maintenance component of the Interstate and National Highway System program under section 104(b)(1)(A) of title 23, United States Code, shall be reduced by the amount made available to the State under section 2 of the Surface Transportation Extension Act of 1997 (23 U.S.C. 104 note; 111 Stat. 2552) (and the amendments made by that Act) (collectively referred to in this subsection as ''STEA'') for the Interstate maintenance program.

(B) INSUFFICIENT INTERSTATE MAINTENANCE FUNDS.—If—

(i) the amount made available to the State under section 2 of STEA for the Interstate maintenance program; exceeds

(ii) the amount made available to the State under the Interstate maintenance component under section 104(b)(1)(A) of title 23, United States Code;

then, after the reduction required by subparagraph (A) is made, the amount made available to the State under the Interstate bridge and other National Highway System components of the Interstate and National Highway System program under subparagraphs (B) and (C) of section 104(b)(1) of that title shall be reduced by the amount of the excess.

(2) BRIDGES.—The amount made available to each State under the Interstate bridge and other National Highway System components of the Interstate and National Highway System program under subparagraphs (B) and (C) of section 104(b)(1) of title 23, United States Code, shall be reduced by the amount made available to the State under section 2 of STEA for the bridge program.

(3) NATIONAL HIGHWAY SYSTEM.—The amount made available to each State under the Interstate bridge and other National Highway System

components of the Interstate and National Highway System program under subparagraphs (B) and (C) of section 104(b)(1) of title 23, United States Code, shall be reduced by the amount made available to the State under section 2 of STEA for the National Highway System.

(4) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The amount made available to each State for the congestion mitigation and air quality improvement program under section 104(b)(2) of title 23, United States Code, shall be reduced by the amount made available to the State under section 2 of STEA for the congestion mitigation and air quality improvement program.

(5) METROPOLITAN PLANNING.—The amount made available to each State for metropolitan planning under section 104(f) of title 23, United States Code, shall be reduced by the amount made available to the State under section 5 of STEA for metropolitan planning.

(6) SURFACE TRANSPORTATION PROGRAM.—

(A) SAFETY PROGRAMS.—

(i) REDUCTION.—The amount set aside for safety programs from the amount made available to each State for the surface transportation program under section 104(b)(3) of title 23, United States Code, shall be reduced by the amount set aside for safety programs from the amount made available to the State under section 2 of STEA for the surface transportation program, minimum allocation, Interstate reimbursement, the donor State bonus, hold harmless, and 90 percent of payments adjustments.

(ii) INSUFFICIENT SAFETY PROGRAM FUNDS.—If—

(I) the amount set aside for safety programs from the amount made available to the State under section 2 of STEA for the surface transportation program, minimum allocation, Interstate reimbursement, the donor State bonus, hold harmless, and 90 percent of payments adjustments; exceeds

(II) the amount set aside for safety programs from the amount made available to the State for the surface transportation program under section 104(b)(3) of title 23, United States Code;

then, after the reduction required by clause (i) is made, the amount made available to the State for the surface transportation program under section 104(b)(3), other than the amounts set aside or suballocated under section 133(d) or 505 of that title, shall be reduced by the amount of the excess.

(B) TRANSPORTATION ENHANCEMENT ACTIVITIES.—

(i) REDUCTION.—The amount set aside for transportation enhancement activities from the amount made available to each State for the surface transportation program under section 104(b)(3) of title 23, United States Code, shall be reduced by the amount set aside for transportation enhancement activities from the amount made available to the State under section 2 of STEA for the surface transportation program, minimum allocation, Interstate reimbursement, the donor State bonus, hold harmless, and 90 percent of payments adjustments.

(ii) INSUFFICIENT TRANSPORTATION ENHANCEMENT FUNDS.—If—

(I) the amount set aside for transportation enhancement activities from the amount made available to the State under section 2 of STEA for the surface transportation program, minimum allocation, Interstate reimbursement, the donor State bonus, hold harmless, and 90 percent of payments adjustments; exceeds

(II) the amount set aside for transportation enhancement activities from the amount made available to the State for the surface transportation program under section 104(b)(3) of title 23, United States Code;

then, after the reduction required by clause (i) is made, the amount made available to the State for the surface transportation program under section 104(b)(3), other than the amounts set aside or suballocated under section 133(d) or 505 of that title, shall be reduced by the amount of the excess.

(C) SUBALLOCATION BY POPULATION.—The total of—

(i) the amount suballocated by population from the amount made available to each State for the surface transportation program under section 104(b)(3) of title 23, United States Code;

(ii) the amount suballocated by population from the amount made available to the State for ISTEA transition under section 1102(c); and

(iii) the amount suballocated by population from the amount made available to the State for minimum guarantee under section 105 of that title;

shall be reduced by the amount suballocated by population from the amount made available to the State under section 2 of STEA for the surface transportation program, minimum allocation, Interstate reimbursement, the donor State bonus, hold harmless, and 90 percent of payments adjustments.

(D) SURFACE TRANSPORTATION PROGRAM FLEXIBLE FUNDS; INTERSTATE REIMBURSEMENT; EQUITY ADJUSTMENTS.—

(i) REDUCTION.—The total of—

(I) the amount made available to each State for the surface transportation program under section 104(b)(3) of title 23, United States Code, other than the amounts set aside or suballocated under section 133(d) or 505 of that title;

(II) the amount made available to the State for ISTEA transition under section 1102(c), other than the amounts subject to section 133(d)(3) or 505 of that title; and

(III) the amount made available to the State for minimum guarantee under section 105 of that title, other than the amount subject to section 133(d)(3) of that title;

shall be reduced by the amount made available to the State under section 2 of STEA for the surface transportation program, minimum allocation, Interstate reimbursement, the donor State bonus, hold harmless, and 90 percent of payments adjustments, other than the amounts set aside or suballocated under section 133(d) or 307(c) (as in effect on the day before the date of enactment of this Act) of that title.

(ii) INSUFFICIENT SURFACE TRANSPORTATION PROGRAM FLEXIBLE, ISTEA TRANSITION, AND MINIMUM GUARANTEE FUNDS.—If—

(I) the amount made available to the State under section 2 of STEA for the surface transportation program, minimum allocation, Interstate reimbursement, the donor State bonus, hold harmless, and 90 percent of payments adjustments, other than the amounts set aside or suballocated under section 133(d) or 307(c) (as in effect on the day before the date of enactment of this Act) of that title; exceeds

(II) the sum of the amounts described in subclauses (I) through (III) of clause (i), after application of the preceding provisions of this subsection;

then, after the reduction required by clause (i) is made, the amount made available under the Interstate bridge and other National Highway System components of the Interstate and National Highway System program under subparagraphs (B) and (C) of section 104(b)(1) of that title shall be reduced by the amount of the excess.

(7) FUNDING RESTORATION; ISTEA SECTIONS 1103–1108 FUNDS; STATE PLANNING AND RESEARCH.—

(A) REDUCTION.—The amount made available to each State for the surface transportation program under section 104(b)(3) of title 23, United States Code, other than the amounts set aside or suballocated under section 133(d) or 505 of that title, shall be reduced by the sum of—

(i) the amount made available to the State for funding restoration under section 2 of STEA;

(ii) the amount equal to the funds provided to the State under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027) under section 2 of STEA; and

(iii) the amount made available from the surface transportation program under section 104(b)(3) of that title for State planning and research under section 307(c) of that title (as in effect on the day before the date of enactment of this Act) for fiscal year 1998.

(B) INSUFFICIENT SURFACE TRANSPORTATION PROGRAM FLEXIBLE FUNDS.—If—

(i) the sum of the amounts described in clauses (i) through (iii) of subparagraph (A); exceeds

(ii) the amount made available to each State for the surface transportation program under section 104(b)(3) of title 23, United States Code, other than the amounts set aside or suballocated under section 133(d) or 505 of that title, after application of the preceding provisions of this subsection;

then, after the reduction required by subparagraph (A) is made, the amount made available under the Interstate bridge and other National Highway System components of the Interstate and National Highway System program under subparagraphs (B) and (C) of section 104(b)(1) of that title shall be reduced by the amount of the excess.

(8) ADDITIONAL ALLOCATION.—The amount made available to each State for the surface transportation program under section 104(b)(3) of title 23, United States Code, that remains available after the set-asides required by section 133(d) of that title shall be reduced by the amount made available to the State under section 2 of STEA for section 1015(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1944).

(9) ADMINISTRATIVE EXPENSES.—

(A) FEDERAL HIGHWAY ADMINISTRATION.—The amount made available for administrative expenses under section 104(a) of title 23, United States Code, shall be reduced by the amount made available under section 4(a)(2) of STEA.

(B) WOODROW WILSON MEMORIAL BRIDGE.—The amount made available under section 412 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 shall be reduced by the amount made available under section 4(a)(3) of STEA.

(C) BUREAU OF TRANSPORTATION STATISTICS.—The amount made available under section 111(m) of title 49, United States Code, shall be reduced by the amount made available under section 4(b) of STEA.

(10) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—The amount made available for Indian reservation roads under section 204 of title 23, United States Code, shall be reduced by the amount made available under section 5(a)(1) of STEA.

(B) PUBLIC LANDS HIGHWAYS.—The amount made available for public lands highways under section 204 of title 23, United States Code, shall be reduced by the amount made available under section 5(a)(2) of STEA.

(C) PARKWAYS AND PARK ROADS.—The amount made available for parkways and park roads under section 204 of title 23, United States Code, shall be reduced by the amount made available under section 5(a)(3) of STEA.

(11) RECREATIONAL TRAILS PROGRAM.—The amount made available for the recreational trails program under section 206 of title 23, United States Code, shall be reduced by the amount made available under section 5(b) of STEA.

(12) HIGHWAY USE TAX EVASION PROJECTS.—The amount made available for highway use tax evasion projects under section 143 of title 23, United States Code, shall be reduced by the amount made available under section 5(c)(1) of STEA.

(13) NATIONAL SCENIC BYWAYS PROGRAM.—The amount made available for the national scenic byways program under section 165 of title 23, United States Code, shall be reduced by the amount made available under section 5(c)(2) of STEA.

(14) INTELLIGENT TRANSPORTATION SYSTEMS.—The amount made available for intelligent transportation systems under subchapter II of

chapter 5 of title 23, United States Code, shall be reduced by the amount made available under by section 5(d) of STEA.

(15) SURFACE TRANSPORTATION RESEARCH.—

(A) OPERATION LIFESAVER.—The amount made available for operation lifesaver under section 104(d)(1) of title 23, United States Code, shall be reduced by the amount made available under section 5(e)(1) of STEA.

(B) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—The amount made available for the Dwight David Eisenhower Transportation Fellowship Program under section 506(c) of title 23, United States Code, shall be reduced by the amount made available under section 5(e)(2) of STEA.

(C) NATIONAL HIGHWAY INSTITUTE.—The amount made available for the National Highway Institute under section 506(b) of title 23, United States Code, shall be reduced by the amount made available under section 5(e)(3) of STEA.

(16) EDUCATION AND TRAINING.—The amount made available for education and training under section 506(a) of title 23, United States Code, shall be reduced by the amount made available under section 5(e)(4) of STEA.

(17) TERRITORIES.—The amount made available for the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands under section 104(b)(1)(C)(i) of title 23, United States Code, shall be reduced by the amount made available under section 5(g) of STEA.

SEC. 1102. APPORTIONMENTS.

(a) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) and the set-asides authorized by subsection (f) and section 207(f), shall apportion the remainder of the sums made available for expenditure on the Interstate and National Highway System program, the congestion mitigation and air quality improvement program, and the surface transportation program, for that fiscal year, among the States in the following manner:

''(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—

''(A) INTERSTATE MAINTENANCE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System—

''(i) 50 percent in the ratio that—

''(I) the total lane miles on Interstate System routes designated under—

''(aa) section 103;

''(bb) section 139(a) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

''(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998); in each State; bears to

''(II) the total of all such lane miles in all States; and

''(ii) 50 percent in the ratio that—

''(I) the total vehicle miles traveled on lanes on Interstate System routes designated under—

''(aa) section 103;

''(bb) section 139(a) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

''(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998); in each State; bears to

''(II) the total of all such vehicle miles traveled in all States.

''(B) INTERSTATE BRIDGE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing bridges on the Interstate System, and for the purposes specified in subparagraph (A), in the ratio that—

''(i) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in each State; bears to

''(ii) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in all States.

''(C) OTHER NATIONAL HIGHWAY SYSTEM COMPONENT.—

''(i) IN GENERAL.—For the National Highway System (excluding funds apportioned under subparagraph (A) or (B)), $36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands and the remainder apportioned as follows:

''(I) 20 percent of the apportionments in the ratio that—

''(aa) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

''(bb) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

''(II) 29 percent of the apportionments in the ratio that—

''(aa) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

''(bb) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

''(III) 18 percent of the apportionments in the ratio that—

''(aa) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in each State; bears to

''(bb) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in all States.

''(IV) 24 percent of the apportionments in the ratio that—

''(aa) the total diesel fuel used on highways in each State; bears to

''(bb) the total diesel fuel used on highways in all States.

''(V) 9 percent of the apportionments in the ratio that—

''(aa) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

''(bb) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

''(ii) DATA.—Each calculation under clause (i) shall be based on the latest available data.

''(D) MINIMUM APPORTIONMENT.—Notwithstanding subparagraphs (A) through (C), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

''(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

''(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

''(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

''(ii) the total of all weighted nonattainment and maintenance area populations in all States.

''(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

''(i) 0.8 if—

''(I) at the time of the apportionment, the area is a maintenance area; or

''(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.);

''(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

''(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under that subpart;

''(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under that subpart;

''(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under that subpart;

''(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under that subpart; or

''(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide.

''(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—

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

''(ii) CARBON MONOXIDE MAINTENANCE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was at one time also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide but has been redesignated as a maintenance area, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.1.

''(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

''(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

''(3) SURFACE TRANSPORTATION PROGRAM.—

''(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

''(i) 20 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) 30 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) 25 percent of the apportionments in the ratio that—

''(I) the total square footage of structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in each State; bears to

''(II) the total square footage of structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in all States.

''(iv) 25 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) DATA.—Each calculation under subparagraph (A) shall be based on the latest available data.

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

(b) EFFECT OF CERTAIN DELAY IN DEPOSITS INTO HIGHWAY TRUST FUND.—Section 104 of title 23, United States Code, is amended by striking subsection (h) and inserting the following:

''(h) EFFECT OF CERTAIN DELAY IN DEPOSITS INTO HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, deposits into the Highway Trust Fund resulting from the application of section 901(e) of the Taxpayer Relief Act of 1997 (111 Stat. 872) shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Intermodal Surface Transportation Efficiency Act of 1998 and this title.''.

(c) ISTEA TRANSITION.—

(1) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall determine, with respect to each State—

(A) the total apportionments for the fiscal year under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program;

(B) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway programs (as defined in section 101 of title 23, United States Code), excluding apportionments for the Federal lands highways program under section 204 of that title;

(C) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway programs (as defined in section 101 of title 23, United States Code), excluding—

(i) apportionments authorized under section 104 of that title for construction of the Interstate System;

(ii) apportionments for the Interstate substitute program under section 103(e)(4) of that title (as in effect on the day before the date of enactment of this Act);

(iii) apportionments for the Federal lands highways program under section 204 of that title; and

(iv) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943);

(D) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (B); by

(ii) the applicable percentage determined under paragraph (2); and

(E) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (C); by

(ii) the applicable percentage determined under paragraph (2).

(2) APPLICABLE PERCENTAGES.—

(A) FISCAL YEAR 1998.—For fiscal year 1998—

(i) the applicable percentage referred to in paragraph (1)(D)(ii) shall be 145 percent; and

(ii) the applicable percentage referred to in paragraph (1)(E)(ii) shall be 107 percent.

(B) FISCAL YEARS THEREAFTER.—For each of fiscal years 1999 through 2003, the applicable percentage referred to in paragraph (1)(D)(ii) or (1)(E)(ii), respectively, shall be a percentage equal to the product obtained by multiplying—

(i) the percentage specified in clause (i) or (ii), respectively, of subparagraph (A); by

(ii) the percentage that—

(I) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for the fiscal year; bears to

(II) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for fiscal year 1998.

(3) MAXIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, in the case of each State with respect to which the total apportionments determined under paragraph (1)(A) is greater than the product determined under paragraph (1)(D), the Secretary shall reduce proportionately the apportionments to the State under section 104 of title 23, United States Code, for the National Highway System component of the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program so that the total of the apportionments is equal to the product determined under paragraph (1)(D).

(B) REDISTRIBUTION OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds made available under subparagraph (A) shall be redistributed proportionately under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program, to States not subject to a reduction under subparagraph (A).

(ii) LIMITATION.—The ratio that—

(I) the total apportionments to a State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program, after the application of clause (i); bears to

(II) the annual average of the total apportionments determined under paragraph (1)(B) with respect to the State;

may not exceed, in the case of fiscal year 1998, 145 percent, and, in the case of each of fiscal years 1999 through 2003, 145 percent as adjusted in the manner described in paragraph (2)(B).

(4) MINIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall apportion to each State such additional amounts as are necessary to ensure that—

(i) the total apportionments to the State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program, after the application of paragraph (3); is equal to

(ii) the greater of—

(I) the product determined with respect to the State under paragraph (1)(E); or

(II) the total apportionments to the State for fiscal year 1997 for all Federal-aid highway programs, excluding—

(aa) apportionments for the Federal lands highways program under section 204 of title 23, United States Code;

(bb) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943); and

(cc) demonstration projects under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

(B) OBLIGATION.—Amounts apportioned under subparagraph (A)—

(i) shall be considered to be sums made available for expenditure on the surface transportation program, except that—

(I) the amounts shall not be subject to paragraphs (1) and (2) of section 133(d) of title 23, United States Code; and

(II) 50 percent of the amounts shall be subject to section 133(d)(3) of that title;

(ii) shall be available for any purpose eligible for funding under section 133 of that title; and

(iii) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are apportioned.

(C) AUTHORIZATION OF CONTRACT AUTHORITY.—

(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this paragraph.

(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(d) MINIMUM GUARANTEE.—

(1) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

''§ 105. Minimum guarantee

''(a) ADJUSTMENT.—

''(1) IN GENERAL.—In fiscal year 1998 and each fiscal year thereafter on October 1, or as soon as practicable thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that—

''(A) the ratio that—

''(i) each State's percentage of the total apportionments for the fiscal year—

''(I) under section 104 for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program; and

''(II) under this section and section 1102(c) of the Intermodal Surface Transportation Efficiency Act of 1998 for ISTEA transition; bears to

''(ii) each State's percentage 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 latest fiscal year for which data are available;

is not less than 0.90; and

''(B) in the case of a State specified in paragraph (2), the State's percentage of the total apportionments for the fiscal year described in subclauses (I) and (II) of subparagraph (A)(i) is—

''(i) not less than the percentage specified for the State in paragraph (2); but

''(ii) not greater than the product determined for the State under section 1102(c)(1)(D) of the Intermodal Surface Transportation Efficiency Act of 1998 for the fiscal year.

''(2) STATE PERCENTAGES.—The percentage referred to in paragraph (1)(B) for a specified State shall be determined in accordance with the following table:

''State	Percentage
Alaska	1.24
Arkansas	1.33
Delaware	0.47
Hawaii	0.55

''State	Percentage
Idaho	0.82
Montana	1.06
Nevada	0.73
New Hampshire	0.52
New Jersey	2.41
New Mexico	1.05
North Dakota	0.73
Rhode Island	0.58
South Dakota	0.78
Vermont	0.47
Wyoming	0.76.

''(b) TREATMENT OF ALLOCATIONS.—

''(1) OBLIGATION.—Amounts allocated under subsection (a)—

''(A) shall be available for obligation when allocated and shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are allocated; and

''(B) shall be available for any purpose eligible for funding under this title.

''(2) SET-ASIDE.—Fifty percent of the amounts allocated under subsection (a) shall be subject to section 133(d)(3).

''(c) TREATMENT OF WITHHELD APPORTIONMENTS.—For the purpose of subsection (a), any funds that, but for section 158(b) or any other provision of law under which Federal-aid highway funds are withheld from apportionment, would be apportioned to a State for a fiscal year under a section referred to in subsection (a) shall be treated as being apportioned in that fiscal year.

''(d) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

''105. Minimum guarantee.''.

(e) AUDITS OF HIGHWAY TRUST FUND.—Section 104 of title 23, United States Code, is amended by striking subsection (i) and inserting the following:

''(i) AUDITS OF HIGHWAY TRUST FUND.—From available administrative funds deducted under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.''.

(f) TECHNICAL AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting ''NOTIFICATION TO STATES.—'' after ''(e)'';

(B) in the first sentence—

(i) by striking ''(other than under subsection (b)(5) of this section)''; and

(ii) by striking ''and research'';

(C) by striking the second sentence; and

(D) in the last sentence, by striking '', except that'' and all that follows through ''such funds''; and

(2) in subsection (f)—

(A) by striking ''(f)(1) On'' and inserting the following:

''(f) METROPOLITAN PLANNING.—

''(1) SET-ASIDE.—On'';

(B) by striking ''(2) These'' and inserting the following:

''(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—These'';

(C) by striking ''(3) The'' and inserting the following:

''(3) USE OF FUNDS.—The''; and

(D) by striking ''(4) The'' and inserting the following:

''(4) DISTRIBUTION OF FUNDS WITHIN STATES.—The''.

(g) CONFORMING AMENDMENTS.—

(1) Section 146(a) of title 23, United States Code, is amended in the first sentence by striking '', 104(b)(2), and 104(b)(6)'' and inserting ''and 104(b)(3)''.

(2)(A) Section 150 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 150.

(3) Section 158 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(iii) in paragraph (1) (as so redesignated)—

(I) by striking ''AFTER THE FIRST YEAR'' and inserting ''IN GENERAL''; and

(II) by striking '', 104(b)(2), 104(b)(5), and 104(b)(6)'' and inserting ''and 104(b)(3)''; and

(iv) in paragraph (2) (as redesignated by clause (ii)), by striking ''paragraphs (1) and (2) of this subsection'' and inserting ''paragraph (1)''; and

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

''(b) EFFECT OF WITHHOLDING OF FUNDS.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to that State.''.

(4)(A) Section 157 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 157.

(5)(A) Section 115(b)(1) of title 23, United States Code, is amended by striking ''or 104(b)(5), as the case may be,''.

(B) Section 137(f)(1) of title 23, United States Code, is amended by striking ''section 104(b)(5)(B) of this title'' and inserting ''section 104(b)(1)''.

(C) Section 141(c) of title 23, United States Code, is amended by striking ''section 104(b)(5) of this title'' each place it appears and inserting ''section 104(b)(1)(A)''.

(D) Section 142(c) of title 23, United States Code, is amended by striking ''(other than section 104(b)(5)(A))''.

(E) Section 159 of title 23, United States Code, is amended—

(i) by striking ''(5) of'' each place it appears and inserting ''(5) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998) of''; and

(ii) in subsection (b)—

(I) in paragraphs (1)(A)(i) and (3)(A), by striking ''section 104(b)(5)(A)'' each place it appears and inserting ''section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998)'';

(II) in paragraph (1)(A)(ii), by striking ''section 104(b)(5)(B)'' and inserting ''section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998)'';

(III) in paragraph (3)(B), by striking ''(5)(B)'' and inserting ''(5)(B) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998)''; and

(IV) in paragraphs (3) and (4), by striking ''section 104(b)(5)'' each place it appears and inserting ''section 104(b)(5) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998)''.

(F) Section 161(a) of title 23, United States Code, is amended by striking ''paragraphs (1), (3), and (5)(B) of section 104(b)'' each place it appears and inserting ''paragraphs (1) and (3) of section 104(b)''.

(6)(A) Section 104(g) of title 23, United States Code, is amended—

(i) in the first sentence, by striking ''sections 130, 144, and 152 of this title'' and inserting ''subsection (b)(1)(B) and sections 130 and 152'';

(ii) in the first and second sentences—

(I) by striking ''section'' and inserting ''provision''; and

(II) by striking ''such sections'' and inserting ''those provisions''; and

(iii) in the third sentence—

(I) by striking ''section 144'' and inserting ''subsection (b)(1)(B)''; and

(II) by striking ''subsection (b)(1)'' and inserting ''subsection (b)(1)(C)''.

(B) Section 115 of title 23, United States Code, is amended—

(i) in subsection (a)(1)(A)(i), by striking ''104(b)(2), 104(b)(3), 104(f), 144,'' and inserting ''104(b)(1)(B), 104(b)(2), 104(b)(3), 104(f),''; and

(ii) in subsection (c), by striking ''144,,''.

(C) Section 120(e) of title 23, United States Code, is amended in the last sentence by striking ''and in section 144 of this title''.

(D) Section 151(d) of title 23, United States Code, is amended by striking ''section 104(a), section 307(a), and section 144 of this title'' and inserting ''subsections (a) and (b)(1)(B) of section 104 and section 307(a)''.

(E) Section 204(c) of title 23, United States Code, is amended in the first sentence by striking ''or section 144 of this title''.

(F) Section 303(g) of title 23, United States Code, is amended by striking ''section 144 of this title'' and inserting ''section 104(b)(1)(B)''.

(7) Section 142(b) of title 23, United States Code, is amended by striking ''paragraph (5) of subsection (b) of section 104 of this title'' and inserting ''section 104(b)(1)(A)''.

(8) Section 152(e) of title 23, United States Code, is amended in the second sentence by striking ''section 104(b)(1)'' and inserting ''section 104(b)''.

SEC. 1103. OBLIGATION CEILING.

(a) GENERAL LIMITATIONS.—Subject to the other provisions of this section and notwithstanding any other provision of law, the total amount of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $21,500,000,000 for fiscal year 1998;
(2) $28,462,000,000 for fiscal year 1999;
(3) $28,894,000,000 for fiscal year 2000;
(4) $29,334,000,000 for fiscal year 2001;
(5) $29,800,000,000 for fiscal year 2002; and
(6) $30,319,000,000 for fiscal year 2003.

(b) EXCEPTIONS.—

(1) IN GENERAL.—The limitations under subsection (a) shall not apply to obligations of funds under—

(A) section 105(a) of title 23, United States Code (but, for each of fiscal years 1998 through 2007, only in an amount equal to the amount included for section 157 of title 23, United States Code, in the baseline determined by the Congressional Budget Office for the fiscal year 1998 budget (as specified in the letter from the Director of the Congressional Budget Office to the Chairman of the Senate Committee on Environment and Public Works, dated March 12, 1998)), excluding amounts allocated under section 105(a)(1)(B) of that title;

(B) section 125 of that title;

(C) section 157 of that title (as in effect on the day before the date of enactment of this Act);

(D) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(E) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);

(F) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2119);

(G) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198); and

(H) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027).

(2) EFFECT OF OTHER LAW.—A provision of law establishing a limitation on obligations for Federal-aid highways and highway safety construction programs may not amend or limit the applicability of this subsection, unless the provision specifically amends or limits that applicability.

(c) APPLICABILITY TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations for Federal-aid highways and highway safety construction programs established by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code.

(d) OBLIGATION AUTHORITY.—Section 118 of title 23, United States Code, is amended by adding at the end the following:

''(g) OBLIGATION AUTHORITY.—

''(1) DISTRIBUTION.—For each fiscal year, the Secretary shall—

''(A) distribute the total amount of obligation authority for Federal-aid highways and highway safety construction programs made available for the fiscal year by allocation in the ratio that—

''(i) the total of the sums made available for Federal-aid highways and highway safety construction programs (excluding demonstration projects) that are apportioned or allocated to each State for the fiscal year; bears to

''(ii) the total of the sums made available for Federal-aid highways and highway safety construction programs (excluding demonstration projects) that are apportioned or allocated to all States for the fiscal year;

''(B) provide all States with authority sufficient to prevent lapses of sums made available for Federal-aid highways that have been apportioned to a State; and

''(C) notwithstanding subparagraphs (A) and (B), not distribute—

''(i) amounts deducted under section 104(a) for administrative expenses;

''(ii) amounts set aside under section 104(k) for Interstate 4R and bridge projects;

''(iii) amounts made available under sections 143, 164, 165, 204, 206, 207, and 322;

''(iv) amounts made available under section 111 of title 49;

''(v) amounts made available under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.);

''(vi) amounts made available under section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938);

''(vii) amounts made available under sections 1503, 1603, and 1604 of the Intermodal Surface Transportation Efficiency Act of 1998;

''(viii) amounts made available under section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 201);

''(ix) amounts made available under section 105(a)(1)(A) to the extent that the amounts are subject to any obligation limitation under section 1103(a) of the Intermodal Surface Transportation Efficiency Act of 1998;

''(x) amounts made available for implementation of programs under chapter 5 of this title and sections 5222, 5232, and 5241 of title 49;

''(xi) amounts set aside under section 104(d) for operation lifesaver and railway-highway crossing hazard elimination in high speed rail corridors; and

''(xii) amounts made available under section 412 of the Woodrow Wilson Memorial Bridge Authority Act of 1995.

''(xiii) amounts set aside under section 1133.

''(2) REDISTRIBUTION.—Notwithstanding paragraph (1), the Secretary shall, after August 1 of each of fiscal years 1998 through 2003—

''(A) revise a distribution of the funds made available under paragraph (1) for the fiscal year if a State will not obligate the amount distributed during the fiscal year; and

''(B) redistribute sufficient amounts to those States able to obligate amounts in addition to the amounts previously distributed during the fiscal year, giving priority to those States that have large unobligated balances of funds apportioned under section 104 and under section 144 (as in effect on the day before the date of enactment of this subparagraph).

''(3) DEMONSTRATION PROJECTS.—

''(A) APPLICABILITY OF OBLIGATION LIMITATIONS.—Notwithstanding any other provision of law, a demonstration project shall be subject to any limitation on obligations established by law that applies to Federal-aid highways and highway safety construction programs.

''(B) MAXIMUM OBLIGATION LEVEL.—For each fiscal year, a State may obligate for demonstration projects an amount of the obligation authority for Federal-aid highways and highway safety construction programs made available to the State for the fiscal year that is not more than the product obtained by multiplying—

''(i) the total of the sums made available for demonstration projects in the State for the fiscal year; by

''(ii) the ratio that—

''(I) the total amount of the obligation authority for Federal-aid highways and highway safety construction programs (including demonstration projects) made available to the State for the fiscal year; bears to

''(II) the total of the sums made available for Federal-aid highways and highway safety construction programs (including demonstration projects) that are apportioned or allocated to the State for the fiscal year.

''(4) DEFINITION OF DEMONSTRATION PROJECT.—In this subsection, the term 'demonstration project' means a demonstration project or similar project (including any project similar to a project authorized under any of sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027)) that is funded from the Highway Trust Fund (other than the Mass Transit Account) and authorized under—

''(A) the Intermodal Surface Transportation Efficiency Act of 1998; or

''(B) any law enacted after the date of enactment of that Act.''.

(e) 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) $301,725,000 for fiscal year 1999;

(2) $302,055,000 for fiscal year 2000;

(3) $303,480,000 for fiscal year 2001;

(4) $310,470,000 for fiscal year 2002; and

(5) $320,595,000 for fiscal year 2003.

(f) APPLICABILITY OF OBLIGATION LIMITATIONS.—An obligation limitation established by a provision of any other Act shall not apply to obligations under a program funded under this Act or title 23, United States Code, unless—

(1) the provision specifically amends or limits the applicability of this subsection; or

(2) an obligation limitation is specified in this Act with respect to the program.

SEC. 1104. OBLIGATION AUTHORITY UNDER SURFACE TRANSPORTATION PROGRAM.

Section 133 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

''(f) OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3) shall make available during the 3-fiscal year period of 1998 through 2000, and the 3-fiscal year period of 2001 through 2003, an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

''(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during each such period; by

''(B) the ratio that—

''(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

''(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

''(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).''.

SEC. 1105. EMERGENCY RELIEF.

(a) FEDERAL SHARE.—Section 120(e) of title 23, United States Code, is amended in the first sentence by striking ''highway system'' and inserting ''highway''.

(b) ELIGIBILITY AND FUNDING.—Section 125 of title 23, United States Code, is amended—

(1) by striking subsection (a);

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

(3) by inserting after the section heading the following:

''(a) GENERAL ELIGIBILITY.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any part of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

''(1) natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

''(2) catastrophic failure from any external cause.

''(b) RESTRICTION ON ELIGIBILITY.—In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges that have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

''(c) FUNDING.—Subject to the following limitations, there are hereby made available from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis:

''(1) Not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out the provisions of this section, except that, if in any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated in such fiscal year, the unobligated balance of such amount shall remain available until expended and shall be in addition to amounts otherwise available to carry out this section each year.

''(2) Pending such appropriation or replenishment, the Secretary may obligate from any funds heretofore or hereafter appropriated for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, provided that such funds are reimbursed from the appropriations authorized in paragraph (1) of this subsection when such appropriations are made.'';

(4) in subsection (d) (as so redesignated), by striking ''subsection (c)'' both places it appears and inserting ''subsection (e)''; and

(5) in subsection (e) (as so redesignated), by striking ''on any of the Federal-aid highway systems'' and inserting ''Federal-aid highways''.

(c) SAN MATEO COUNTY, CALIFORNIA.—Notwithstanding any other provision of law, a project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, that—

(1) was destroyed as a result of a combination of storms in the winter of 1982–1983 and a mountain slide; and

(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities;

shall be eligible for assistance under section 125(a) of title 23, United States Code, if the project complies with the local coastal plan.

SEC. 1106. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

''(j) USE OF FEDERAL LAND MANAGEMENT AGENCY FUNDS.—Notwithstanding any other provision of law, the funds appropriated to any Federal land management agency may be used to pay the non-Federal share of the cost of any Federal-aid highway project the Federal share of which is funded under section 104.

''(k) USE OF FEDERAL LANDS HIGHWAYS PROGRAM FUNDS.—Notwithstanding any other provision of law, the funds made available to carry out the Federal lands highways program under section 204 may be used to pay the non-Federal share of the cost of any project that is funded under section 104 and that provides access to or within Federal or Indian lands.''.

(b) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by adding at the end the following: ''Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to pay the Federal share of the cost of the project.''.

(c) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

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

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, and Indian reservation roads and bridges.

''(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

''(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

''(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

''(A) shall be developed in cooperation with States and metropolitan planning organizations; and

''(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

''(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

''(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop by rule safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.'';

(2) in subsection (b), by striking the first 3 sentences and inserting the following: ''Funds available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay for the cost of transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within public lands, national parks, and Indian reservations. In connection with activities under the preceding sentence, the Secretary and the Secretary of the appropriate Federal land management agency may enter into construction contracts and other appropriate contracts with a State or civil subdivision of a State or Indian tribe.'';

(3) in the first sentence of subsection (e), by striking ''Secretary of the Interior'' and inserting ''Secretary of the appropriate Federal land management agency'';

(4) in subsection (h), by adding at the end the following:

''(8) A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.'';

(5) by striking subsection (i) and inserting the following:

''(i) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—

''(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

''(2) TRANSPORTATION PLANNING COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section.''; and

(6) in subsection (j), by striking the second sentence and inserting the following: ''The Indian tribal government, in cooperation with the Secretary of the Interior, and as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with subsection (a).''.

SEC. 1107. RECREATIONAL TRAILS PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 205 the following:

''§ 206. Recreational trails program

''(a) DEFINITIONS.—

''(1) MOTORIZED RECREATION.—The term 'motorized recreation' means off-road recreation using any motor-powered vehicle, except for a motorized wheelchair.

''(2) RECREATIONAL TRAIL; TRAIL.—The term 'recreational trail' or 'trail' means a thoroughfare or track across land or snow, used for recreational purposes such as—

''(A) pedestrian activities, including wheelchair use;

''(B) skating or skateboarding;

''(C) equestrian activities, including carriage driving;

''(D) nonmotorized snow trail activities, including skiing;

''(E) bicycling or use of other human-powered vehicles;

''(F) aquatic or water activities; and

''(G) motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.

''(b) PROGRAM.—In accordance with this section, the Secretary, in consultation with the Secretary of the Interior and the Secretary of Agriculture, shall carry out a program to provide and maintain recreational trails (referred to in this section as the 'program').

''(c) STATE RESPONSIBILITIES.—To be eligible for apportionments under this section—

''(1) a State may use apportionments received under this section for construction of new trails crossing Federal lands only if the construction is—

''(A) permissible under other law;

''(B) necessary and required by a statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.);

''(C) approved by the administering agency of the State designated under paragraph (2); and

''(D) approved by each Federal agency charged with management of the affected lands, which approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

''(2) the Governor of a State shall designate the State agency or agencies that will be responsible for administering apportionments received under this section; and

''(3) the State shall establish within the State a State trail advisory committee that represents both motorized and nonmotorized trail users.

''(d) USE OF APPORTIONED FUNDS.—

''(1) IN GENERAL.—Funds made available under this section shall be obligated for trails and trail-related projects that—

''(A) have been planned and developed under the laws, policies, and administrative procedures of each State; and

''(B) are identified in, or further a specific goal of, a trail plan or trail plan element included or referenced in a metropolitan transportation plan required under section 134 or a statewide transportation plan required under section 135, consistent with the statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.).

''(2) PERMISSIBLE USES.—Permissible uses of funds made available under this section include—

''(A) maintenance and restoration of existing trails;

''(B) development and rehabilitation of trailside and trailhead facilities and trail linkages;

''(C) purchase and lease of trail construction and maintenance equipment;

''(D) construction of new trails;

''(E) acquisition of easements and fee simple title to property for trails or trail corridors;

''(F) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment received by the State for a fiscal year; and

''(G) operation of educational programs to promote safety and environmental protection as these objectives relate to the use of trails.

''(3) USE OF APPORTIONMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), of the apportionments received for a fiscal year by a State under this section—

''(i) 40 percent shall be used for trail or trail-related projects that facilitate diverse recreational trail use within a trail corridor, trailside, or trailhead, regardless of whether the project is for diverse motorized use, for diverse nonmotorized use, or to accommodate both motorized and nonmotorized recreational trail use;

''(ii) 30 percent shall be used for uses relating to motorized recreation; and

''(iii) 30 percent shall be used for uses relating to nonmotorized recreation.

''(B) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than 1 percent of all such fuel use in the United States, shall be exempted from the requirements of subparagraph

(A) upon application to the Secretary by the State demonstrating that the State meets the conditions of this subparagraph.

''(C) WAIVER AUTHORITY.—Upon the request of a State trail advisory committee established under subsection (c)(3), the Secretary may waive, in whole or in part, the requirements of subparagraph (A) with respect to the State if the State certifies to the Secretary that the State does not have sufficient projects to meet the requirements of subparagraph (A).

''(D) STATE ADMINISTRATIVE COSTS.—State administrative costs eligible for funding under paragraph (2)(F) shall be exempt from the requirements of subparagraph (A).

''(e) ENVIRONMENTAL BENEFIT OR MITIGATION.—To the extent practicable and consistent with the other requirements of this section, a State should give consideration to project proposals that provide for the redesign, reconstruction, nonroutine maintenance, or relocation of trails to benefit the natural environment or to mitigate and minimize the impact to the natural environment.

''(f) FEDERAL SHARE.—

''(1) IN GENERAL.—Subject to the other provisions of this subsection, the Federal share of the cost of a project under this section shall not exceed 80 percent.

''(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency that sponsors a project under this section may contribute additional Federal funds toward the cost of a project, except that—

''(A) the share attributable to the Secretary of Transportation may not exceed 80 percent; and

''(B) the share attributable to the Secretary and the Federal agency jointly may not exceed 95 percent.

''(3) USE OF FUNDS FROM FEDERAL PROGRAMS TO PROVIDE NON-FEDERAL SHARE.—Notwithstanding any other provision of law, amounts made available by the Federal Government under any Federal program 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;

may be credited toward the non-Federal share of the cost of the project.

''(4) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments to the non-Federal share of an individual project under this section if the Federal share of the cost of all projects carried out by the State under the program (excluding projects funded under paragraph (2) or (3)) using funds apportioned to the State for a fiscal year does not exceed 80 percent.

''(5) STATE ADMINISTRATIVE COSTS.—The Federal share of the administrative costs of a State under this subsection shall be determined in accordance with section 120(b).

''(g) USES NOT PERMITTED.—A State may not obligate funds apportioned under this section for—

''(1) condemnation of any kind of interest in property;

''(2) construction of any recreational trail on National Forest System land for any motorized use unless—

''(A) the land has been apportioned for uses other than wilderness by an approved forest land and resource management plan or has been released to uses other than wilderness by an Act of Congress; and

''(B) the construction is otherwise consistent with the management direction in the approved forest land and resource management plan;

''(3) construction of any recreational trail on Bureau of Land Management land for any motorized use unless the land—

''(A) has been apportioned for uses other than wilderness by an approved Bureau of Land Management resource management plan or has been released to uses other than wilderness by an Act of Congress; and

''(B) the construction is otherwise consistent with the management direction in the approved management plan; or

''(4) upgrading, expanding, or otherwise facilitating motorized use or access to trails predominantly used by nonmotorized trail users and on which, as of May 1, 1991, motorized use is prohibited or has not occurred.

''(h) PROJECT ADMINISTRATION.—

''(1) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, SERVICES, OR NEW RIGHT-OF-WAY.—

''(A) IN GENERAL.—Nothing in this title or other law shall prevent a project sponsor from offering to donate funds, materials, services, or a new right-of-way for the purposes of a project eligible for assistance under this section. Any funds, or the fair market value of any materials, services, or new right-of-way, may be donated by any project sponsor and shall be credited to the non-Federal share in accordance with subsection (f).

''(B) FEDERAL PROJECT SPONSORS.—Any funds or the fair market value of any materials or services may be provided by a Federal project sponsor and shall be credited to the Federal agency's share in accordance with subsection (f).

''(2) RECREATIONAL PURPOSE.—A project funded under this section is intended to enhance recreational opportunity and is not subject to section 138 of this title or section 303 of title 49.

''(3) CONTINUING RECREATIONAL USE.—At the option of each State, funds made available under this section may be treated as Land and Water Conservation Fund apportionments for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(f)(3)).

''(4) COOPERATION BY PRIVATE PERSONS.—

''(A) WRITTEN ASSURANCES.—As a condition of making available apportionments for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the land will cooperate with the State and participate as necessary in the activities to be conducted.

''(B) PUBLIC ACCESS.—Any use of the apportionments to a State under this section on privately owned land must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by the apportionments.

''(i) APPORTIONMENT.—

''(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State that meets the requirements of subsection (c).

''(2) APPORTIONMENT.—Subject to subsection (j), for each fiscal year, the Secretary shall apportion—

''(A) 50 percent of the amounts made available to carry out this section equally among eligible States; and

''(B) 50 percent of the amounts made available to carry out this section among eligible States in proportion to the quantity of nonhighway recreational fuel used in each eligible State during the preceding year.

''(j) ADMINISTRATIVE COSTS.—

''(1) IN GENERAL.—Whenever an apportionment is made under subsection (i) of the amounts made available to carry out this section, the Secretary shall first deduct an amount, not to exceed 1 percent of the authorized amounts, to pay the costs to the Secretary for administration of, and research authorized under, the program.

''(2) USE OF CONTRACTS.—To carry out research funded under paragraph (1), the Secretary may—

''(A) enter into contracts with for-profit organizations; and

''(B) enter into contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations.

''(k) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $20,000,000 for fiscal year 1999, $22,000,000 for fiscal year 2000, $23,000,000 for fiscal year 2001, $24,000,000 for fiscal year 2002, and $25,000,000 for fiscal year 2003.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.''.

(b) CONFORMING AMENDMENTS.—

(1) The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title I (16 U.S.C. 1261 et seq.).

(2) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 206 and inserting the following:

''206. Recreational trails program.''.

SEC. 1108. VALUE PRICING PILOT PROGRAM.

(a) IN GENERAL.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in the subsection heading, by striking ''CONGESTION'' and inserting ''VALUE''; and

(2) in paragraph (1), by striking ''congestion'' each place it appears and inserting ''value''.

(b) INCREASED NUMBER OF PROJECTS.—Section 1012(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence by striking ''5'' and inserting ''15''.

(c) ELIGIBILITY OF PREIMPLEMENTATION COSTS.— Section 1012(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence—

(1) by inserting after ''Secretary shall fund'' the following: ''all preimplementation costs and project design, and''; and

(2) by inserting after ''Secretary may not fund'' the following: ''the implementation costs of''.

(d) TOLLING.—Section 1012(b)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking ''a pilot program under this section, but not on more than 3 of such programs'' and inserting ''any value pricing pilot program under this subsection''.

(e) HOV PASSENGER REQUIREMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking paragraph (6) and inserting the following:

''(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 146(c) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.''.

(f) FUNDING.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by adding at the end the following:

''(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,000,000 for each of fiscal years 1998 through 2003.

''(B) AVAILABILITY.—

''(i) IN GENERAL.—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 are authorized.

''(ii) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this subsection but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

''(I) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

''(II) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

''(III) shall be available for any purpose eligible for funding under section 133 of that title.

''(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph 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 any project under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.''.

(g) CONFORMING AMENDMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in paragraph (1), by striking ''projects'' each place it appears and inserting ''programs''; and

(2) in paragraph (5)—

(A) by striking ''projects'' and inserting ''programs''; and

(B) by striking ''traffic, volume'' and inserting ''traffic volume''.

SEC. 1109. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—Section 143 of title 23, United States Code, is amended to read as follows:

''§ 143. Highway use tax evasion projects

''(a) DEFINITION OF STATE.—In this section, the term 'State' means the 50 States and the District of Columbia.

''(b) PROJECTS.—

''(1) IN GENERAL.—The Secretary shall use funds made available under paragraph (7) to carry out highway use tax evasion projects in accordance with this subsection.

''(2) ALLOCATION OF FUNDS.—The funds may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary.

''(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

''(4) LIMITATION ON USE OF FUNDS.—Funds made available under paragraph (7) shall be used only—

''(A) to expand efforts to enhance motor fuel tax enforcement;

''(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

''(C) to supplement motor fuel tax examinations and criminal investigations;

''(D) to develop automated data processing tools to monitor motor fuel production and sales;

''(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

''(F) to reimburse State expenses that supplement existing fuel tax compliance efforts; and

''(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes.

''(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

''(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

''(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(A) IN GENERAL.—There shall be available to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for each of fiscal years 1998 through 2003.

''(B) AVAILABILITY OF FUNDS.—Funds authorized under this paragraph shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

''(8) In addition to funds allocated under this section, a State may, at its discretion, expend up to one-fourth of one percent of its annual Federal-aid apportionments under 104(b)(3) on initiatives to halt the evasion of payment of motor fuel taxes.

''(c) EXCISE FUEL REPORTING SYSTEM.—

''(1) IN GENERAL.—Not later than April 1, 1998, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development and maintenance by the Internal Revenue Service of an excise fuel reporting system (referred to in this subsection as the 'system').

''(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

''(A) the Internal Revenue Service shall develop and maintain the system through contracts;

''(B) the system shall be under the control of the Internal Revenue Service; and

''(C) the system shall be made available for use by appropriate State and Federal revenue, tax, or law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

''(3) AUTHORIZATION OF APPROPRIATIONS FROM HIGHWAY TRUST FUND.—

''(A) IN GENERAL.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

''(i) $8,000,000 for development of the system; and

''(ii) $2,000,000 for each of fiscal years 1998 through 2003 for operation and maintenance of the system.

''(B) AVAILABILITY.—Notwithstanding section 118(a), funds made available under subparagraph (A) shall not be available in advance of an annual appropriation.''.

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 143 and inserting the following:

''143. Highway use tax evasion projects.''.

(2) Section 1040 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is repealed.

(3) Section 8002 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 2203) is amended—

(A) in the first sentence of subsection (g), by striking ''section 1040 of this Act'' and inserting ''section 143 of title 23, United States Code,''; and

(B) by striking subsection (h).

SEC. 1110. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting ''pedestrian walkways and'' after ''construction of''; and

(B) by striking ''(other than the Interstate System)'';

(2) in subsection (e), by striking '', other than a highway access to which is fully controlled,'';

(3) by striking subsection (g) and inserting the following:

''(g) PLANNING AND DESIGN.—

''(1) IN GENERAL.—Bicyclists and pedestrians shall be given consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively.

''(2) CONSTRUCTION.—Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

''(3) SAFETY AND CONTIGUOUS ROUTES.—Transportation plans and projects shall provide consideration for safety and contiguous routes for bicyclists and pedestrians.'';

(4) in subsection (h)—

(A) by striking ''No motorized vehicles shall'' and inserting ''Motorized vehicles may not''; and

(B) by striking paragraph (3) and inserting the following:

''(3) wheelchairs that are powered; and''; and

(5) by striking subsection (j) and inserting the following:

''(j) DEFINITIONS.—In this section:

''(1) BICYCLE TRANSPORTATION FACILITY.—The term 'bicycle transportation facility' means a new or improved lane, path, or shoulder for use by bicyclists or a traffic control device, shelter, or parking facility for bicycles.

''(2) PEDESTRIAN.—The term 'pedestrian' means any person traveling by foot or any mobility impaired person using a wheelchair.

''(3) WHEELCHAIR.—The term 'wheelchair' means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or powered.''.

SEC. 1111. 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 V of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $16,600,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term ''socially and economically disadvantaged individuals'' has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of

principal owners, financial capacity, and type of work preferred.

(e) COMPLIANCE WITH COURT ORDERS.—Nothing in this section limits the eligibility of an entity or person to receive funds made available under titles I, II, 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.

(f) REVIEW BY COMPTROLLER GENERAL.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall conduct a review of, and publish and report to Congress findings and conclusions on, the impact throughout the United States of administering the requirement of subsection (a), including an analysis of—

(1) in the case of small business concerns certified in each State under subsection (d) as owned and controlled by socially and economically disadvantaged individuals—

(A) the number of the small business concerns; and

(B) the participation rates of the small business concerns in prime contracts and subcontracts funded under titles I, II, and V of this Act;

(2) in the case of small business concerns described in paragraph (1) that receive prime contracts and subcontracts funded under titles I, II, and V of this Act—

(A) the number of the small business concerns;

(B) the annual gross receipts of the small business concerns; and

(C) the net worth of socially and economically disadvantaged individuals that own and control the small business concerns;

(3) in the case of small business concerns described in paragraph (1) that do not receive prime contracts and subcontracts funded under titles I, II, and V of this Act—

(A) the annual gross receipts of the small business concerns; and

(B) the net worth of socially and economically disadvantaged individuals that own and control the small business concerns;

(4) in the case of business concerns that receive prime contracts and subcontracts funded under titles I, II, and V of this Act, other than small business concerns described in paragraph (2)—

(A) the annual gross receipts of the business concerns; and

(B) the net worth of individuals that own and control the business concerns;

(5) the rate of graduation from any programs carried out to comply with the requirement of subsection (a) for small business concerns owned and controlled by socially and economically disadvantaged individuals;

(6) the overall cost of administering the requirement of subsection (a), including administrative costs, certification costs, additional construction costs, and litigation costs;

(7) any discrimination, on the basis of race, color, national origin, or sex, against small business concerns owned and controlled by socially and economically disadvantaged individuals;

(8)(A) any other factors limiting the ability of small business concerns owned and controlled by socially and economically disadvantaged individuals to compete for prime contracts and subcontracts funded under titles I, II, and V of this Act; and

(B) the extent to which any of those factors are caused, in whole or in part, by discrimination based on race, color, national origin, or sex;

(9) any discrimination, on the basis of race, color, national origin, or sex, against construction companies owned and controlled by socially and economically disadvantaged individuals in public and private transportation contracting and the financial, credit, insurance, and bond markets;

(10) the impact on small business concerns owned and controlled by socially and economically disadvantaged individuals of—

(A) the issuance of a final order described in subsection (e) by a Federal court that suspends a program established under subsection (a); or

(B) the repeal or suspension of State or local disadvantaged business enterprise programs; and

(11) the impact of the requirement of subsection (a), and any program carried out to comply with subsection (a), on competition and the creation of jobs, including the creation of jobs for socially and economically disadvantaged individuals.

SEC. 1112. FEDERAL SHARE PAYABLE.

(a) IN GENERAL.—Section 120 of title 23, United States Code (as amended by section 1106(a)), is amended—

(1) in each of subsections (a) and (b), by adding at the end the following: ''In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection.''; and

(2) by adding at the end the following:

''(l) CREDIT FOR NON-FEDERAL SHARE.—

''(1) ELIGIBILITY.—A State may use as a credit toward the non-Federal share requirement for any program under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) or this title, other than the emergency relief program authorized by section 125, toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain, without the use of Federal funds, highways, bridges, or tunnels that serve the public purpose of interstate commerce.

''(2) MAINTENANCE OF EFFORT.—

''(A) IN GENERAL.—The credit toward any non-Federal share under paragraph (1) shall not reduce nor replace State funds required to match Federal funds for any program under this title.

''(B) CONDITIONS ON RECEIPT OF CREDIT.—

''(i) AGREEMENT WITH THE SECRETARY.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreements as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding 3 fiscal years.

''(ii) EXCEPTION.—Notwithstanding clause (i), a State may receive a credit under paragraph (1) for a fiscal year if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than 30 percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years.

''(3) TREATMENT.—

''(A) IN GENERAL.—Use of the credit toward a non-Federal share under paragraph (1) shall not expose the agencies from which the credit is received to additional liability, additional regulation, or additional administrative oversight.

''(B) CHARTERED MULTISTATE AGENCIES.—When credit is applied from a chartered multistate agency under paragraph (1), the credit shall be applied equally to all charter States.

''(C) NO ADDITIONAL STANDARDS.—A public, quasi-public, or private agency from which the credit for which the non-Federal share is calculated under paragraph (1) shall not be subject to any additional Federal design standards or laws (including regulations) as a result of providing the credit beyond the standards and laws to which the agency is already subject.''.

(b) TECHNICAL AMENDMENTS.—

(1) Section 104(f)(3) of title 23, United States Code, is amended in the second sentence by striking ''section 120(j) of this title'' and inserting ''section 120''.

(2) Section 130(a) of title 23, United States Code, is amended—

(A) in the first sentence, by striking ''Except as provided in subsection (d) of section 120 of this title'' and inserting ''Subject to section 120''; and

(B) in the second sentence, by striking ''except as provided in subsection (d) of section 120 of this title'' and inserting ''subject to section 120''.

SEC. 1113. STUDIES AND REPORTS.

(a) HIGHWAY ECONOMIC REQUIREMENT SYSTEM.—

(1) METHODOLOGY.—

(A) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the methodology used by the Department of Transportation to determine highway needs using the highway economic requirement system (referred to in this subsection as the ''model'').

(B) REQUIRED ELEMENT.—The evaluation shall include an assessment of the extent to which the model estimates an optimal level of highway infrastructure investment, including an assessment as to when the model may be overestimating or underestimating investment requirements.

(C) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the evaluation.

(2) STATE INVESTMENT PLANS.—

(A) STUDY.—In consultation with State transportation departments and other appropriate State and local officials, the Comptroller General of the United States shall conduct a study on the extent to which the highway economic requirement system of the Federal Highway Administration can be used to provide States with useful information for developing State transportation investment plans and State infrastructure investment projections.

(B) REQUIRED ELEMENTS.—The study shall—

(i) identify any additional data that may need to be collected beyond the data submitted, prior to the date of enactment of this Act, to the Federal Highway Administration through the highway performance monitoring system; and

(ii) identify what additional work, if any, would be required of the Federal Highway Administration and the States to make the model useful at the State level.

(C) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(b) INTERNATIONAL ROUGHNESS INDEX.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the international roughness index that is used as an indicator of pavement quality on the Federal-aid highway system.

(2) REQUIRED ELEMENTS.—The study shall specify the extent of usage of the index and the extent to which the international roughness index measurement is reliable across different manufacturers and types of pavement.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(c) REPORTING OF RATES OF OBLIGATION.—Section 104 of title 23, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (m); and

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

''(j) REPORTING OF RATES OF OBLIGATION.—On an annual basis, the Secretary shall publish or otherwise report rates of obligation of funds apportioned or set aside under this section and section 133 according to—

''(1) program;

''(2) funding category or subcategory;

''(3) type of improvement;

''(4) State; and

''(5) sub-State geographic area, including urbanized and rural areas, on the basis of the population of each such area.''.

(d) EVALUATION OF PROCUREMENT PRACTICES AND PROJECT DELIVERY.—

(1) STUDY.—The Comptroller General shall conduct a study to assess—

(A) the impact that a utility company's failure to relocate its facilities in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects;

(B) methods States use to mitigate delays described in subparagraph (A), including the use of the courts to compel utility cooperation;

(C) the prevalence and use of—

(i) incentives to utility companies for early completion of utility relocations on Federal-aid transportation project sites; and

(ii) penalties assessed on utility companies for utility relocation delays on such projects;

(D) the extent to which States have used available technologies, such as subsurface utility engineering, early in the design of Federal-aid highway and bridge projects so as to eliminate or reduce the need for or delays due to utility relocations; and

(E)(i) whether individual States compensate transportation contractors for business costs incurred by the contractors when Federal-aid highway and bridge projects under contract to the contractors are delayed by delays caused by utility companies in utility relocations; and

(ii) methods used by States in making any such compensation.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study, including any recommendations that the Comptroller General determines to be appropriate as a result of the study.

SEC. 1114. DEFINITIONS.

(a) FEDERAL-AID HIGHWAY FUNDS AND PROGRAM.—

(1) IN GENERAL.—Section 101(a) of title 23, United States Code, is amended by inserting before the undesignated paragraph defining ''Federal-aid highways'' the following:

''The term 'Federal-aid highway funds' means funds made available to carry out the Federal-aid highway program.

''The term 'Federal-aid highway program' means all programs authorized under chapters 1, 3, and 5.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 101(d) of title 23, United States Code, is amended by striking ''the construction of Federal-aid highways or highway planning, research, or development'' and inserting ''the Federal-aid highway program''.

(B) Section 104(m)(1) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended by striking ''Federal-aid highways and the highway safety construction programs'' and inserting ''the Federal-aid highway program''.

(C) Section 107(b) of title 23, United States Code, is amended in the second sentence by striking ''Federal-aid highways'' and inserting ''the Federal-aid highway program''.

(b) ALPHABETIZATION OF DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended by reordering the undesignated paragraphs so that they are in alphabetical order.

SEC. 1115. COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code (as amended by section 1107(a)), is amended by inserting after section 206 the following:

''§ 207. Cooperative Federal Lands Transportation Program

''(a) IN GENERAL.—There is established the Cooperative Federal Lands Transportation Program (referred to in this section as the 'program'). Funds available for the program under subsection (e) may be used for projects, or portions of projects, on highways that are owned or maintained by States or political subdivisions of States and that cross, are adjacent to, or lead to federally owned land or Indian reservations (including Army Corps of Engineers reservoirs), as determined by the State. Such projects shall be proposed by a State and selected by the Secretary. A project proposed by a State under this section shall be on a highway or bridge owned or maintained by the State, or 1 or more political subdivisions of the State, and may be a highway or bridge construction or maintenance project eligible under this title or any project of a type described in section 204(h).

''(b) DISTRIBUTION OF FUNDS FOR PROJECTS.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—The Secretary—

''(i) after consultation with the Administrator of General Services, the Secretary of the Interior, and other agencies as appropriate (including the Army Corps of Engineers), shall determine the percentage of the total land in each State that is owned by the Federal Government or that is held by the Federal Government in trust;

''(ii) shall determine the sum of the percentages determined under clause (i) for States with respect to which the percentage is 4.5 or greater; and

''(iii) shall determine for each State included in the determination under clause (ii) the percentage obtained by dividing—

''(I) the percentage for the State determined under clause (i); by

''(II) the sum determined under clause (ii).

''(B) ADJUSTMENT.—The Secretary shall—

''(i) reduce any percentage determined under subparagraph (A)(iii) that is greater than 7.5 percent to 7.5 percent; and

''(ii) redistribute the percentage points equal to any reduction under clause (i) among other States included in the determination under subparagraph (A)(ii) in proportion to the percentages for those States determined under subparagraph (A)(iii).

''(2) AVAILABILITY TO STATES.—Except as provided in paragraph (3), for each fiscal year, the Secretary shall make funds available to carry out eligible projects in a State in an amount equal to the amount obtained by multiplying—

''(A) the percentage for the State, if any, determined under paragraph (1); by

''(B) the funds made available for the program under subsection (e) for the fiscal year.

''(3) SELECTION OF PROJECTS.—The Secretary may establish deadlines for States to submit proposed projects for funding under this section, except that in the case of fiscal year 1998 the deadline may not be earlier than January 1, 1998. For each fiscal year, if a State does not have pending, by that deadline, applications for projects with an estimated cost equal to at least 3 times the amount for the State determined under paragraph (2), the Secretary may distribute, to 1 or more other States, at the Secretary's discretion, ⅓ of the amount by which the estimated cost of the State's applications is less than 3 times the amount for the State determined under paragraph (2).

''(c) TRANSFERS.—

''(1) IN GENERAL.—Subject to subsection (f), notwithstanding any other provision of law, a State and the Secretary may agree to transfer amounts made available to a State under this section to the allocations of the State under section 202 for use in carrying out projects on any Federal lands highway that is located in the State.

''(2) SPECIAL RULE.—This paragraph applies to a State that contains a national park that was visited by more than 2,500,000 people in 1996 and comprises more than 3,000 square miles of land area, including surface water, that is located in the State. For such a State, 50 percent of the amount that would otherwise be made available to the State for each fiscal year under the program under subsection (e) shall be made available only for eligible highway uses in the national park and within the borders of the State. For the purpose of making allocations under section 202(c), the Secretary may not take into account the past or future availability, for use on park roads and parkways in a national park, of funds made available for use in a national park by this paragraph.

''(d) RIGHTS-OF-WAY ACROSS FEDERAL LAND.—Nothing in this section affects any claim for a right-of-way across Federal land.

''(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section (other than subsection (f)) $74,000,000 for each of fiscal years 1998 through 2003.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.

''(f) ADDITIONAL AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.—

''(1) AVAILABILITY TO STATES.—Not later than October 1 of each fiscal year, funds made available under paragraph (5) for the fiscal year shall be made available by the Secretary, in equal amounts, to each State that has within the boundaries of the State all or part of an Indian reservation having a land area of 10,000,000 acres or more.

''(2) AVAILABILITY TO ELIGIBLE COUNTIES.—

''(A) IN GENERAL.—Each fiscal year, each county that is located in a State to which funds are made available under paragraph (1), and that has in the county a public road described in subparagraph (B), shall be eligible to apply to the State for all or a portion of the funds made available to the State under this subsection to be used by the county to maintain such roads.

''(B) ROADS.—A public road referred to in subparagraph (A) is a public road that—

''(i) is within, adjacent to, or provides access to an Indian reservation described in paragraph (1);

''(ii) is used by a school bus to transport children to or from a school or Headstart program carried out under the Head Start Act (42 U.S.C. 9831 et seq.); and

''(iii) is maintained by the county in which the public road is located.

''(C) ALLOCATION AMONG ELIGIBLE COUNTIES.—

''(i) IN GENERAL.—Except as provided in clause (ii), each State that receives funds under paragraph (1) shall provide directly to each county that applies for funds the amount that the county requests in the application.

''(ii) ALLOCATION AMONG ELIGIBLE COUNTIES.—If the total amount of funds applied for under this subsection by eligible counties in a State exceeds the amount of funds available to the State, the State shall equitably allocate the funds among the eligible counties that apply for funds.

''(3) SUPPLEMENTARY FUNDING.—For each fiscal year, the Secretary shall ensure that funding made available under this subsection supplements (and does not supplant)—

''(A) any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations; and

''(B) any funding provided by a State to a county for road maintenance programs in the county.

''(4) USE OF UNALLOCATED FUNDS.—Any portion of the funds made available to a State under this subsection that is not made available to counties within 1 year after the funds are made available to the State shall be apportioned among the States in accordance with section 104(b).

''(5) SET-ASIDE.—For each of fiscal years 1998 through 2003, the Secretary shall set aside $1,500,000 from amounts made available under section 541(a) of title 23, United States Code.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 207 and inserting the following:

''207. Cooperative Federal Lands Transportation Program.''.

SEC. 1116. TRADE CORRIDOR AND BORDER CROSSING PLANNING AND BORDER INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) AFFECTED PORT OF ENTRY.—The term ''affected port of entry'' means a seaport or airport in any State that demonstrates that the transportation of cargo by rail or motor carrier through the seaport or airport has increased significantly since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103–182).

(2) BORDER STATE.—The term ''border State'' means a State of the United States that—

(A) is located along the border with Mexico; or

(B) is located along the border with Canada.

(3) BORDER STATION.—The term ''border station'' means a controlled port of entry into the United States located in the United States at the border with Mexico or Canada, consisting of land occupied by the station and the buildings, roadways, and parking lots on the land.

(4) FEDERAL INSPECTION AGENCY.—The term ''Federal inspection agency'' means a Federal agency responsible for the enforcement of immigration laws (including regulations), customs laws (including regulations), and agriculture import restrictions, including the United States Customs Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, the Food and Drug Administration, the United States Fish and Wildlife Service, and the Department of State.

(5) GATEWAY.—The term ''gateway'' means a grouping of border stations defined by proximity and similarity of trade.

(6) NON-FEDERAL GOVERNMENTAL JURISDICTION.—The term ''non-Federal governmental jurisdiction'' means a regional, State, or local authority involved in the planning, development, provision, or funding of transportation infrastructure needs.

(b) BORDER CROSSING PLANNING INCENTIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall make incentive grants to States and to metropolitan planning organizations designated under section 134 of title 23, United States Code.

(2) USE OF GRANTS.—The grants shall be used to encourage joint transportation planning activities and to improve people and vehicle movement into and through international gateways as a supplement to statewide and metropolitan transportation planning funding made available under other provisions of this Act and under title 23, United States Code.

(3) CONDITION OF GRANTS.—As a condition of receiving a grant under paragraph (1), a State transportation department or a metropolitan planning organization shall certify to the Secretary that it commits to be engaged in joint planning with its counterpart agency in Mexico or Canada.

(4) LIMITATION ON AMOUNT.—Each State transportation department or metropolitan planning organization may receive not more than $100,000 under this subsection for any fiscal year.

(5) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,400,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection 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 under this subsection shall be determined in accordance with subsection (f).

(c) TRADE CORRIDOR PLANNING INCENTIVE GRANTS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States to encourage, within the framework of the statewide transportation planning process of the State under section 135 of title 23, United States Code, cooperative multistate corridor analysis of, and planning for, the safe and efficient movement of goods along and within international or interstate trade corridors of national importance and through affected ports of entry.

(B) IDENTIFICATION OF CORRIDORS.—Each corridor and affected port of entry referred to in subparagraph (A) shall be cooperatively identified by the States along the corridor or by the State in which the affected port of entry is located.

(2) CORRIDOR PLANS.—

(A) IN GENERAL.—As a condition of receiving a grant under paragraph (1), a State shall enter into an agreement with the Secretary that specifies that, not later than 2 years after receipt of the grant—

(i) in cooperation with the other States along the corridor, the State will submit a plan for corridor improvements to the Secretary; or

(ii) the State will submit a plan for affected port of entry improvements to the Secretary.

(B) COORDINATION OF PLANNING.—Planning with respect to a corridor under this subsection shall be coordinated with transportation planning being carried out by the States and metropolitan planning organizations along the corridor and, to the extent appropriate, with transportation planning being carried out by Federal land management agencies, by tribal governments, or by government agencies in Mexico or Canada.

(3) MULTISTATE AGREEMENTS FOR TRADE CORRIDOR PLANNING.—The consent of Congress is granted to any 2 or more States—

(A) to enter into multistate agreements, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of interstate trade corridor planning activities; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable to make the agreements effective.

(4) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $3,000,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection 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 under this subsection shall be determined in accordance with subsection (f).

(d) FEDERAL ASSISTANCE FOR TRADE CORRIDORS AND BORDER INFRASTRUCTURE SAFETY AND CONGESTION RELIEF.—

(1) APPLICATIONS FOR GRANTS.—The Secretary shall make grants to States or metropolitan planning organizations that submit an application that—

(A) demonstrates need for assistance in carrying out transportation projects that are necessary to relieve traffic congestion or improve enforcement of motor carrier safety laws;

(B) includes strategies to involve both the public and private sectors in the proposed project;

(C) provides for the safe and efficient movement of goods along and within international or interstate trade corridors; and

(D) provides for the continued planning and development of trade corridors.

(2) SELECTION OF STATES, METROPOLITAN PLANNING ORGANIZATIONS, AND PROJECTS TO RECEIVE GRANTS.—Notwithstanding any other provision of this Act, in selecting States, metropolitan planning organizations, and projects to receive grants under this subsection, the Secretary shall consider—

(A) the extent to which the annual volume of commercial vehicle traffic at the border stations or ports of entry of each State—

(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103–182); and

(ii) is projected to increase in the future;

(B) the extent to which commercial vehicle traffic in each State—

(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103–182); and

(ii) is projected to increase in the future;

(C) the extent of border and affected port of entry or ports of entry transportation improvements carried out by each State since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103–182);

(D) the extent to which international truck-borne commodities move through each State;

(E) the reduction in commercial and other travel time through a major international gateway or affected port of entry expected as a result of the proposed project including the level of traffic delays at at-grade highway crossings of major rail lines in trade corridors;

(F) the extent of leveraging of Federal funds provided under this subsection, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding including State, local, and private matching funds;

(G) improvements in vehicle and highway safety and cargo security in and through the gateway or affected port of entry concerned;

(H) the degree of demonstrated coordination with Federal inspection agencies;

(I) the extent to which the innovative and problem solving techniques of the proposed project would be applicable to other border stations or ports of entry;

(J) demonstrated local commitment to implement and sustain continuing comprehensive border or affected port of entry planning processes and improvement programs; and

(K) the value of the cargo carried by commercial vehicle traffic, to the extent that the value of the cargo and congestion impose economic costs on the Nation's economy.

(3) USE OF GRANTS.—

(A) IN GENERAL.—A grant under this subsection shall be used to develop project plans, and implement coordinated and comprehensive programs of projects, to improve efficiency and safety.

(B) TYPE OF PLANS AND PROGRAMS.—The plans and programs may include—

(i) improvements to transport and supporting infrastructure;

(ii) improvements in operational strategies, including electronic data interchange and use of telecommunications to expedite vehicle and cargo movement including the deployment of technologies to detect and deter illegal narcotic smuggling;

(iii) modifications to regulatory procedures to expedite vehicle and cargo flow;

(iv) new infrastructure construction;

(v) purchase, installation, and maintenance of weigh-in-motion devices and associated electronic equipment in Mexico or Canada if real time data from the devices is provided to the nearest border station and to State commercial vehicle enforcement facilities that serve the border station; and

(vi) other institutional improvements, such as coordination of binational planning, programming, and border operation, with special emphasis on coordination with—

(I) Federal inspection agencies; and

(II) their counterpart agencies in Mexico and Canada.

(4) CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE FOR LAW ENFORCEMENT PURPOSES.—At the request of the Administrator of General Services, in consultation with the Attorney General, the Secretary may transfer, during the period of fiscal years 1998 through 2001, not more

than $10,000,000 of the amounts made available under paragraph (5) to the Administrator of General Services for the construction of transportation infrastructure necessary for law enforcement in border States.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $125,000,000 for each of fiscal years 1998 through 2003.

(e) COORDINATION OF PLANNING.—

(1) PLANNING AND DEVELOPMENT OF BORDER STATIONS.—The General Services Administration shall be the coordinating Federal agency in the planning and development of new or expanded border stations.

(2) COOPERATIVE ACTIVITIES.—In carrying out paragraph (1), the Administrator of General Services shall cooperate with Federal inspection agencies and non-Federal governmental jurisdictions to ensure that—

(A) improvements to border station facilities take into account regional and local conditions, including the alignment of highway systems and connecting roadways; and

(B) all facility requirements, associated costs, and economic impacts are identified.

(f) COST SHARING.—A grant under this section shall be used to pay the Federal share of the cost of a project. The Federal share shall not exceed 80 percent.

(g) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this section but not allocated exceeds $4,000,000 as of September 30 of any year, the excess amount—

(1) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

(2) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

(3) shall be available for any purpose eligible for funding under section 133 of that title.

SEC. 1117. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Section 201(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the second sentence, by inserting before the period at the end the following: '', except that each allocation to a State shall remain available for expenditure in the State for the fiscal year in which the allocation is allocated and for the 3 following fiscal years''; and

(2) by inserting after the second sentence the following: ''Funds authorized under this section for fiscal year 1998 or a fiscal year thereafter, and not expended by a State during the 4 fiscal years referred to in the preceding sentence, shall be released to the Commission for reallocation and shall remain available until expended.''.

(b) SUBSTITUTE CORRIDOR.—Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) by striking ''(b) The Commission'' and inserting the following:

''(b) DESIGNATIONS.—

''(1) IN GENERAL.—The Commission''; and

(3) by adding at the end the following:

''(2) SUBSTITUTE CORRIDOR.—In lieu of Corridor H in Virginia, the Appalachian development highway system shall include the Virginia portion of the segment identified in section 1105(c)(29) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597).''.

(c) FEDERAL SHARE FOR PREFINANCED PROJECTS.—Section 201(h)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking ''70 per centum'' and inserting ''80 percent''.

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking subsection (g) and inserting the following:

''(g) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—

''(A) FISCAL YEARS 1998 THROUGH 2003.—For the continued construction of the Appalachian development highway system approved as of September 30, 1996, in accordance with this section, there shall be available from the Highway Trust Fund (other than the Mass Transit Account) $40,000,000 for each of fiscal years 1998 through 2000, $50,000,000 for fiscal year 2001, $60,000,000 for fiscal year 2002, and $70,000,000 for fiscal year 2003.

''(B) OBLIGATION AUTHORITY.—The Secretary shall provide equivalent amounts of obligation authority for the funds authorized under subparagraph (A).

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection 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 determined in accordance with this section and the funds shall remain available in accordance with subsection (a).''.

SEC. 1118. INTERSTATE 4R AND BRIDGE DISCRETIONARY PROGRAM.

(a) IN GENERAL.—Section 104 of title 23, United States Code (as amended by section 1113(c)(1)), is amended by inserting after subsection (j) the following:

''(k) SET-ASIDE FOR INTERSTATE 4R AND BRIDGE PROJECTS.—

''(1) IN GENERAL.—For each of fiscal years 1998 through 2003, before any apportionment is made under subsection (b)(1), the Secretary shall set aside $70,000,000 from amounts to be apportioned under subsection (b)(1)(A), and $70,000,000 from amounts to be apportioned under subsection (b)(1)(B), for allocation by the Secretary—

''(A) for projects for resurfacing, restoring, rehabilitating, or reconstructing any route or portion of a route on the Interstate System (other than any highway designated as a part of the Interstate System under section 103(c)(4) and any toll road on the Interstate System that is not subject to an agreement under section 119(e) (as in effect on December 17, 1991) or an agreement under section 129(a));

''(B) for projects for a highway bridge the replacement, rehabilitation, or seismic retrofit cost of which is more than $10,000,000; and

''(C) for projects for a highway bridge the replacement, rehabilitation, or seismic retrofit cost of which is less than $10,000,000 if the cost is at least twice the amount reserved under section 144(c) by the State in which the bridge is located for the fiscal year in which application is made for an allocation for the bridge under this subsection.

''(2) REQUIRED ALLOCATION.—

''(A) IN GENERAL.—Subject to subparagraph (B), for each of fiscal years 1998 through 2003, the Secretary shall allocate on October 1, for use for highway bridge projects—

''(i) at least $20,000,000 of the amounts set aside under paragraph (1) to any State that—

''(I) is apportioned for fiscal year 1998 under paragraphs (1)(B), (1)(C)(i)(III), and (3)(A)(iii) of subsection (b) an amount that is less than the amount apportioned to the State for the highway bridge replacement and rehabilitation program under section 144 for fiscal year 1997; and

''(II) was apportioned for that program for fiscal year 1997 an amount greater than $125,000,000; and

''(ii) at least $15,000,000 of the amounts set aside under paragraph (1) to any State with respect to which the average service life of the bridges in the State exceeds 46 years as of the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998.

''(B) EXCEPTION.—A State that transferred funds from the highway bridge replacement and rehabilitation program during any of fiscal years 1995 through 1997 in an amount greater than 10 percent of the apportionments for that program for the fiscal year shall not be eligible for an allocation under subparagraph (A)(i).

''(C) ADDITIONAL ALLOCATION.—An allocation to a State under subparagraph (A) shall be in addition to any allocation to the State under paragraph (1).

''(3) AVAILABILITY TO STATES OF INTERSTATE 4R FUNDS.—The Secretary may grant the application of a State for funds made available for a fiscal year for a project described in paragraph (1)(A) if the Secretary determines that—

''(A) the State has obligated or demonstrates that it will obligate for the fiscal year all of the apportionments to the State under subparagraphs (A) and (B) of subsection (b)(1) other than an amount that, by itself, is insufficient to pay the Federal share of the cost of a project described in paragraph (1)(A) that has been submitted by the State to the Secretary for approval; and

''(B) the State is willing and able to—

''(i) obligate the funds within 1 year after the date on which the funds are made available;

''(ii) apply the funds to a project that is ready to be commenced; and

''(iii) in the case of construction work, begin work within 90 days after the date of obligation of the funds.

''(4) ELIGIBILITY OF CERTAIN BRIDGES.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this subsection.

''(B) LIMITATION.—The amount of assistance under subparagraph (A) shall not exceed the cumulative amount that the agency has expended for capital and operating costs to subsidize the transit system.

''(C) DETERMINATION BY THE SECRETARY.—Before authorizing an expenditure of funds under this paragraph, the Secretary shall make a determination that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement, seismic retrofitting, or rehabilitation project.

''(D) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of expenditure.

''(5) REQUIRED ALLOCATION FOR CERTAIN STATES.—

''(A) ALLOCATION.—For each of fiscal years 1998 through 2003, the Secretary shall allocate on October 1, to States eligible under subparagraph (B), for use for projects described in paragraph (1), $10,000,000 of the amounts set aside under paragraph (1) from amounts to be apportioned under subsection (b)(1)(A).

''(B) ELIGIBLE STATES.—A State shall be eligible for an allocation under subparagraph (A) for a fiscal year if—

''(i) the State ranks among the lowest 10 percent of States in a ranking of States by per capita personal income;

''(ii) for the State, the ratio that—

''(I) the State's estimated percentage of total Federal-aid highway program apportionments for the period of fiscal years 1998 through 2003 under this title; bears to

''(II) the percentage of estimated total tax receipts attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) for the period of fiscal years 1998 through 2003;

is less than 1.00, as of the date of enactment of this subsection; and

''(iii)(I) the State's estimated percentage of total Federal-aid highway program apportionments for the period of fiscal years 1998 through 2003 under this title, as of the date of enactment of this subsection; is less than

''(II) the State's percentage of total Federal-aid highway program apportionments and Federal lands highways program allocations under the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1914), and allocations under sections 1103 through 1108 of that Act, for the period of fiscal years 1992 through 1997.

''(C) ADDITIONAL ALLOCATION.—An allocation to a State under subparagraph (A) shall be in addition to any allocation to the State under paragraph (1).

''(6) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Amounts made available under this subsection shall remain available until expended.''.

(b) CONFORMING AMENDMENT.—Section 118 of title 23, United States Code, is amended by striking subsection (c).

SEC. 1119. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 321 the following:

''§ 322. Magnetic levitation transportation technology deployment program

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station.

''(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

''(3) MAGLEV.—The term 'MAGLEV' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

''(4) PARTNERSHIP POTENTIAL.—The term 'partnership potential' has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1978).

''(b) ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make available financial assistance to provide the Federal share of full project costs of eligible projects selected under this section.

''(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than ⅔.

''(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

''(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998, the Secretary shall solicit 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.

''(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

''(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

''(2) require an amount of Federal funds for project financing that will not exceed the sum of—

''(A) the amounts made available under subsection (h)(1)(A); and

''(B) the amounts made available by States under subsection (h)(4);

''(3) result in an operating transportation facility that provides a revenue producing service;

''(4) be undertaken through a public and private partnership, with at least ⅓ of full project costs paid using non-Federal funds;

''(5) satisfy applicable statewide and metropolitan planning requirements;

''(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

''(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

''(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

''(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

''(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

''(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

''(3) States, regions, and localities financially contribute to the project;

''(4) implementation of the project will create new jobs in traditional and emerging industries;

''(5) the project will augment MAGLEV networks identified as having partnership potential;

''(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

''(7) financial assistance would foster the timely implementation of a project; and

''(8) life-cycle costs in design and engineering are considered and enhanced.

''(f) PROJECT SELECTION.—

''(1) PRE-CONSTRUCTION PLANNING ACTIVITIES.—

''(A) Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select one or more eligible projects to receive financial assistance for pre-construction planning activities, including—

''(i) preparation of feasibility studies, major investment studies, and environmental impact statements and assessments as are required under State law;

''(ii) pricing of the final design, engineering, and construction activities proposed to be assisted under paragraph (2); and

''(iii) such other activities as are necessary to provide the Secretary with sufficient information to evaluate whether a project should receive financial assistance for final design, engineering, and construction activities under paragraph (2).

''(B) Notwithstanding subsection (a)(1) of this section, eligible project costs shall include the cost of pre-construction planning activities.

''(2) FINAL DESIGN, ENGINEERING, AND CONSTRUCTION ACTIVITIES.—After completion of pre-construction planning activities for all projects assisted under paragraph (1), the Secretary shall select one of the projects to receive financial assistance for final design, engineering, and construction activities.

''(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

''(h) FUNDING.—

''(1) IN GENERAL.—

''(A) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1999 and $20,000,000 for fiscal year 2000.

''(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

''(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

''(II) the availability of the funds shall be determined in accordance with paragraph (2).

''(B) AUTHORIZATION OF APPROPRIATIONS.—

''(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 $200,000,000 for each of fiscal years 2000 and 2001, $250,000,000 for fiscal year 2002, and $300,000,000 for fiscal year 2003.

''(ii) AVAILABILITY.—Notwithstanding section 118(a), funds made available under clause (i) shall not be available in advance of an annual appropriation.

''(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

''(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

''(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Infrastructure Finance and Innovation Act of 1998, including loans, loan guarantees, and lines of credit.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 321 the following:

''322. Magnetic levitation transportation technology deployment program.''.

SEC. 1120. WOODROW WILSON MEMORIAL BRIDGE.

(a) DEFINITIONS.—Section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 628) is amended—

(1) in paragraph (3), by striking '', including approaches thereto''; and

(2) in paragraph (5), by striking ''to be determined under section 407. Such'' and all that follows and inserting the following: ''as described in the record of decision executed by the Secretary in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The term includes ongoing short-term rehabilitation and repairs to the Bridge.''.

(b) OWNERSHIP OF BRIDGE.—

(1) CONVEYANCE BY THE SECRETARY.—Section 407(a)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by inserting ''or any Capital Region jurisdiction'' after ''Authority'' each place it appears.

(2) AGREEMENT.—Section 407 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by striking subsection (c) and inserting the following:

''(c) AGREEMENT.—

''(1) IN GENERAL.—The agreement referred to in subsection (a) is an agreement concerning the Project that is executed by the Secretary and the Authority or any Capital Region jurisdiction that accepts ownership of the Bridge.

''(2) TERMS OF THE AGREEMENT.—The agreement shall—

''(A) identify whether the Authority or a Capital Region jurisdiction will accept ownership of the Bridge;

''(B) contain a financial plan satisfactory to the Secretary, which shall be prepared before the execution of the agreement, that specifies—

''(i) the total cost of the Project, including any cost-saving measures;

''(ii) a schedule for implementation of the Project, including whether any expedited design and construction techniques will be used; and

''(iii) the sources of funding that will be used to cover any costs of the Project not funded from funds made available under section 412;

''(C) require that—

''(i)(I) the Project include not more than 12 traffic lanes, of which 2 lanes shall be exclusively for use by high occupancy vehicles, express buses, or rail transit; and

''(II) the design, construction, and operation of the Project reflect the requirements of subclause (I);

''(ii) all provisions described in the environmental impact statement for the Project or the record of decision for the Project (including in the attachments to the statement and record) for mitigation of environmental and other impacts of the Project be implemented; and

''(iii) the Authority and the Capital Region jurisdictions develop a process to fully integrate affected local governments, on an ongoing basis, in the process of carrying out the engineering, design, and construction phases of the project, including planning for implementing the provisions described in clause (ii); and

''(D) contain such other terms and conditions as the Secretary determines to be appropriate.''.

(c) FEDERAL CONTRIBUTION.—The Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 627) is amended by adding at the end the following:

''SEC. 412. FEDERAL CONTRIBUTION.

''(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $100,000,000 for fiscal year 1998, $100,000,000 for fiscal year 1999, $125,000,000 for fiscal year 2000, $175,000,000 for fiscal year 2001, $200,000,000 for fiscal year 2002, and $200,000,000 for fiscal year 2003, to pay the costs of planning, preliminary engineering and design, final engineering, acquisition of rights-of-way, and construction of the Project, except that the costs associated with the Bridge shall be given priority over other eligible costs, other than design costs, of the Project.

''(2) CONTRACT AUTHORITY.—Funds authorized 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—

''(A) the funds shall remain available until expended;

''(B) the Federal share of the cost of the Bridge component of the Project shall not exceed 100 percent; and

''(C) the Federal share of the cost of any other component of the Project shall not exceed 80 percent.

''(b) USE OF APPORTIONED FUNDS.—Nothing in this title limits the authority of any Capital Region jurisdiction to use funds apportioned to the jurisdiction under paragraph (1) or (3) of section 104(b) of title 23, United States Code, in accordance with the requirements for such funds, to pay any costs of the Project.

''(c) AVAILABILITY OF APPORTIONED FUNDS.—None of the funds made available under this section shall be available before the execution of the agreement described in section 407(c), except that the Secretary may fund the maintenance and rehabilitation of the Bridge and the design of the Project.''.

(d) CONFORMING AMENDMENT.—Section 405(b)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 629) is amended by striking ''the Signatories as to the Federal share of the cost of the Project and the terms and conditions related to the timing of the transfer of the Bridge to''.

SEC. 1121. NATIONAL HIGHWAY SYSTEM COMPONENTS.

The National Highway System consists of the routes and transportation facilities depicted on the map submitted by the Secretary to Congress with the report entitled ''Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals'' and dated May 24, 1996.

SEC. 1122. HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(1) in the section heading, by striking ''**program**'';

(2) by striking subsections (a) through (n), (p), and (q);

(3) by inserting after the section heading the following:

''(a) DEFINITION OF REHABILITATE.—In this section, the term 'rehabilitate' (in any of its forms), with respect to a bridge, means to carry out major work necessary—

''(1) to address the structural deficiencies, functional obsolescence, or physical deterioration of the bridge; or

''(2) to correct a major safety defect of the bridge, including seismic retrofitting.

''(b) BRIDGE INVENTORY.—

''(1) IN GENERAL.—In consultation with the States, the Secretary shall—

''(A) annually inventory all highway bridges on public roads that cross waterways, other topographical barriers, other highways, and railroads;

''(B) classify each such bridge according to serviceability, safety, and essentiality for public use; and

''(C) assign each such bridge a priority for replacement or rehabilitation based on the classification under subparagraph (B).

''(2) CONSULTATION.—In preparing an inventory of highway bridges on Indian reservation roads and park roads under paragraph (1), the Secretary shall consult with the Secretary of the Interior and the States.

''(3) INVENTORY OF HISTORICAL BRIDGES.—At the request of a State, the Secretary may inventory highway bridges on public roads for historical significance.

''(c) CERTIFICATION BY THE STATE.—Not later than 180 days after the end of each fiscal year beginning with fiscal year 1998, each State shall certify to the Secretary, either that—

''(1) the State has reserved, from funds apportioned to the State for the preceding fiscal year, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), an amount that is not less than the amount apportioned to the State under this section for fiscal year 1997; or

''(2) the amount that the State will reserve, from funds apportioned to the State for the period consisting of fiscal years 1998 through 2001, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), will be not less than 4 times the amount apportioned to the State under this section for fiscal year 1997.

''(d) USE OF RESERVED FUNDS.—A State may use funds reserved under subsection (c) to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures on a highway bridge on a public road that crosses a waterway, other topographical barrier, other highway, or railroad.

''(e) OFF-SYSTEM BRIDGES.—

''(1) REQUIRED EXPENDITURE.—For each fiscal year, an amount equal to not less than 15 percent of the amount apportioned to a State under this section for fiscal year 1997 shall be expended by the State for projects to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures on highway bridges located on public roads that are functionally classified as local roads or rural minor collectors.

''(2) USE OF FUNDS TO MEET REQUIRED EXPENDITURE.—Funds reserved under subsection (c) and funds made available under section 104(b)(1) for the National Highway System or under section 104(b)(3) for the surface transportation program may be used to meet the requirement for expenditure under paragraph (1).

''(3) REDUCTION OF REQUIRED EXPENDITURE.—After consultation with local and State officials in a State, the Secretary may, with respect to the State, reduce the requirement for expenditure under paragraph (1) if the Secretary determines that the State has inadequate needs to justify the expenditure.

''(f) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be as determined under section 120(b).

''(g) BRIDGE PERMIT EXEMPTION.—

''(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to each bridge authorized to be replaced, in whole or in part, under this section.

''(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425; 33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title if the bridge is over waters that are—

''(A) not used and not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and

''(B)(i) not tidal; or

''(ii) tidal but used only by recreational boating, fishing, and other small vessels that are less than 21 feet in length.

''(h) INDIAN RESERVATION ROAD BRIDGES.—

''(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall establish a nationwide priority program for improving deficient Indian reservation road bridges.

''(2) RESERVATION OF FUNDS.—

''(A) IN GENERAL.—Of the amounts authorized for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $9,000,000 for projects to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures for deficient Indian reservation road bridges, including multiple-pipe culverts.

''(B) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in subparagraph (A) must—

''(i) have an opening of 20 feet or more;

''(ii) be on an Indian reservation road;

''(iii) be unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; and

''(iv) be recorded in the national bridge inventory administered by the Secretary under subsection (b).

''(3) APPROVAL REQUIREMENT.—Funds to carry out Indian reservation road bridge projects under this subsection shall be made available only on approval of plans, specifications, and estimates by the Secretary.'';

(4) by redesignating subsection (o) as subsection (i); and

(5) in subsection (i) (as so redesignated)—

(A) in paragraph (1), by inserting ''for alternative transportation purposes (including bikeway and walkway projects eligible for funding under this title)'' after ''adaptive reuse'';

(B) in paragraph (3)—

(i) by inserting ''(regardless of whether the intended use is for motorized vehicular traffic or for alternative public transportation purposes)'' after ''intended use''; and

(ii) by inserting ''or for alternative public transportation purposes'' after ''no longer used for motorized vehicular traffic''; and

(C) in the second sentence of paragraph (4)—

(i) by inserting ''for motorized vehicles, alternative vehicular traffic, or alternative public transportation'' after ''historic bridge''; and

(ii) by striking ''up to an amount not to exceed the cost of demolition''.

(b) CONFORMING AMENDMENT.—The analysis for 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 replacement and rehabilitation.''.

SEC. 1123. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHED PROGRAM.—Section 149(a) of title 23, United States Code, is amended by striking ''ESTABLISHMENT.—The Secretary shall establish'' and inserting ''IN GENERAL.—The Secretary shall carry out''.

(b) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended in the first sentence—

(1) by striking ''that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994'' and inserting ''that is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) and classified under section 181(a) or 186(a) of the Clean Air Act (42 U.S.C. 7511(a), 7512(a)) or classified as a submarginal ozone nonattainment area under that Act, or if the project or program is for a maintenance area,'';

(2) in paragraph (1)—

(A) in subparagraph (A), by striking ''clauses (xii) and'' and inserting ''clause''; and

(B) in subparagraph (B), by striking ''such section'' and inserting ''section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))'';

(3) in paragraph (2), by inserting ''or maintenance'' after ''State implementation'';

(4) in paragraph (3), by inserting ''or maintenance of the standard'' after ''standard''; and

(5) in paragraph (4), by inserting ''or maintenance'' after ''attainment''.

(c) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) STATES RECEIVING MINIMUM APPORTIONMENT.—

''(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(2) for any project eligible under the surface transportation program under section 133.

''(2) STATES WITH A NONATTAINMENT AREA.—If a State has a nonattainment area or maintenance area and receives funds under section 104(b)(2)(D) above the amount of funds that the State would have received based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2), the State may use that portion of the funds not based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2) for any project in the State eligible under section 133.''.

(d) FEDERAL SHARE.—Section 120(c) of title 23, United States Code, is amended in the first sentence by striking ''The'' and inserting ''Except in the case of a project funded from sums apportioned under section 104(b)(2), the''.

(e) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended by inserting after the undesignated paragraph defining ''maintenance'' the following:

''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)).''.

(2) Section 149(b)(1)(A)(ii) of title 23, United States Code, is amended by striking ''an area'' and all that follows and inserting ''a maintenance area; or''.

SEC. 1124. SAFETY BELT USE LAW REQUIREMENTS.

Section 355 of the National Highway System Designation Act of 1995 (109 Stat. 624) is amended—

(1) in the section heading, by striking ''**AND MAINE**'';

(2) in subsection (a)—

(A) by striking ''States of New Hampshire and Maine shall each'' and inserting ''State of New Hampshire shall''; and

(B) in paragraph (1), by striking ''and 1996'' and inserting ''through 2000''; and

(3) by striking ''or Maine'' each place it appears.

SEC. 1125. SENSE OF THE SENATE CONCERNING RELIANCE ON PRIVATE ENTERPRISE.

(a) IN GENERAL.—It is the sense of the Senate that each agency authorized to expend funds made available under this Act, or an amendment made by this Act, or a recipient of any form of a grant or other Federal assistance under this Act, or an amendment made by this Act—

(1) should, in expending the funds or assistance, rely on entities in the private enterprise system to provide such goods and services as are reasonably and expeditiously available through ordinary business channels; and

(2) shall not duplicate or compete with entities in the private enterprise system.

(b) PROCEDURES.—The Secretary should provide procedures to inform each agency that administers this Act and each recipient of a grant or other Federal assistance of the sense of the Senate expressed in subsection (a).

SEC. 1126. STUDY OF USE OF UNIFORMED POLICE OFFICERS ON FEDERAL-AID HIGHWAY CONSTRUCTION PROJECTS.

(a) IN GENERAL.—In consultation with the States and State transportation departments, the Secretary shall conduct a study on the extent and effectiveness of use by States of uniformed police officers on Federal-aid highway construction projects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under subsection (a), including any legislative and administrative recommendations of the Secretary.

SEC. 1127. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)(i), by striking '', except to'' and all that follows through ''services'';

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

''(C) SELECTION, PERFORMANCE, AND AUDITS.—

''(i) IN GENERAL.—All requirements for architectural, engineering, and related services at any phase of a highway project funded in whole or in part with Federal-aid highway funds, or reasonably expected or intended to be part of 1 or more such projects, shall be performed under a contract awarded in accordance with subparagraph (A) unless the simplified acquisition procedures of the Federal Acquisition Regulations apply.

''(ii) PROHIBITION ON STATE RESTRICTION.—A State shall not impose any overhead restriction, or salary limitation inconsistent with the Federal Acquisition Regulations, that would preclude any qualified firm from being eligible to compete for contracts awarded in accordance with subparagraph (A).

''(iii) COMPLIANCE WITH FEDERAL ACQUISITION REGULATIONS.—The process for selection, award, performance, administration, and audit of the resulting contracts shall comply with the procedures, cost principles, and cost accounting principles of the Federal Acquisition Regulations, including parts 30, 31, and 36 of the Regulations.''; and

(3) by adding at the end the following:

''(H) COMPLIANCE.—

''(i) IN GENERAL.—A State shall comply with the qualifications-based selection procedures of the Federal Acquisition Regulations, and the single audit procedures required under this paragraph, or with an existing State law or a statute enacted in accordance with the legislative session exemption under subparagraph (G), with respect to any architecture, engineering, or related service contract for any phase of a Federal-aid highway project.

''(ii) STATES WITH ALTERNATIVE PROCESS.—Any State that, after November 28, 1995, enacted legislation to establish an alternative State procedure as a substitute for the contract administration and audit procedures required under this paragraph or was granted a waiver under subparagraph (G) shall submit the legislation to the Secretary, not later than 60 days after the date of enactment of this subparagraph, for certification that the State legislation is in compliance with the statutory timetable and substantive criteria specified in subparagraph (G).''.

SEC. 1128. ADDITIONAL FUNDING.

(a) IN GENERAL.—

(1) APPORTIONMENT.—On October 1, or as soon as practicable thereafter, of each fiscal year, after making apportionments and allocations under sections 104 and 105(a) of title 23, United States Code, and section 1102(c) of this Act, the Secretary shall apportion, in accordance with paragraph (2), the funds made available by paragraph (3) among the States in the ratio that—

(A) the total of the apportionments to each State under section 104 of title 23, United States Code, and section 1102(c) of this Act and the allocations to each State under section 105(a) of that title (excluding amounts made available under this section); bears to

(B) the total of all apportionments to all States under section 104 of that title and section 1102(c) of this Act and all allocations to all States under section 105(a) of that title (excluding amounts made available under this section).

(2) DISTRIBUTION AMONG CATEGORIES.—

(A) LIMITED FLEXIBLE FUNDING FOR CERTAIN STATES.—For each fiscal year, in the case of each State that does not receive funding under subsection (c) or an allocation under subsection (d), an amount equal to 22 percent of the funds apportioned to the State under paragraph (1) shall be set aside for use by the State for any purpose eligible for funding under title 23, United States Code, or this Act.

(B) DISTRIBUTION OF REMAINING FUNDS.—

(i) IN GENERAL.—For each fiscal year, after application of subparagraph (A), the remaining funds apportioned to each State under paragraph (1) shall be apportioned in accordance with clause (ii) among the following categories:

(I) The Interstate maintenance component of the Interstate and National Highway System program under section 104(b)(1)(A) of title 23, United States Code.

(II) The Interstate bridge component of the Interstate and National Highway System program under section 104(b)(1)(B) of that title.

(III) The National Highway System component of the Interstate and National Highway System program under section 104(b)(1)(C) of that title.

(IV) The congestion mitigation and air quality improvement program under section 104(b)(2) of that title.

(V) The surface transportation program under section 104(b)(3) of that title.

(VI) Metropolitan planning under section 104(f) of that title.

(VII) Minimum guarantee under section 105 of that title.

(VIII) ISTEA transition under section 1102(c) of this Act.

(ii) DISTRIBUTION FORMULA.—For each State and each fiscal year, the amount of funds apportioned for each category under clause (i) shall be equal to the product obtained by multiplying—

(I) the amount of funds apportioned to the State for the fiscal year under paragraph (1); by

(II) the ratio that—

(aa) the amount of funds apportioned to the State for the category for the fiscal year under the other sections of this Act and the amendments made by this Act; bears to

(bb) the total amount of funds apportioned to the State for all of the categories for the fiscal year under the other sections of this Act and the amendments made by this Act.

(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $640,000,000 for fiscal year 1998, $3,346,000,000 for fiscal year 1999, $3,634,000,000 for fiscal year 2000, $3,881,000,000 for fiscal year 2001, $3,831,000,000 for fiscal year 2002, and $3,603,000,000 for fiscal year 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(b) OTHER ADJUSTMENTS.—

(1) IN GENERAL.—Notwithstanding sections 1116, 1117, and 1118, and the amendments made by those sections—

(A) in addition to the amounts authorized to be appropriated under section 1116(d)(5), there shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 1116(d) $90,000,000 for each of fiscal years 1999 through 2003; and

(B) in addition to the funds made available under the amendment made by section 1117(d), there shall be available from the Highway Trust Fund (other than the Mass Transit Account) in the manner described in, and to carry out the purposes specified in, that amendment $378,000,000 for each of fiscal years 1999 through 2003, except that the funds made available under this subparagraph, notwithstanding section 118(e)(1)(C)(v) of title 23, United States Code, and section 201(g)(1)(B) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.), shall be subject to subparagraphs (A) and (B) of section 118(e)(1) of that title.

(2) CONTRACT AUTHORITY.—Funds authorized under subparagraphs (A) and (B) of paragraph (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.

(3) LIMITATION.—No obligation authority shall be made available for any amounts authorized under this subsection for any fiscal year for which any obligation limitation established for Federal-aid highways is less than the obligation limitation established for fiscal year 1998.

(c) HIGH DENSITY TRANSPORTATION PROGRAM.—

(1) IN GENERAL.—There is established the high density transportation program (referred to in this subsection as the ''program'') to provide funding to States that have higher-than-average population density.

(2) DETERMINATIONS.—

(A) IN GENERAL.—On October 1, or as soon as practicable thereafter, of each of fiscal years 1999 through 2003, the Secretary shall determine for each State and the fiscal year—

(i) the population density of the State;

(ii) the total vehicle miles traveled on lanes on Federal-aid highways in the State during the latest year for which data are available;

(iii) the ratio that—

(I) the total lane miles on Federal-aid highways in urban areas in the State; bears to

(II) the total lane miles on all Federal-aid highways in the State; and

(iv) the quotient obtained by dividing—

(I) the sum of—

(aa) the amounts apportioned to the State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program;

(bb) the amounts allocated to the State under the minimum guarantee program under section 105 of that title; and

(cc) the amounts apportioned to the State under section 1102(c) of this Act for ISTEA transition; by

(II) the population of the State (as determined based on the latest available annual estimates prepared by the Secretary of Commerce).

(B) NATIONAL AVERAGE.—Using the data determined under subparagraph (A), the Secretary shall determine the national average with respect to each of the factors described in clauses (i) through (iv) of subparagraph (A).

(3) ELIGIBILITY CRITERIA.—A State shall be eligible to receive funding under the program if—

(A) the amount determined for the State under paragraph (2)(A) with respect to each factor described in clauses (i) through (iii) of paragraph (2)(A) is greater than the national average with respect to the factor determined under paragraph (2)(B); and

(B) the amount determined for the State with respect to the factor described in paragraph (2)(A)(iv) is less than 85 percent of the national average with respect to the factor determined under paragraph (2)(B).

(4) DISTRIBUTION OF FUNDS.—

(A) AVAILABILITY TO STATES.—For each fiscal year, except as provided in subparagraph (D), each State that meets the eligibility criteria under paragraph (3) shall receive a portion of the funds made available to carry out the program that is—

(i) not less than $36,000,000; but

(ii) not more than 15 percent of the funds.

(B) STATE NOTIFICATION.—On October 1, or as soon as practicable thereafter, of each fiscal year, the Secretary shall notify each State that meets the eligibility criteria under paragraph (3) that the State is eligible to apply for funding under the program.

(C) PROJECT PROPOSALS.—

(i) SUBMISSION.—

(I) IN GENERAL.—After receipt of a notification of eligibility under subparagraph (B), to receive funds under the program, a State, in consultation with the appropriate metropolitan planning organizations, shall submit to the Secretary proposals for projects aimed at improving mobility in densely populated areas where traffic loads and highway maintenance costs are high.

(II) TOTAL COST OF PROJECTS.—The estimated total cost of the projects proposed by each State shall be equal to at least 3 times the amount that the State is eligible to receive under subparagraph (A).

(ii) SELECTION.—The Secretary shall select projects for funding under the program based on factors determined by the Secretary to reflect the degree to which a project will improve mobility in densely populated areas where traffic loads and highway maintenance costs are high.

(iii) DEADLINES.—The Secretary may establish deadlines for States to submit project proposals, except that in the case of fiscal year 1998 the deadline may not be earlier than July 1, 1998.

(D) REDISTRIBUTION OF FUNDS.—For each fiscal year, if a State does not have pending, by the deadline established under subparagraph (C)(iii), applications for projects with an estimated total cost equal to at least 3 times the amount that the State is eligible to receive under subparagraph (A), the Secretary may redistribute, to 1 or more other States, at the Secretary's discretion, ⅓ of the amount by which the estimated cost of the State's applications is less than 3 times the amount that the State is eligible to receive.

(5) OTHER ELIGIBLE STATES.—In addition to States that meet the eligibility criteria under paragraph (3), a State with respect to which the following conditions are met shall also be eligible for the funds made available to carry out the program that remain after each State that meets the eligibility criteria under paragraph (3) has received the minimum amount of funds specified in paragraph (4)(A)(i):

(A) POPULATION DENSITY.—The population density of the State is at least 50 percent greater than the population density of the United States (as determined on the basis of the 1990 Federal census).

(B) THROUGH TRUCK TRAFFIC.—The quotient obtained by dividing—

(i) the annual quantity of through truck ton-miles in the State (as determined based on the latest available estimates published by the Secretary); by

(ii) the annual quantity of total truck ton-miles in the State (as determined based on the latest available estimates published by the Secretary);

is greater than 0.60.

(6) ADDITIONAL ELIGIBLE STATES.—In addition to States that meet the eligibility criteria under paragraph (3), a State with respect to which the following conditions are met shall also be eligible for the funds made available to carry out the program that remain after each State that meets the eligibility criteria under paragraph (3) has received the minimum amount of funds specified in paragraph (4)(A)(i):

(A) POPULATION DENSITY.—The population density of the State is greater than 161 individuals per square mile.

(B) VEHICLE MILES TRAVELED.—The amount determined for the State under paragraph (2)(A) with respect to the factor described in paragraph (2)(A)(ii) is greater than the national average with respect to the factor determined under paragraph (2)(B).

(C) URBAN FEDERAL-AID LANE MILES.—The ratio that—

(i) the total lane miles on Federal-aid highways in urban areas in the State; bears to

(ii) the total lane miles on all Federal-aid highways in the State;

is greater than or equal to 0.26.

(D) APPORTIONMENTS PER CAPITA.—The amount determined for the State with respect to the factor described in paragraph (2)(A)(iv) is less than 85 percent of the national average with respect to the factor determined under paragraph (2)(B).

(7) ELIGIBLE PROJECTS.—Funds made available to carry out the program may be used for any project eligible for funding under title 23, United States Code, or this Act.

(8) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $360,000,000 for each of fiscal years 1999 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(9) LIMITATIONS.—

(A) APPLICABILITY OF OBLIGATION LIMITATIONS.—Funds made available under this subsection shall be subject to subparagraphs (A) and (B) of section 118(e)(1) of that title.

(B) LIMITATION ON AVAILABILITY.—No obligation authority shall be made available for any amounts authorized under this subsection for any fiscal year for which any obligation limitation established for Federal-aid highways is less than the obligation limitation established for fiscal year 1998.

(d) BONUS PROGRAM.—

(1) IN GENERAL.—For each of fiscal years 1998 through 2003, after making apportionments and allocations under section 1102 and the amendments made by that section, the Secretary shall allocate to each of the States listed in the following table the amount specified for the State in the following table:

State	Fiscal Year (amounts in thousands of dollars)					
	1998	1999	2000	2001	2002	2003
Alabama	$4,969	$11,021	$11,093	$11,169	$11,253	$11,352
Arizona	$3,864	$14,418	$14,474	$14,533	$14,598	$14,676
California	$10,353	$47,050	$48,691	$48,094	$39,345	$35,119
Florida	$11,457	$30,175	$30,342	$30,518	$30,710	$30,940
Georgia	$8,723	$19,347	$19,474	$19,608	$19,754	$19,930
Illinois	$8,277	$21,800	$21,921	$22,048	$22,187	$22,353
Indiana	$6,052	$22,580	$22,668	$22,761	$22,862	$22,984
Kentucky	$4,316	$9,573	$9,636	$9,703	$9,775	$9,862
Maryland	$3,749	$4,202	$4,257	$4,314	$4,377	$4,452
Michigan	$7,849	$29,286	$29,400	$29,521	$29,652	$29,810
North Carolina	$7,032	$15,597	$15,700	$15,808	$15,925	$16,067
Ohio	$8,567	$9,601	$9,726	$9,858	$10,001	$10,173
Pennsylvania	$5,409	$4,174	$60	$0	$0	$0
South Carolina	$3,953	$12,966	$13,023	$13,084	$13,150	$13,230
Tennessee	$5,631	$12,490	$12,572	$12,658	$12,752	$12,866
Texas	$17,129	$63,908	$64,157	$64,421	$64,707	$65,052
Virginia	$6,368	$14,124	$14,217	$14,315	$14,421	$14,549
Wisconsin	$4,520	$16,864	$16,929	$16,999	$17,075	$17,165

(2) ELIGIBLE PURPOSES.—Amounts allocated under paragraph (1) shall be available for any purpose eligible for funding under title 23, United States Code, or this Act.

(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this subsection.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(4) LIMITATIONS.—

(A) APPLICABILITY OF OBLIGATION LIMITATIONS.—Funds made available under this subsection shall be subject to subparagraphs (A) and (B) of section 118(e)(1) of that title.

(B) LIMITATION ON AVAILABILITY.—No obligation authority shall be made available for any amounts authorized under this subsection for any fiscal year for which any obligation limitation established for Federal-aid highways is less than the obligation limitation established for fiscal year 1998.

(e) FEDERAL LANDS HIGHWAYS PROGRAM.—

(1) IN GENERAL.—In addition to the amounts made available under section 1101(4), there shall be available from the Highway Trust Fund (other than the Mass Transit Account)—

(A) for Indian reservation roads under section 204 of title 23, United States Code, $50,000,000 for each of fiscal years 1999 through 2003;

(B) for parkways and park roads under section 204 of title 23, United States Code, $70,000,000 for each of fiscal years 1999 through 2003, of which $20,000,000 for each fiscal year shall be available to maintain and improve public roads that provide access to or within units of the National Wildlife Refuge System; and

(C) for public lands highways under section 204 of title 23, United States Code, $50,000,000 for each of fiscal years 1999 through 2003.

(2) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this subsection.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(3) LIMITATIONS.—

(A) APPLICABILITY OF OBLIGATION LIMITATIONS.—Funds made available under this subsection shall be subject to subparagraphs (A) and (B) of section 118(e)(1) of that title.

(B) LIMITATION ON AVAILABILITY.—No obligation authority shall be made available for any amounts authorized under this subsection for any fiscal year for which any obligation limitation established for Federal-aid highways is less than the obligation limitation established for fiscal year 1998.

(f) PREFERENCE IN INTERSTATE 4R AND BRIDGE DISCRETIONARY PROGRAM ALLOCATIONS.—In allocating funds under section 104(k) of title 23, United States Code, the Secretary shall give preference to States—

(1)(A) with respect to which at least 40 percent of the bridges in the State are functionally obsolete and structurally deficient; and

(B) that do not receive assistance made available under subsection (b)(1)(B) or funding under subsection (c); or

(2) that are bordered by 2 navigable rivers listed under section 1804 of title 33, United States Code, that each comprise at least 10 percent of the boundary of the State.

(g) ADDITIONAL ALLOCATIONS.—

(1) IN GENERAL.—For each of fiscal years 1999 through 2003, after making apportionments and allocations under sections 104 and 105(a) of title 23, United States Code, and section 1102(c) of this Act, the Secretary shall allocate to each of the following States the following amount specified for the State:

(A) Arizona: $7,016,000.

(B) Indiana: $9,290,000.

(C) Michigan: $11,158,000.

(D) Oklahoma: $6,924,000.

(E) South Carolina: $7,109,000.

(F) Texas: $20,804,000.

(G) Wisconsin: $7,699,000.

(2) ELIGIBLE PURPOSES.—Amounts allocated under paragraph (1) shall be available for any purpose eligible for funding under title 23, United States Code, or this Act.

(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this subsection.

(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(4) LIMITATIONS.—

(A) APPLICABILITY OF OBLIGATION LIMITATIONS.—Funds made available under this subsection shall be subject to subparagraphs (A) and (B) of section 118(e)(1) of that title.

(B) LIMITATION ON AVAILABILITY.—No obligation authority shall be made available for any amounts authorized under this subsection for any fiscal year for which any obligation limitation established for Federal-aid highways is less than the obligation limitation established for fiscal year 1998.

SEC. 1129. AMBASSADOR BRIDGE ACCESS, DETROIT, MICHIGAN.

(a) IN GENERAL.—Notwithstanding section 129 of title 23, United States Code, or any other provision of law, improvements to access roads and

construction of access roads, approaches, and related facilities (such as signs, lights, and signals) necessary to connect the Ambassador Bridge in Detroit, Michigan, to the Interstate System shall be eligible for funds apportioned under paragraphs (1)(C) and (3) of section 104(b) of that title.

(b) USE OF FUNDS.—Funds described in subsection (a) shall not be used for any improvement to, or construction of, the bridge itself.

SEC. 1130. TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES.

(a) PURPOSE.—The purpose of this section is to authorize the provision of assistance for, and support of, State and local efforts concerning surface transportation issues necessary to obtain the national recognition and economic benefits of participation in the International Olympic movement and the International Paralympic movement by hosting international quadrennial Olympic and Paralympic events in the United States.

(b) PRIORITY FOR TRANSPORTATION PROJECTS RELATING TO OLYMPIC AND PARALYMPIC EVENTS.—Notwithstanding any other provision of law, from funds available to carry out section 104(k) of title 23, United States Code, the Secretary may give priority to funding for a transportation project relating to an international quadrennial Olympic or Paralympic event if—

(1) the project meets the extraordinary needs associated with an international quadrennial Olympic or Paralympic event; and

(2) the project is otherwise eligible for assistance under section 104(k) of that title.

(c) TRANSPORTATION PLANNING ACTIVITIES.—The Secretary may participate in—

(1) planning activities of States and metropolitan planning organizations and transportation projects relating to an international quadrennial Olympic or Paralympic event under sections 134 and 135 of title 23, United States Code; and

(2) developing intermodal transportation plans necessary for the projects in coordination with State and local transportation agencies.

(d) FUNDING.—Notwithstanding section 541(a) of title 23, United States Code, from funds made available under that section, the Secretary may provide assistance for the development of an Olympic and a Paralympic transportation management plan in cooperation with an Olympic Organizing Committee responsible for hosting, and State and local communities affected by, an international quadrennial Olympic or Paralympic event.

(e) TRANSPORTATION PROJECTS RELATING TO OLYMPIC AND PARALYMPIC EVENTS.—

(1) IN GENERAL.—The Secretary may provide assistance, including planning, capital, and operating assistance, to States and local governments in carrying out transportation projects relating to an international quadrennial Olympic or Paralympic event.

(2) FEDERAL SHARE.—The Federal share of the cost of a project assisted under this subsection shall not exceed 80 percent.

(f) ELIGIBLE GOVERNMENTS.—A State or local government shall be eligible to receive assistance under this section only if the government is hosting a venue that is part of an international quadrennial Olympics that is officially selected by the International Olympic Committee.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section such sums as are necessary for each of fiscal years 1998 through 2003.

SEC. 1131. NATIONAL DEFENSE HIGHWAYS OUTSIDE THE UNITED STATES.

(a) RECONSTRUCTION PROJECTS.—If the Secretary determines, after consultation with the Secretary of Defense, that a highway, or a portion of a highway, located outside the United States is important to the national defense, the Secretary may carry out a project for reconstruction of the highway or portion of highway.

(b) FUNDING.—

(1) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary may set aside not to exceed $16,000,000 from amounts to be apportioned under section 104(b)(1)(A) of title 23, United States Code, to carry out this section.

(2) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.

SEC. 1132. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

(a) DEFINITIONS.—In this section:

(1) COVERED BRIDGE.—The term ''covered bridge''—

(A) means a roofed bridge that is made primarily of wood; and

(B) includes the roof, flooring, trusses, joints, walls, piers, footings, walkways, support structures, arch systems, and underlying land.

(2) HISTORIC COVERED BRIDGE.—The term ''historic covered bridge'' means a covered bridge that—

(A) is at least 50 years old; or

(B) is listed on the National Register of Historic Places.

(b) HISTORIC COVERED BRIDGE PRESERVATION.—The Secretary shall—

(1) develop and maintain a list of historic covered bridges;

(2) collect and disseminate information concerning historic covered bridges;

(3) foster educational programs relating to the history, construction techniques, and contribution to society of historic covered bridges;

(4) sponsor or conduct research on the history of covered bridges; and

(5) sponsor or conduct research, and study techniques, on protecting covered bridges from rot, fire, natural disasters, or weight-related damage.

(c) DIRECT FEDERAL ASSISTANCE.—

(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) TYPES OF PROJECT.—A grant under paragraph (1) may be made for a project—

(A) to rehabilitate or repair a historic covered bridge;

(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; and

(C) to conduct a field test on a historic covered bridge or evaluate a component of a historic covered bridge, including through destructive testing of the component.

(3) AUTHENTICITY.—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.

(d) FUNDING.—There is authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 1999 through 2003, to remain available until expended.

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

SEC. 1201. ADMINISTRATIVE EXPENSES.

Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

''(a) ADMINISTRATIVE EXPENSES.—

''(1) IN GENERAL.—Whenever an apportionment is made of the sums made available for expenditure on the surface transportation program under section 133, the congestion mitigation and air quality improvement program under section 149, or the Interstate and National Highway System program under section 103, the Secretary shall deduct a sum, in an amount not to exceed 1½ percent of all sums so made available, as the Secretary determines necessary to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2.

''(2) CONSIDERATION OF UNOBLIGATED BALANCES.—In making the determination described in paragraph (1), the Secretary shall take into account the unobligated balance of any sums deducted under this subsection in prior fiscal years.

''(3) AVAILABILITY.—The sum deducted under paragraph (1) shall remain available until expended.''.

SEC. 1202. REAL PROPERTY ACQUISITION AND CORRIDOR PRESERVATION.

(a) ADVANCE ACQUISITION OF REAL PROPERTY.—Section 108 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§108. Advance acquisition of real property'';

and

(2) by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—

''(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of real property for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

''(2) CONSTRUCTION.—The agreement between the Secretary and the State for the reimbursement of the cost of the real property shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.''.

(b) CREDIT FOR ACQUIRED LANDS.—Section 323(b) of title 23, United States Code, is amended—

(1) in the subsection heading, by striking ''DONATED'' and inserting ''ACQUIRED'';

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

''(1) IN GENERAL.—Notwithstanding any other provision of this title, the State share of the cost of a project with respect to which Federal assistance is provided from the Highway Trust Fund (other than the Mass Transit Account) may be credited in an amount equal to the fair market value of any land that—

''(A) is obtained by the State or a unit of local government in the State, without violation of Federal law;

''(B) is incorporated into the project;

''(C) is not land described in section 138; and

''(D) does not influence the environmental assessment of the project, including—

''(i) the decision as to the need to construct the project;

''(ii) the consideration of alternatives; and

''(iii) the selection of a specific location.

''(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into a project and credited under paragraph (1) shall be established in the manner determined by the Secretary, except that—

''(A) the fair market value shall not include any increase or decrease in the value of donated property caused by the project; and

''(B) the fair market value of donated land shall be established as of the earlier of—

''(i) the date on which the donation becomes effective; or

''(ii) the date on which equitable title to the land vests in the State.'';

(3) in paragraph (3), by striking ''agency of a Federal, State, or local government'' and inserting ''agency of the Federal Government'';

(4) in paragraph (4), by striking ''to which the donation is applied''; and

(5) by redesignating paragraph (4) as paragraph (3).

(c) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—Section 323 of title 23, United States Code, is amended by adding at the end the following:

''(e) CREDITING OF CONTRIBUTIONS BY UNITS OF LOCAL GOVERNMENT TOWARD THE STATE SHARE.—A contribution by a unit of local government of real property, funds, material, or a service in connection with a project eligible for assistance under this title shall be credited against the State share of the project at the fair market value of the real property, funds, material, or service.''.

(d) CONFORMING AMENDMENTS.—

(1) Section 323 of title 23, United States Code, is amended by striking the section heading and inserting the following:

''§ 323. Donations and credits''.

(2) The analysis for chapter 1 of title 23, United States Code, is amended—

(A) by striking the item relating to section 108 and inserting the following:

''108. Advance acquisition of real property.'';

and

(B) by striking the item relating to section 323 and inserting the following:

''323. Donations and credits.''.

SEC. 1203. AVAILABILITY OF FUNDS.

Section 118 of title 23, United States Code, is amended by striking subsection (e) and inserting the following:

''(e) AVAILABILITY OF FUNDS.—

''(1) IN GENERAL.—Any Federal-aid highway funds released by the final payment on a project, or by the modification of a project agreement, shall be credited to the same program funding category for which the funds were previously apportioned and shall be immediately available for obligation.

''(2) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—Any Federal-aid highway funds apportioned to a State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of this paragraph) and credited under paragraph (1) may be transferred by the Secretary in accordance with section 103(d).''.

SEC. 1204. PAYMENTS TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second and third sentences and inserting the following: ''The payments may also be made for the value of such materials as—

''(1) have been stockpiled in the vicinity of the construction in conformity to plans and specifications for the projects; and

''(2) are not in the vicinity of the construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in the vicinity.'';

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

''(b) PROJECT AGREEMENTS.—

''(1) PAYMENTS.—A payment under this chapter may be made only for a project covered by a project agreement.

''(2) SOURCE OF PAYMENTS.—After completion of a project in accordance with the project agreement, a State shall be entitled to payment, out of the appropriate sums apportioned or allocated to the State, of the unpaid balance of the Federal share of the cost of the project.'';

(3) by striking subsections (c) and (d); and

(4) by redesignating subsection (e) as subsection (c).

SEC. 1205. PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.

(a) IN GENERAL.—Section 156 of title 23, United States Code, is amended to read as follows:

''§ 156. Proceeds from the sale or lease of real property

''(a) MINIMUM CHARGE.—Subject to section 142(f), a State shall charge, at a minimum, fair market value for the sale, use, lease, or lease renewal (other than for utility use and occupancy or for a transportation project eligible for assistance under this title) of real property acquired with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account).

''(b) EXCEPTIONS.—The Secretary may grant an exception to the requirement of subsection (a) for a social, environmental, or economic purpose.

''(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net income from the revenues obtained by a State under subsection (a) shall be used by the State for projects eligible under this title.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 156 and inserting the following:

''156. Proceeds from the sale or lease of real property.''.

SEC. 1206. METRIC CONVERSION AT STATE OPTION.

Section 205(c)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 109 note; 109 Stat. 577) is amended by striking ''Before September 30, 2000, the'' and inserting ''The''.

SEC. 1207. REPORT ON OBLIGATIONS.

Section 104(m) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended—

(1) by inserting ''REPORT TO CONGRESS.—'' before ''The Secretary'';

(2) by striking ''not later than'' and all that follows through ''a report'' and inserting ''a report for each fiscal year'';

(3) in paragraph (1), by striking ''preceding calendar month'' and inserting ''preceding fiscal year'';

(4) by striking paragraph (2);

(5) in paragraph (3), by striking ''such preceding month'' and inserting ''that preceding fiscal year''; and

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 1208. TERMINATIONS.

(a) RIGHT-OF-WAY REVOLVING FUND.—Section 108 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

''(c) TERMINATION OF RIGHT-OF-WAY REVOLVING FUND.—

''(1) IN GENERAL.—Funds apportioned and advanced to a State by the Secretary from the right-of-way revolving fund established by this section prior to the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998 shall remain available to the State for use on the projects for which the funds were advanced for a period of 20 years from the date on which the funds were advanced.

''(2) CREDIT TO HIGHWAY TRUST FUND.—With respect to a project for which funds have been advanced from the right-of-way revolving fund, upon the termination of the 20-year period referred to in paragraph (1), when actual construction is commenced, or upon approval by the Secretary of the plans, specifications, and estimates for the actual construction of the project on the right-of-way, whichever occurs first—

''(A) the Highway Trust Fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120, out of any Federal-aid highway funds apportioned to the State in which the project is located and available for obligation for projects of the type funded; and

''(B) the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the Highway Trust Fund.''.

(b) PILOT TOLL COLLECTION PROGRAM.—Section 129 of title 23, United States Code, is amended by striking subsection (d).

(c) NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.—As soon as practicable after the date of enactment of this Act, the Secretary shall take such action as is necessary for the termination of the National Recreational Trails Advisory Committee established by section 1303 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1262) (as in effect on the day before the date of enactment of this Act).

(d) CONGRESSIONAL BRIDGE COMMISSIONS.—Public Law 87–441 (76 Stat. 59) is repealed.

SEC. 1209. INTERSTATE MAINTENANCE.

(a) INTERSTATE FUNDS.—Section 119 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (d); and

(3) by striking subsection (f) and inserting the following:

''(f) TRANSFERABILITY OF FUNDS.—

''(1) UNCONDITIONAL.—A State may transfer an amount not to exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).

''(2) UPON ACCEPTANCE OF CERTIFICATION.—If a State certifies to the Secretary that any part of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) is in excess of the needs of the State for resurfacing, restoring, rehabilitating, or reconstructing routes and bridges on the Interstate System in the State and that the State is adequately maintaining the routes and bridges, and the Secretary accepts the certification, the State may transfer, in addition to the amount authorized to be transferred under paragraph (1), an amount not to exceed 20 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).''.

(b) ELIGIBILITY.—Section 119 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking ''and rehabilitating'' and inserting '', rehabilitating, and reconstructing'';

(2) by striking subsections (b), (c), (e), and (g);

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

''(b) ELIGIBLE ACTIVITIES.—

''(1) IN GENERAL.—A State—

''(A) may use funds apportioned under subparagraph (A) or (B) of section 104(b)(1) for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System, including—

''(i) resurfacing, restoring, rehabilitating, and reconstructing bridges, interchanges, and overcrossings;

''(ii) acquiring rights-of-way; and

''(iii) intelligent transportation system capital improvements that are infrastructure-based to the extent that they improve the performance of the Interstate System; but

''(B) may not use the funds for construction of new travel lanes other than high-occupancy vehicle lanes or auxiliary lanes.

''(2) EXPANSION OF CAPACITY.—

''(A) USING TRANSFERRED FUNDS.—Notwithstanding paragraph (1), funds transferred under subsection (c)(1) may be used for construction to provide for expansion of the capacity of an Interstate System highway (including a bridge).

''(B) USING FUNDS NOT TRANSFERRED.—

''(i) IN GENERAL.—In lieu of transferring funds under subsection (c)(1) and using the transferred funds for the purpose described in subparagraph (A), a State may use an amount of the sums apportioned to the State under subparagraph (A) or (B) of section 104(b)(1) for the purpose described in subparagraph (A).

''(ii) LIMITATION.—The sum of the amount used under clause (i) and any amount transferred under subsection (c)(1) by a State may not exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1).''; and

(4) by redesignating subsection (f) as subsection (c).

(c) CONFORMING AMENDMENTS.—

(1) Section 119(a) of title 23, United States Code, is amended in the first sentence by striking ''; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in subsection (e)''.

(2) Section 1009(c)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 119 note; 105 Stat. 1934) is amended by striking ''section 119(f)(1)'' and inserting ''section 119(c)(1)''.

SEC. 1210. ENGINEERING COST REIMBURSEMENT.

Section 102(b) of title 23, United States Code, is amended in the first sentence by inserting before the period at the end the following: ''unless, before the end of the 10-year period, the State requests a longer period for commencement of the construction or acquisition and the Secretary determines that the request is reasonable''.

CHAPTER 2—PROJECT APPROVAL

SEC. 1221. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code (as amended by section 1118), is amended by inserting after subsection (k) the following:

''(l) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

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

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

''(3) TRANSFER TO AMTRAK AND PUBLICLY-OWNED PASSENGER RAIL LINES.—Funds made available under this title or chapter 53 of title 49 and transferred to the National Railroad Passenger Corporation or to any publicly-owned intercity or intracity passenger rail line shall be administered by the Secretary in accordance with subtitle V of title 49, except that the provisions of this title or chapter 53 of title 49, as applicable, relating to the non-Federal share shall apply to the transferred funds.

''(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority provided for projects described in paragraphs (1) through (3) shall be transferred in the same manner and amount as the funds for the projects are transferred.''.

SEC. 1222. PROJECT APPROVAL AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 106. Project approval and oversight'';

(2) by redesignating subsections (e) and (f) as subsections (g) and (h), respectively;

(3) by striking subsections (a) through (d) and inserting the following:

''(a) IN GENERAL.—Except as otherwise provided in this section, the State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require. The Secretary shall act upon such plans, specifications, and estimates as soon as practicable after they have been submitted, and shall enter into a formal project agreement with the State transportation department formalizing the conditions of the project approval. The execution of such project agreement shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

''(b) PROJECT AGREEMENT.—The project agreement shall make provision for State funds required for the State's pro rata share of the cost of construction of the project and for the maintenance of the project after completion of construction. The Secretary may rely upon representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials where a part of the project is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

''(c) SPECIAL RULES FOR PROJECT OVERSIGHT.—

''(1) NHS PROJECTS.—Except as otherwise provided in subsection (d) of this section, the Secretary may discharge to the State any of the Secretary's responsibilities for the design, plans, specifications, estimates, contract awards, and inspection of projects under this title on the National Highway System. Before discharging responsibilities to the State, the Secretary shall reach agreement with the State as to the extent to which the State may assume the responsibilities of the Secretary under this subsection. The Secretary may not assume any greater responsibility than the Secretary is permitted under this title as of September 30, 1997, except upon agreement by the Secretary and the State.

''(2) NON-NHS PROJECTS.—For all projects under this title that are off the National Highway System, the State may request that the Secretary no longer review and approve the design, plans, specifications, estimates, contract awards, and inspection of projects under this title. After receiving any such request, the Secretary shall undertake project review only as requested by the State.

''(d) RESPONSIBILITIES OF THE SECRETARY.—

''(1) IN GENERAL.—Subject to paragraph (2), nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under any Federal law other than this title.

''(2) LIMITATION.—Any responsibility or obligation of the Secretary under sections 113 and 114 of this title shall not be affected and may not be discharged under this section, section 133, or section 149.

''(e) VALUE ENGINEERING ANALYSIS.—In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid highway shall be accompanied by a value engineering or other cost reduction analysis.

''(f) FINANCIAL PLAN.—The Secretary shall require a financial plan to be prepared for any project with an estimated total cost of $1,000,000,000 or more.''.

(b) STANDARDS.—

(1) ELIMINATION OF GUIDELINES AND ANNUAL CERTIFICATION REQUIREMENTS.—Section 109 of title 23, United States Code, is amended—

(A) by striking subsection (m); and

(B) by redesignating subsections (n) through (q) as subsections (m) through (p), respectively.

(2) SAFETY STANDARDS.—Section 109 of title 23, United States Code (as amended by paragraph (1)), is amended by adding at the end the following:

''(q) PHASE CONSTRUCTION.—Safety considerations for a project under this title may be met by phase construction.''.

(c) PROGRAMS; PROJECT AGREEMENTS; CERTIFICATION ACCEPTANCE.—Sections 110 and 117 of title 23, United States Code, are repealed.

(d) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23 is amended—

(A) by striking the item relating to section 106 and inserting the following:

''106. Project approval and oversight.'';

and

(B) by striking the items relating to sections 110 and 117.

(2) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining ''project agreement'' by striking ''the provisions of subsection (a) of section 110 of this title'' and inserting ''section 106''.

(3) Section 114(a) of title 23, United States Code, is amended in the second sentence by striking ''section 117 of this title'' and inserting ''section 106''.

SEC. 1223. SURFACE TRANSPORTATION PROGRAM.

(a) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 133 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking ''10'' and inserting ''8''; and

(B) in the first sentence of paragraph (3)(A), by striking ''80'' and inserting ''82''; and

(2) in subsection (e)—

(A) in paragraph (3)(B)(i), by striking ''if the Secretary'' and all that follows through ''activities''; and

(B) in paragraph (5), by adding at the end the following:

''(C) INNOVATIVE FINANCING.—

''(i) IN GENERAL.—For each fiscal year, the average annual non-Federal share of the total cost of all projects to carry out transportation enhancement activities in a State shall be not less than the non-Federal share authorized for the State under section 120(b).

''(ii) EXCEPTION.—Subject to clause (i), notwithstanding section 120, in the case of projects to carry out transportation enhancement activities—

''(I) funds from other Federal agencies, and other contributions that the Secretary determines are of value, may be credited toward the non-Federal share of project costs;

''(II) the non-Federal share may be calculated on a project, multiple-project, or program basis; and

''(III) the Federal share of the cost of an individual project subject to subclause (I) or (II) may be equal to 100 percent.''.

(b) PROGRAM APPROVAL.—Section 133(e) of title 23, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) PROGRAM APPROVAL.—

''(A) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

''(i) certifies that the State will meet all the requirements of this section; and

''(ii) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

''(B) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—As necessary, each State shall request from the Secretary adjustments to the amount of obligations referred to in subparagraph (A)(ii).

''(C) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under subparagraph (A) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.''.

(c) PAYMENTS.—Section 133(e)(3)(A) of title 23, United States Code, is amended by striking the second sentence.

(d) DEFINITION OF TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining ''transportation enhancement activities'' by striking ''scenic or historic highway programs,'' and inserting ''scenic

or historic highway programs (including the provision of tourist and welcome center facilities),''.

SEC. 1224. DESIGN-BUILD CONTRACTING.

(a) AUTHORITY.—Section 112(b) of title 23, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking ''paragraph (2)'' and inserting ''paragraphs (2) and (3)'';

(2) in paragraph (2)(A), by striking ''Each'' and inserting ''Subject to paragraph (3), each''; and

(3) by adding at the end the following:

''(3) DESIGN-BUILD CONTRACTING.—

''(A) IN GENERAL.—A State transportation department may award a contract for the design and construction of a qualified project described in subparagraph (B) using competitive bidding procedures approved by the Secretary in accordance with subparagraph (C).

''(B) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter that involves installation of an intelligent transportation system or that consists of a usable project segment and for which—

''(i) the Secretary has approved the use of design-build contracting described in subparagraph (A) under criteria specified in regulations promulgated by the Secretary; and

''(ii) the total costs are estimated to exceed—

''(I) in the case of a project that involves installation of an intelligent transportation system, $5,000,000; and

''(II) in the case of a usable project segment, $50,000,000.

''(C) PROCEDURES THAT MAY BE APPROVED.—Under subparagraph (A), the Secretary may approve, for use by a State, only procedures that consist of—

''(i) formal design-build contracting procedures specified in a State statute; or

''(ii) in the case of a State that does not have a statute described in clause (i), the design-build selection procedures authorized under section 303M of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253m).''.

(b) COMPETITIVE BIDDING DEFINED.—Section 112 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

''(f) COMPETITIVE BIDDING DEFINED.—In this section, the term 'competitive bidding' means the procedures used to award contracts for engineering and design services under subsection (b)(2) and design-build contracts under subsection (b)(3).''.

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than the effective date specified in subsection (e), the Secretary shall promulgate regulations to carry out the amendments made by this section.

(2) CONTENTS.—The regulations shall—

(A) identify the criteria to be used by the Secretary in approving the use by a State transportation department of design-build contracting; and

(B) establish the procedures to be followed by a State transportation department for obtaining the Secretary's approval of the use of design-build contracting by the department and the competitive bidding procedures used by the department.

(d) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing in this section or the amendments made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning design-build contracting that is being carried out by the Secretary as of the date of enactment of this Act.

(e) EFFECTIVE DATE FOR AMENDMENTS.—The amendments made by this section take effect 2 years after the date of enactment of this Act.

SEC. 1225. INTEGRATED DECISIONMAKING PROCESS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

''§ 354. Integrated decisionmaking process

''(a) DEFINITIONS.—In this section:

''(1) INTEGRATED DECISIONMAKING PROCESS.—The term 'integrated decisionmaking process' means the integrated decisionmaking process established with respect to a surface transportation project under subsection (b).

''(2) NEPA PROCESS.—The term 'NEPA process' means the process of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a surface transportation project.

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

''(4) SURFACE TRANSPORTATION PROJECT.—The term 'surface transportation project' means—

''(A) a highway construction project that is subject to the approval of the Secretary under title 23; and

''(B) a capital project (as defined in section 5302(a)(1)).

''(5) CONCURRENT PROCESSING.—The term 'concurrent processing' means to the fullest extent practicable, and to the extent otherwise required, agencies shall prepare environmental impact statements and environmental assessments concurrently with and integrated with environmental analyses and related surveys and studies required by the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and other environmental review laws and executive orders.

''(b) ESTABLISHMENT OF INTEGRATED DECISIONMAKING PROCESSES FOR SURFACE TRANSPORTATION PROJECTS.—The Secretary shall—

''(1) establish an integrated decisionmaking process for surface transportation projects that designates major decision points likely to have significant environmental effects and conflicts; and

''(2) integrate the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for surface transportation projects at the earliest possible time, including, to the extent appropriate, at the planning stage with the agreement of the State transportation agencies and the cooperating agencies.

''(c) INTEGRATED DECISIONMAKING GOALS.—The integrated decisionmaking process for surface transportation projects should, to the maximum extent practicable, accomplish the following major goals:

''(1) Integrate the NEPA process for surface transportation projects at the earliest possible time.

''(2) Integrate all applicable Federal, State, tribal, and local permitting requirements.

''(3) Integrate national transportation, social, safety, economic, and environmental goals with State, tribal, and local land use and growth management initiatives, economic development and transportation initiatives.

''(4) Consolidate Federal, State, tribal, and local decisionmaking to achieve the best overall public interest according to an agreed schedule.

''(d) STREAMLINING.—

''(1) AVOIDANCE OF DELAYS, PREVENTION OF CONFLICTS, AND ELIMINATION OF UNNECESSARY DUPLICATION.—The Secretary shall design the integrated decisionmaking process to avoid delays in decisionmaking, prevent conflicts between cooperating agencies and members of the public, and eliminate unnecessary duplication of review and decisionmaking relating to surface transportation projects.

''(2) INTEGRATION; COMPREHENSIVE PROCESS.—The NEPA process—

''(A) shall be integrated for surface transportation projects by Federal, State, tribal, and local transportation agencies; and

''(B) serve as a comprehensive decisionmaking process.

''(3) OTHER REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall—

''(i) establish a concurrent transportation and environmental coordination process to reduce paperwork, combine review documents, and eliminate duplicative reviews;

''(ii) develop interagency agreements to streamline and improve interagency coordination and processing time;

''(iii) apply strategic and programmatic approaches to better integrate and expedite the NEPA process and transportation decisionmaking; and

''(iv) ensure, in appropriate cases, by conducting concurrent reviews whenever possible, that any analyses and reviews conducted by the Secretary consider the needs of other reviewing agencies.

''(B) TIME SCHEDULES.—To comply with subparagraph (A)(ii), time schedules shall be consistent with sections 1501.8 and 1506.10 of title 40, Code of Federal Regulations (or any successor regulations).

''(4) CONCURRENT PROCESSING.—

''(A) IN GENERAL.—The integrated decisionmaking process shall, to the extent practicable, include a procedure to provide for concurrent processing of all Federal, State, tribal, and local reviews and decisions emanating from those reviews.

''(B) INCONSISTENCY WITH OTHER REQUIREMENTS.—Subparagraph (A) does not require concurrent review if concurrent review would be inconsistent with other statutory or regulatory requirements.

''(e) INTERAGENCY COOPERATION.—

''(1) LEAD AND COOPERATING AGENCY CONCEPTS.—The lead and cooperating agency concepts of section 1501 of title 40, Code of Federal Regulations (or any successor regulation), shall be considered essential elements to ensure integration of transportation decisionmaking.

''(2) RESPONSIBILITIES.—The Secretary shall—

''(A) not later than 60 days after the date on which a surface transportation project is selected for study by a State, identify each Federal agency that may be required to participate in the integrated decisionmaking process relating to the surface transportation project and notify the agency of the surface transportation project;

''(B) afford State, regional, tribal, and local governments with decisionmaking authority on surface transportation projects the opportunity to serve as cooperating agencies;

''(C) provide cooperating agencies and the public on request the results of any analysis or other information related to a surface transportation project;

''(D) host an early scoping meeting for Federal agencies and, when appropriate, conduct field reviews, as soon as practicable in the environmental review process;

''(E) solicit from each cooperating agency as early as practicable the data and analyses necessary to facilitate execution of the duties of each cooperating agency;

''(F) use, to the maximum extent possible, scientific, technical, and environmental data and analyses previously prepared by or for other Federal, State, tribal, or local agencies, after an independent evaluation by the Secretary of the data and analyses;

''(G) jointly, with the cooperating agencies, host public meetings and other community participation processes; and

''(H) ensure that the NEPA process and documentation provide all necessary information for the cooperating agency to—

''(i) discharge the responsibilities of the cooperating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other law; and

''(ii) take action on approvals, permits, licenses, and clearances.

''(f) ENHANCED SCOPING PROCESS.—During the scoping process for a surface transportation project, in addition to other statutory and regulatory requirements, the Secretary shall, to the extent practicable—

''(1) provide the public with clearly understandable milestones that occur during an integrated decisionmaking process;

''(2) ensure that all agencies with jurisdiction by law or with special expertise have sufficient information and data to discharge their responsibilities;

''(3) ensure that all agencies with jurisdiction by law or with special expertise, and the public, are invited to participate in the initial scoping process;

''(4) coordinate with other agencies to ensure that the agencies provide to the Secretary, not later than 30 days after the first interagency scoping meeting, any preliminary concerns about how the proposed project may affect matters within their jurisdiction or special expertise based on information available at the time of the scoping meeting; and

''(5) in cooperation with all cooperating agencies, develop a schedule for conducting all necessary environmental and other review processes and assure early consideration of alternatives to a proposed project, including alternatives that address transportation demand consistent with section 134(i)(3) of title 23, United States Code.

''(g) USE OF TITLE 23 FUNDS.—

''(1) USE BY STATES.—A State may use funds made available under section 104(b) or 105 of title 23 or section 1102(c) of the Intermodal Surface Transportation Efficiency Act of 1998 to provide resources to Federal or State agencies involved in the review or permitting process for a surface transportation project in order to meet a time schedule established under this section.

''(2) AMOUNT.—Funds may be provided under paragraph (1) in the amount by which the cost to complete a environmental review in accordance with a time schedule established under this section exceeds the cost that would be incurred if there were no such time schedule.

''(3) NOT FINAL AGENCY ACTION.—The provision of funds under paragraph (1) does not constitute a final agency action.

''(h) STATE ROLE.—

''(1) IN GENERAL.—For any project eligible for assistance under chapter 1 of title 23, a State may require, by law or agreement that has been developed with public involvement coordinating with all related State agencies, that all State agencies that—

''(A) have jurisdiction by Federal or State law over environmental, growth management, or land-use related issues that may be affected by a surface transportation project; or

''(B) have responsibility for issuing any environment related reviews, analyses, opinions, or determinations;

be subject to the coordinated environmental review process provided under this section in issuing any analyses or approvals or taking any other action relating to the project.

''(2) ALL AGENCIES.—If a State requires that any State agency participate in a coordinated environmental review process, the State shall require all affected State agencies to participate.

''(i) EARLY ACTION REGARDING POTENTIALLY INSURMOUNTABLE OBSTACLES.—If, at any time during the integrated decisionmaking process for a proposed surface transportation project, a cooperating agency determines that there is any potentially insurmountable obstacle associated with any of the alternative transportation projects that might be undertaken to address the obstacle, the Secretary shall—

''(1) convene a meeting among the cooperating agencies to address the obstacle;

''(2) initiate conflict resolution efforts under subsection (j); or

''(3) eliminate from consideration the alternative transportation project with which the obstacle is associated.

''(j) CONFLICT RESOLUTION.—

''(1) FORUM.—The NEPA process shall be used as a forum to coordinate the actions of Federal, State, regional, tribal, and local agencies, the private sector, and the public to develop and shape surface transportation projects.

''(2) APPROACHES.—In addition to existing formal public participation opportunities, collaborative, problem solving, and consensus building approaches shall be used, to the extent appropriate (and, when appropriate, mediation may be used) to implement the integrated decisionmaking process with a goal of appropriately considering factors relating to transportation development, economic prosperity, protection of public health and the environment, community and neighborhood preservation, and quality of life for present and future generations.

''(3) UNRESOLVED ISSUES.—

''(A) NOTIFICATION.—If, before the final transportation NEPA document is approved—

''(i) an issue remains unresolved between the lead Federal agency and the cooperating agency; and

''(ii) efforts have been exhausted to resolve the issue at the field levels of each agency—

''(I) within the applicable timeframe of the interagency schedule established under subsection (f)(5); or

''(II) if no timeframe is established, within 90 days;

the field level officer of the lead agency shall notify the field level officer of the cooperating agency that the field level officer of the lead agency intends to bring the issue to the personal attention of the heads of the agencies.

''(B) EFFORTS BY THE AGENCY HEADS.—The head of the lead agency shall contact the head of the cooperating agency and attempt to resolve the issue within 30 days after notification by the field level officer of the unresolved issue.

''(C) CONSULTATION WITH CEQ.—The heads of the agencies are encouraged to consult with the Chair of the Council on Environmental Quality during the 30-day period under subparagraph (B).

''(D) FAILURE TO RESOLVE.—If the heads of the agencies do not resolve the issue within the time specified in subparagraph (B), the referral process under part 1504 of title 40, Code of Federal Regulations (or any successor regulation), shall be initiated with respect to the issue.

''(k) JUDICIAL REVIEW.—Nothing in this section affects the reviewability of any final agency action in a district court of the United States or any State court.

''(l) STATUTORY CONSTRUCTION.—Nothing in this section affects—

''(1) the applicability of the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other statute; or

''(2) the responsibility of any Federal, State, tribal, or local officer to comply with or enforce any statute or regulation.''.

(b) TIMETABLE; REPORT TO CONGRESS.—The Secretary, in consultation with the Chair of the Council on Environmental Quality and after notice and opportunity for public comment—

(1) not later than 180 days after the date of enactment of this Act, shall design the integrated decisionmaking process required by the amendment made by subsection (a) consistent with part 1501, et seq., of title 40 of the Code of Federal Regulations;

(2) not later than 1 year after the date of enactment of this Act, shall promulgate a regulation governing implementation of an integrated decisionmaking process in accordance with the amendment made by subsection (a); and

(3) not later than 2 years after the date of enactment of this Act, shall submit to Congress a report identifying any additional legislative or other solutions that would further enhance the integrated decisionmaking process.

(c) Section 112 of title 23, United States Code, is amended by adding at the end the following new subsection:

''(g) SELECTION PROCESS.—It shall not be considered to be a conflict of interest, as defined under section 1.33 of title 23, Code of Federal Regulations, for a State to procure, under a single contract, the services of a consultant to prepare any environmental assessments or analyses required, including environmental impact statements, as well as subsequent engineering and design work on the same project: Provided, That the State has conducted an independent multidisciplined review that assesses the objectivity of any analysis, environmental assessment or environmental impact statement prior to its submission to the agency that approves the project.

(d) CONFORMING AMENDMENT.—The analysis for subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

''354. Integrated decisionmaking process.''.

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

SEC. 1231. DEFINITION OF OPERATIONAL IMPROVEMENT.

Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining ''operational improvement'' and inserting the following:

''The term 'operational improvement' means the installation, operation, or maintenance, in accordance with subchapter II of chapter 5, of public infrastructure to support intelligent transportation systems and includes the installation or operation of any traffic management activity, communication system, or roadway weather information and prediction system, and any other improvement that the Secretary may designate that enhances roadway safety and mobility during adverse weather.''.

SEC. 1232. ELIGIBILITY OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—Section 129(c) of title 23, United States Code, is amended by inserting ''in accordance with sections 103, 133, and 149,'' after ''toll or free,''.

(b) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(5) of title 23, United States Code (as amended by section 1234), is amended by adding at the end the following:

''(R) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.''.

(c) SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, United States Code, is amended by adding at the end the following:

''(12) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.''.

(d) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (3), by striking ''or'' at the end;

(2) in paragraph (4), by striking the period at the end and inserting ''; or''; and

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

''(5) if the project or program is to construct a ferry boat or ferry terminal facility and if the conditions described in section 129(c) are met.''.

SEC. 1233. FLEXIBILITY OF SAFETY PROGRAMS.

Section 133(d) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) SAFETY PROGRAMS.—

''(A) IN GENERAL.—With respect to funds apportioned for each of fiscal years 1998 through 2003—

''(i) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 130;

''(ii) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 152; and

''(iii) an amount equal to 6 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 130 or 152.

''(B) TRANSFER OF FUNDS.—If a State certifies to the Secretary that any part of the amount set aside by the State under subparagraph (A)(i) is in excess of the needs of the State for activities under section 130 and the Secretary accepts the certification, the State may transfer that excess part to the set-aside of the State under subparagraph (A)(ii).

''(C) TRANSFERS TO OTHER SAFETY PROGRAMS.—A State may transfer funds set aside under subparagraph (A)(iii) to the apportionment of the State under section 402 or the allocation of the State under section 31104 of title 49.''.

SEC. 1234. ELIGIBILITY OF PROJECTS ON THE NATIONAL HIGHWAY SYSTEM.

Section 103(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

''(5) ELIGIBLE PROJECTS FOR NHS.—Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1)(C) for the National Highway System may be obligated for any of the following:

''(A) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the National Highway System.

''(B) Operational improvements for segments of the National Highway System.

''(C) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System, construction of a transit project eligible for assistance under chapter 53 of title 49, and capital improvements to any National Railroad Passenger Corporation passenger rail line or any publicly-owned intercity passenger rail line, if—

''(i) the highway, transit, or rail project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

''(ii) the construction or improvements will improve the level of service on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

''(iii) the construction or improvements are more cost-effective than an improvement to the fully access-controlled highway described in clause (i).

''(D) Highway safety improvements for segments of the National Highway System.

''(E) Transportation planning in accordance with sections 134 and 135.

''(F) Highway research and planning in accordance with chapter 5.

''(G) Highway-related technology transfer activities.

''(H) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

''(I) Fringe and corridor parking facilities.

''(J) Carpool and vanpool projects.

''(K) Bicycle transportation and pedestrian walkways in accordance with section 217.

''(L) Development, establishment, and implementation of management systems under section 303.

''(M) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101–640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction, except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes. With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).

''(N) Publicly-owned intracity or intercity passenger rail or bus terminals, including terminals of the National Railroad Passenger Corporation and publicly-owned intermodal surface freight transfer facilities, other than seaports and airports, if the terminals and facilities are located on or adjacent to National Highway System routes or connections to the National Highway System selected in accordance with paragraph (2).

''(O) Infrastructure-based intelligent transportation systems capital improvements.

''(P) In the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, any project eligible for funding under section 133, any airport, and any seaport.

''(Q) Publicly owned components of magnetic levitation transportation systems.''.

SEC. 1235. ELIGIBILITY OF PROJECTS UNDER THE SURFACE TRANSPORTATION PROGRAM.

Section 133(b) of title 23, United States Code (as amended by section 1232(c)), is amended—

(1) in paragraph (2), by striking ''and publicly owned intracity or intercity bus terminals and facilities'' and inserting '', including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus or rail'';

(2) in paragraph (3)—

(A) by striking ''and bicycle'' and inserting ''bicycle''; and

(B) by inserting before the period at the end the following: '', and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)'';

(3) in paragraph (4)—

(A) by inserting '', publicly owned passenger rail,'' after ''Highway'';

(B) by inserting ''infrastructure'' after ''safety''; and

(C) by inserting before the period at the end the following: '', and any other noninfrastructure highway safety improvements'';

(4) in paragraph (11)—

(A) in the first sentence—

(i) by inserting ''natural habitat and'' after ''participation in'' each place it appears;

(ii) by striking ''enhance and create'' and inserting ''enhance, and create natural habitats and''; and

(iii) by inserting ''natural habitat and'' before ''wetlands conservation''; and

(B) by adding at the end the following: ''With respect to participation in a natural habitat or wetland mitigation effort related to a project funded under this title that has an impact that occurs within the service area of a mitigation bank, preference shall be given, to the maximum extent practicable, to the use of the mitigation bank if the bank contains sufficient available credits to offset the impact and the bank is approved in accordance with the Federal Guidance for the Establishment, Use and Operation of Mitigation Banks (60 Fed. Reg. 58605 (November 28, 1995)) or other applicable Federal law (including regulations).''; and

(5) in subsection (b)(9), by striking ''section 108(f)(1)(A) (other than clauses (xii) and (xvi)) of the Clean Air Act'' and inserting ''section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))'';

(6) by adding at the end the following:

''(13) Publicly owned intercity passenger rail infrastructure, including infrastructure owned by the National Railroad Passenger Corporation.

''(14) Publicly owned passenger rail vehicles, including vehicles owned by the National Railroad Passenger Corporation.

''(15) Infrastructure-based intelligent transportation systems capital improvements.

''(16) Publicly owned components of magnetic levitation transportation systems.

''(17) Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.''.

SEC. 1236. DESIGN FLEXIBILITY.

Section 109 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

''(a) IN GENERAL.—

''(1) REQUIREMENTS FOR FACILITIES.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

''(A) adequately serve the existing traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

''(B) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in subparagraph (A) and to conform to the particular needs of each locality.

''(2) CONSIDERATION OF PLANNED FUTURE TRAFFIC DEMANDS.—In carrying out paragraph (1), the Secretary shall ensure the consideration of the planned future traffic demands of the facility.''.

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

SEC. 1301. STATE INFRASTRUCTURE BANK PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''§ 162. State infrastructure bank program

''(a) DEFINITIONS.—In this section:

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

''(A) to provide credit enhancements;

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

''(C) to subsidize interest rates;

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

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

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

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

''(2) STATE.—The term 'State' has the meaning given the term under section 401.

''(b) COOPERATIVE AGREEMENTS.—

''(1) IN GENERAL.—

''(A) PURPOSE OF AGREEMENTS.—Subject to this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

''(B) CONTENTS OF AGREEMENTS.—Each cooperative agreement shall specify procedures and guidelines for establishing, operating, and providing assistance from the infrastructure bank.

''(2) INTERSTATE COMPACTS.—If 2 or more States enter into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank,

Congress grants consent to those States to enter into an interstate compact establishing the bank in accordance with this section.

''(c) FUNDING.—

''(1) CONTRIBUTION.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (h)(1), a State that enters into a cooperative agreement under this section to contribute to the infrastructure bank established by the State not to exceed—

''(A)(i) the total amount of funds apportioned to the State under each of paragraphs (1) and (3) of section 104(b), excluding funds set aside under paragraphs (1) and (2) of section 133(d); and

''(ii) the total amount of funds allocated to the State under section 105 and under section 1102 of the Intermodal Surface Transportation Efficiency Act of 1998;

''(B) the total amount of funds made available to the State or other Federal transit grant recipient for capital projects (as defined in section 5302 of title 49) under sections 5307, 5309, and 5311 of title 49; and

''(C) the total amount of funds made available to the State under subtitle V of title 49.

''(2) CAPITALIZATION GRANT.—For the purposes of this section, Federal funds contributed to the infrastructure bank under this subsection shall constitute a capitalization grant for the infrastructure bank.

''(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) may be used to provide assistance from an infrastructure bank under this section with respect to a project only if the metropolitan planning organization designated for the area concurs, in writing, with the provision of the assistance.

''(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

''(1) IN GENERAL.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section.

''(2) SUBORDINATION OF LOANS.—The amount of any loan or other assistance provided for the project may be subordinated to any other debt financing for the project.

''(3) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section shall not be made in the form of a grant.

''(e) QUALIFYING PROJECTS.—

''(1) IN GENERAL.—Subject to paragraph (2), funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under this title, for capital projects (as defined in section 5302 of title 49), or for any other project related to surface transportation that the Secretary determines to be appropriate.

''(2) INTERSTATE FUNDS.—Funds contributed to an infrastructure bank from funds apportioned to a State under subparagraph (A) or (B) of section 104(b)(1) may be used only to provide assistance with respect to projects eligible for assistance under those subparagraphs.

''(3) RAIL PROGRAM FUNDS.—Funds contributed to an infrastructure bank from funds made available to a State under subtitle V of title 49 shall be used in a manner consistent with any project description specified under the law making the funds available to the State.

''(f) INFRASTRUCTURE BANK REQUIREMENTS.—

''(1) IN GENERAL.—Subject to paragraph (2), in order to establish an infrastructure bank under this section, each State establishing such a bank shall—

''(A) contribute, at a minimum, to the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank under subsection (c), except that if the State has a higher Federal share payable under section 120(b) of title 23, United States Code, the State shall be required to contribute only an amount commensurate with the higher Federal share;

''(B) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances and its ability to pay claims under credit enhancement programs of the bank;

''(C) ensure that investment income generated by funds contributed to the bank will be—

''(i) credited to the bank;

''(ii) available for use in providing loans and other assistance to projects eligible for assistance from the bank; and

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

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

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

''(F) ensure that the term for repaying any loan will not exceed the lesser of—

''(i) 35 years after the date of the first payment on the loan under subparagraph (E); or

''(ii) the useful life of the investment; and

''(G) require the bank to make a biennial report to the Secretary and to make such other reports as the Secretary may require in guidelines.

''(2) WAIVERS BY THE SECRETARY.—The Secretary may waive a requirement of any of subparagraphs (C) through (G) of paragraph (1) with respect to an infrastructure bank if the Secretary determines that the waiver is consistent with the objectives of this section.

''(g) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

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

''(1) ensure that Federal disbursements shall be at an annual rate of not more than 20 percent of the amount designated by the State for State infrastructure bank capitalization under subsection (c)(1), except that the Secretary may disburse funds to a State in an amount needed to finance a specific project; and

''(2) revise cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995 (Public Law 104–59) to comply with this section.

''(i) APPLICABILITY OF FEDERAL LAW.—

''(1) IN GENERAL.—The requirements of this title or title 49 that would otherwise apply to funds made available under that title and projects assisted with those funds shall apply to—

''(A) funds made available under that title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under section (f); and

''(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of that title (other than sections 113 and 114 of this title and section 5333 of title 49) is not consistent with the objectives of this section.

''(2) REPAYMENTS.—The requirements of this title or title 49 shall not apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall not be considered to be Federal funds.

''(j) UNITED STATES NOT OBLIGATED.—

''(1) IN GENERAL.—The contribution of Federal funds to an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party. No third party shall have any right against the United States for payment solely by virtue of the contribution.

''(2) STATEMENT.—Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

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

''(l) PROGRAM ADMINISTRATION.—

''(1) IN GENERAL.—A State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

''(2) NON-FEDERAL FUNDS.—The limitation described in paragraph (1) shall not apply to non-Federal funds.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''162. State infrastructure bank program.''.

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

SEC. 1311. SHORT TITLE.

This chapter may be cited as the ''Transportation Infrastructure Finance and Innovation Act of 1998''.

SEC. 1312. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

SEC. 1313. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

''SUBCHAPTER II—INFRASTRUCTURE FINANCE

''§ 181. Definitions

''In this subchapter:

''(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

''(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

''(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

''(C) capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

''(2) FEDERAL CREDIT INSTRUMENT.—The term 'Federal credit instrument' means a secured loan, loan guarantee, or line of credit authorized to be made available under this subchapter with respect to a project.

''(3) LENDER.—The term 'lender' means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

''(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

''(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

''(4) LINE OF CREDIT.—The term 'line of credit' means an agreement entered into by the Secretary with an obligor under section 184 to provide a direct loan at a future date upon the occurrence of certain events.

''(5) LOAN GUARANTEE.—The term 'loan guarantee' means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

''(6) LOCAL SERVICER.—The term 'local servicer' means—

''(A) a State infrastructure bank established under this title; or

''(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

''(7) OBLIGOR.—The term 'obligor' means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

''(8) PROJECT.—The term 'project' means—

''(A) any surface transportation project eligible for Federal assistance under this title or chapter 53 of title 49; and

''(B) a project for an international bridge or tunnel for which an international entity authorized under State or Federal law is responsible.

''(9) PROJECT OBLIGATION.—The term 'project obligation' means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

''(10) SECURED LOAN.—The term 'secured loan' means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 183.

''(11) STATE.—The term 'State' has the meaning given the term in section 101.

''(12) SUBSTANTIAL COMPLETION.—The term 'substantial completion' means the opening of a project to vehicular or passenger traffic.

''§ 182. Determination of eligibility and project selection

''(a) ELIGIBILITY.—To be eligible to receive financial assistance under this subchapter, a project shall meet the following criteria:

''(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project—

''(A) shall be included in the State transportation plan required under section 135; and

''(B) at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter, shall be included in the approved State transportation improvement program required under section 134.

''(2) APPLICATION.—A State, a local servicer identified under section 185(a), or the entity undertaking the project shall submit a project application to the Secretary.

''(3) ELIGIBLE PROJECT COSTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this subchapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

''(i) $100,000,000; or

''(ii) 50 percent of the amount of Federal highway assistance funds apportioned for the most recently-completed fiscal year to the State in which the project is located.

''(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project principally involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $30,000,000.

''(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable, in whole or in part, from tolls, user fees, or other dedicated revenue sources.

''(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

''(b) SELECTION AMONG ELIGIBLE PROJECTS.—

''(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

''(2) SELECTION CRITERIA.—The selection criteria shall include the following:

''(A) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

''(B) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment. The Secretary shall require each project applicant to provide a preliminary rating opinion letter from a nationally recognized bond rating agency.

''(C) The extent to which assistance under this subchapter would foster innovative public-private partnerships and attract private debt or equity investment.

''(D) The likelihood that assistance under this subchapter would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

''(E) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

''(F) The amount of budget authority required to fund the Federal credit instrument made available under this subchapter.

''(G) The extent to which the project helps maintain or protect the environment.

''(H) The extent to which assistance under this chapter would reduce the contribution of Federal grant assistance to the project.

''(c) FEDERAL REQUIREMENTS.—The following provisions of law shall apply to funds made available under this subchapter and projects assisted with the funds:

''(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

''(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

''§ 183. Secured loans

''(a) IN GENERAL.—

''(1) AGREEMENTS.—Subject to paragraph (2), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

''(A) to finance eligible project costs; or

''(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 182.

''(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

''(b) TERMS AND LIMITATIONS.—

''(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

''(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

''(3) PAYMENT.—The secured loan—

''(A) shall—

''(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources; and

''(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

''(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

''(4) INTEREST RATE.—The interest rate on the secured loan shall be not less than the yield on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

''(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

''(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

''(7) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of making a secured loan under this section.

''(8) NON-FEDERAL SHARE.—The proceeds of a secured loan under this subchapter may be used for any non-Federal share of project costs required under this title or chapter 53 of title 49, if the loan is repayable from non-Federal funds.

''(c) REPAYMENT.—

''(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

''(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

''(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

''(4) DEFERRED PAYMENTS.—

''(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay scheduled principal and interest on the secured loan, the Secretary may, pursuant to established criteria for the project agreed to by the entity undertaking the project and the Secretary, allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

''(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

''(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

''(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

''(5) PREPAYMENT.—

''(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

''(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

''(d) SALE OF SECURED LOANS.—

''(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after substantial completion of a project and after notifying the obligor, the Secretary may sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

''(2) CONSENT OF OBLIGOR.—In making a sale or reoffering under paragraph (1), the Secretary may not change the original terms and conditions of the secured loan without the written consent of the obligor.

''(e) LOAN GUARANTEES.—

''(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

''(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

''§ 184. Lines of credit

''(a) IN GENERAL.—

''(1) AGREEMENTS.—The Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 182.

''(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

''(b) TERMS AND LIMITATIONS.—

''(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

''(2) MAXIMUM AMOUNTS.—

''(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

''(B) ONE-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

''(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay the costs specified in subsection (a)(2).

''(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

''(5) SECURITY.—The line of credit—

''(A) shall—

''(i) be payable, in whole or in part, from tolls, user fees, or other dedicated revenue sources; and

''(ii) include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

''(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

''(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

''(7) RIGHTS OF THIRD PARTY CREDITORS.—

''(A) AGAINST FEDERAL GOVERNMENT.—A third party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

''(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

''(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

''(9) FEES.—The Secretary may establish fees at a level sufficient to cover all or a portion of the costs to the Federal Government of providing a line of credit under this section.

''(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A project that receives a line of credit under this section shall not also receive a secured loan or loan guarantee under section 183 of an amount that, combined with the amount of the line of credit, exceeds 33 percent of eligible project costs.

''(c) REPAYMENT.—

''(1) TERMS AND CONDITIONS.—The Secretary shall establish repayment terms and conditions for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

''(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and be fully repaid, with interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

''(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

''§ 185. Project servicing

''(a) REQUIREMENT.—The State in which a project that receives financial assistance under this subchapter is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this subchapter.

''(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

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

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

''(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

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

''§ 186. State and local permits

''The provision of financial assistance under this subchapter with respect to a project shall not—

''(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

''(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

''(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

''§ 187. Regulations

''The Secretary may issue such regulations as the Secretary determines appropriate to carry out this subchapter.

''§ 188. Funding

''(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter—

''(A) $60,000,000 for fiscal year 1998;

''(B) $60,000,000 for fiscal year 1999;

''(C) $90,000,000 for fiscal year 2000;

''(D) $90,000,000 for fiscal year 2001;

''(E) $115,000,000 for fiscal year 2002; and

''(F) $115,000,000 for fiscal year 2003.

''(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this subchapter, not more than $2,000,000 for each of fiscal years 1998 through 2003.

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

''(b) CONTRACT AUTHORITY.—

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

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

''(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this subchapter shall be limited to the amounts specified in the following table:

''Fiscal year:	Maximum amount of credit:
1998	$1,200,000,000
1999	$1,200,000,000
2000	$1,800,000,000
2001	$1,800,000,000
2002	$2,300,000,000
2003	$2,300,000,000.

''§ 189. Imposition of annual fee on recipients

''(a) IN GENERAL.—There is hereby imposed on any recipient of a Federal credit instrument an annual fee equal to the applicable percentage of the average outstanding Federal credit instrument amount made available to the recipient during the year under this subchapter.

''(b) TIME OF IMPOSITION.—The fee described in subsection (a) shall be imposed on the annual anniversary date of the receipt of the Federal credit instrument.

''(c) APPLICABLE PERCENTAGE.—For the purposes of subsection (a), the applicable percentage is, with respect to an annual anniversary date occurring in—

''(1) any of fiscal years 1999 through 2003, 1.9095 percent; and

''(2) any fiscal year after 2003, 0.5144 percent.

''(d) TERMINATION.—The fee imposed by this section shall not apply with respect to annual anniversary dates occurring after September 30, 2008.

''(e) DEPOSIT OF RECEIPTS.—The fees collected by the Secretary under this section shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

''§ 190. Report to Congress

''Not later than 4 years after the date of enactment of this subchapter, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this

subchapter, including a recommendation as to whether the objectives of this subchapter are best served—

''(1) by continuing the program under the authority of the Secretary;

''(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

''(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this subchapter without Federal participation.''.

(b) CONFORMING AMENDMENTS.—Chapter 1 of title 23, United States Code, is amended—

(1) in the analysis—

(A) by inserting before ''Sec.'' the following:

''SUBCHAPTER I—GENERAL PROVISIONS'';

and

(B) by adding at the end the following:

''SUBCHAPTER II—INFRASTRUCTURE FINANCE

''181. Definitions.
''182. Determination of eligibility and project selection.
''183. Secured loans.
''184. Lines of credit.
''185. Project servicing.
''186. State and local permits.
''187. Regulations.
''188. Funding.
''189. Imposition of annual fee on recipients.
''190. Report to Congress.'';

and

(2) by inserting before section 101 the following:

''SUBCHAPTER I—GENERAL PROVISIONS''.

SEC. 1314. OFFICE OF INFRASTRUCTURE FINANCE.

(a) DUTIES OF THE SECRETARY.—Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.''.

(b) OFFICE OF INFRASTRUCTURE FINANCE.—

(1) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

''§ 113. Office of Infrastructure Finance

''(a) ESTABLISHMENT.—The Secretary of Transportation shall establish within the Office of the Secretary an Office of Infrastructure Finance.

''(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 180 days after the date of enactment of this section.

''(c) FUNCTIONS.—The Director shall be responsible for—

''(1) carrying out the responsibilities of the Secretary described in section 301(9);

''(2) carrying out research on financing transportation infrastructure, including educational programs and other initiatives to support Federal, State, and local government efforts; and

''(3) providing technical assistance to Federal, State, and local government agencies and officials to facilitate the development and use of alternative techniques for financing transportation infrastructure.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

''113. Office of Infrastructure Finance.''.

Subtitle D—Safety

SEC. 1401. OPERATION LIFESAVER.

Section 104 of title 23, United States Code (as amended by section 1102(a)), is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by striking ''subsection (f)'' and inserting ''subsections (d) and (f)''; and

(2) in subsection (d), by striking paragraph (1) and inserting the following:

''(1) OPERATION LIFESAVER.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $500,000 of the funds made available for the surface transportation program for the fiscal year to carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.''.

SEC. 1402. RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.

Section 104(d) of title 23, United States Code, is amended by striking paragraphs (2) and (3) and inserting the following:

''(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

''(A) IN GENERAL.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,000,000 of the funds made available for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings.

''(B) ELIGIBLE CORRIDORS.—Funds made available under subparagraph (A) shall be expended for projects in—

''(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause);

''(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D); and

''(iii) a Gulf Coast high speed railway corridor (as designated by the Secretary).

''(C) REQUIRED INCLUSION OF HIGH SPEED RAIL LINES.—A corridor selected by the Secretary under subparagraph (B) shall include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.

''(D) CONSIDERATIONS IN CORRIDOR SELECTION.—In selecting corridors under subparagraph (B), the Secretary shall consider—

''(i) projected rail ridership volume in each corridor;

''(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

''(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

''(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

''(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.

''(E)(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 in each of fiscal years 1998 through 2003 to carry out this subsection.

''(ii) AVAILABILITY.—Notwithstanding section 118(a), funds made available under clause (i) shall not be available in advance of an annual appropriation.''.

SEC. 1403. RAILWAY-HIGHWAY CROSSINGS.

Section 130 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by striking ''structures, and'' and inserting ''structures,''; and

(B) by inserting after ''grade crossings,'' the following: ''trespassing countermeasures in the immediate vicinity of a public railway-highway grade crossing, railway-highway crossing safety education, enforcement of traffic laws relating to railway-highway crossing safety, and projects at privately owned railway-highway crossings if each such project is publicly sponsored and the Secretary determines that the project would serve a public benefit,'';

(2) in subsection (d), by adding at the end the following: ''In a manner established by the Secretary, each State shall submit a report that describes completed railway-highway crossing projects funded under this section to the Department of Transportation for inclusion in the National Grade Crossing Inventory prepared by the Department of Transportation and the Association of American Railroads.''; and

(3) by striking subsection (e).

SEC. 1404. HAZARD ELIMINATION PROGRAM.

(a) IN GENERAL.—Section 152 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking ''(a) Each'' and inserting the following:

''(a) IN GENERAL.—

''(1) PROGRAM.—Each'';

(B) by inserting '', bicyclists,'' after ''motorists''; and

(C) by adding at the end the following:

''(2) HAZARDS.—In carrying out paragraph (1), a State may, at its discretion—

''(A) identify through a survey hazards to motorists, bicyclists, pedestrians, and users of highway facilities; and

''(B) develop and implement projects and programs to address the hazards.'';

(2) in subsection (b), by striking ''highway safety improvement project'' and inserting ''safety improvement project, including a project described in subsection (a)''; and

(3) in subsection (c), by striking ''on any public road (other than a highway on the Interstate System).'' and inserting the following: ''on—

''(1) any public road;

''(2) any public transportation vehicle or facility, any publicly owned bicycle or pedestrian pathway or trail, or any other facility that the Secretary determines to be appropriate; or

''(3) any traffic calming measure.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended—

(A) in the undesignated paragraph defining ''highway safety improvement project'', by striking ''highway safety'' and inserting ''safety''; and

(B) by moving that undesignated paragraph to appear before the undesignated paragraph defining ''Secretary''.

(2) Section 152 of title 23, United States Code, is amended in subsections (f) and (g) by striking ''highway safety improvement projects'' each place it appears and inserting ''safety improvement projects''.

SEC. 1405. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1301(a)), is amended by adding at the end the following:

''§ 163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

''(a) DEFINITIONS.—In this section:

''(1) ALCOHOL CONCENTRATION.—The term 'alcohol concentration' means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

''(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

''(3) LICENSE SUSPENSION.—The term 'license suspension' means the suspension of all driving privileges.

''(4) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for

use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

''(5) REPEAT INTOXICATED DRIVER LAW.—The term 'repeat intoxicated driver law' means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence after a previous conviction for that offense shall—

''(A) receive a driver's license suspension for not less than 1 year;

''(B) be subject to the impoundment or immobilization of each of the individual's motor vehicles or the installation of an ignition interlock system on each of the motor vehicles;

''(C) receive an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

''(D) receive—

''(i) in the case of the second offense—

''(I) an assignment of not less than 30 days of community service; or

''(II) not less than 5 days of imprisonment; and

''(ii) in the case of the third or subsequent offense—

''(I) an assignment of not less than 60 days of community service; or

''(II) not less than 10 days of imprisonment.

''(b) TRANSFER OF FUNDS.—

''(1) FISCAL YEARS 2001 AND 2002.—

''(A) IN GENERAL.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402—

''(i) to be used for alcohol-impaired driving countermeasures; or

''(ii) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

''(B) DERIVATION OF AMOUNT TO BE TRANSFERRED.—An amount transferred under subparagraph (A) may be derived—

''(i) from the apportionment of the State under section 104(b)(1);

''(ii) from the apportionment of the State under section 104(b)(3); or

''(iii) partially from the apportionment of the State under section 104(b)(1) and partially from the apportionment of the State under section 104(b)(3).

''(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—

''(A) IN GENERAL.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer 3 percent of the funds apportioned to the State on that date under each of paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402—

''(i) to be used for alcohol-impaired driving countermeasures; or

''(ii) to be directed to State and local law enforcement agencies for enforcement of laws prohibiting driving while intoxicated or driving under the influence and other related laws (including regulations), including the purchase of equipment, the training of officers, and the use of additional personnel for specific alcohol-impaired driving countermeasures, dedicated to enforcement of the laws (including regulations).

''(B) DERIVATION OF AMOUNT TO BE TRANSFERRED.—An amount transferred under subparagraph (A) may be derived—

''(i) from the apportionment of the State under section 104(b)(1);

''(ii) from the apportionment of the State under section 104(b)(3); or

''(iii) partially from the apportionment of the State under section 104(b)(1) and partially from the apportionment of the State under section 104(b)(3).

''(3) FEDERAL SHARE.—The Federal share of the cost of a project carried out under section 402 with funds transferred under paragraph (1) or (2) shall be 100 percent.

''(4) TRANSFER OF OBLIGATION AUTHORITY.—

''(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

''(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

''(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

''(ii) the ratio that—

''(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

''(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

''(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under that section.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1301(b)), is amended by adding at the end the following:

''163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.''.

SEC. 1406. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1405(a)), is amended by adding at the end the following:

''§164. Safety incentive grants for use of seat belts

''(a) DEFINITIONS.—In this section:

''(1) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

''(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term 'multipurpose passenger motor vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

''(3) NATIONAL AVERAGE SEAT BELT USE RATE.—The term 'national average seat belt use rate' means, in the case of each of calendar years 1995 through 2001, the national average seat belt use rate for that year, as determined by the Secretary.

''(4) PASSENGER CAR.—The term 'passenger car' means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

''(5) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

''(6) SAVINGS TO THE FEDERAL GOVERNMENT.—The term 'savings to the Federal Government' means the amount of Federal budget savings relating to Federal medical costs (including savings under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.)), as determined by the Secretary.

''(7) SEAT BELT.—The term 'seat belt' means—

''(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

''(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

''(8) STATE SEAT BELT USE RATE.—The term 'State seat belt use rate' means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary—

''(A) for each of calendar years 1995 through 1997, by the State, as adjusted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

''(B) for each of calendar years 1998 through 2001, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

''(b) DETERMINATIONS BY THE SECRETARY.—Not later than 30 days after the date of enactment of this section, and not later than September 1 of each calendar year thereafter through September 1, 2002, the Secretary shall determine—

''(1)(A) which States had, for each of the previous calendar years (referred to in this subsection as the 'previous calendar year') and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and

''(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate for the previous calendar year exceeds the national average seat belt use rate for that year; and

''(2) in the case of each State that is not a State described in paragraph (1)(A)—

''(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1995 through the calendar year preceding the previous calendar year; and

''(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

''(c) ALLOCATIONS.—

''(1) STATES WITH GREATER THAN THE NATIONAL AVERAGE SEAT BELT USE RATE.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

''(2) OTHER STATES.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

''(d) USE OF FUNDS.—For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

''(e) CRITERIA.—Not later than 180 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998, the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

''(f) FUNDING.—

''(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $60,000,000 for fiscal year 1998, $70,000,000 for fiscal year 1999, $80,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $100,000,000 for each of fiscal years 2002 and 2003.

''(2) PROPORTIONATE ADJUSTMENT.—If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph (1), the allocation to each State under subsection (c) shall be reduced proportionately.

''(3) USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts shall be allocated as follows:

''(A) 50 percent to be apportioned to the States in the same manner in which funds are apportioned under section 402(c).

''(B) 50 percent to be allocated by the Secretary under section 403 through cooperative agreements with States to carry out innovative programs to promote increased seat belt use rates.

''(4) ADMINISTRATIVE EXPENSES.—Not more than 2 percent of the funds made available to carry out this section may be used to pay the necessary administrative expenses incurred in carrying out this section.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1405(b)), is amended by adding at the end the following:

''164. Safety incentive grants for use of seat belts.''.

SEC. 1407. AUTOMATIC CRASH PROTECTION UNBELTED TESTING STANDARD.

(a) IN GENERAL.—

(1) TESTING WITH SIMULTANEOUS USE.—Beginning on the date of enactment of this Act, for the purpose of certification under section 30115 of title 49, United States Code, of compliance with the motor vehicle safety standards under section 30111 of that title, a manufacturer or distributor of a motor vehicle shall be deemed to be in compliance with applicable performance standards for occupant crash protection if the motor vehicle meets the applicable requirements for testing with the simultaneous use of both an automatic restraint system and a manual seat belt.

(2) PROHIBITION.—In no case shall a manufacturer or distributor use, for the purpose of the certification referred to in paragraph (1), testing that provides for the use of an automatic restraint system without the use of a manual seat belt.

(b) REVISION OF STANDARDS.—The Secretary shall issue such revised standards under section 30111 of title 49, United States Code, as are necessary to conform to subsection (a).

SEC. 1408. NATIONAL STANDARD TO PROHIBIT OPERATION OF MOTOR VEHICLES BY INTOXICATED INDIVIDUALS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by inserting after section 153 the following:

''§154. National standard to prohibit operation of motor vehicles by intoxicated individuals

''(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

''(1) FISCAL YEAR 2002.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1)(A), (1)(C), and (3) of section 104(b) on October 1, 2001, if the State does not meet the requirements of paragraph (3) on that date.

''(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1)(A), (1)(C), and (3) of section 104(b) on October 1, 2002, and on October 1 of each fiscal year thereafter, if the State does not meet the requirements of paragraph (3) on that date.

''(3) REQUIREMENTS.—A State meets the requirements of this paragraph if the State has enacted and is enforcing a law providing that an individual who has an alcohol concentration of 0.08 percent or greater while operating a motor vehicle in the State is guilty of the offense of driving while intoxicated (or an equivalent offense that carries the greatest penalty under the law of the State for operating a motor vehicle after having consumed alcohol).

''(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

''(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

''(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2003.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 2003, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

''(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2003.—No funds withheld under this section from apportionment to any State after September 30, 2003, shall be available for apportionment to the State.

''(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements, apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

''(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

''(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

''(B) TREATMENT OF CERTAIN FUNDS.—Sums not obligated at the end of the period referred to in subparagraph (A) shall—

''(i) lapse; or

''(ii) in the case of funds apportioned under section 104(b)(1)(A), lapse and be made available by the Secretary for projects in accordance with section 118.

''(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1)(A), the State does not meet the requirements of subsection (a)(3), the funds shall—

''(A) lapse; or

''(B) in the case of funds withheld from apportionment under section 104(b)(1)(A), lapse and be made available by the Secretary for projects in accordance with section 118.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 153 the following:

''154. National standard to prohibit operation of motor vehicles by intoxicated individuals.''.

SEC. 1409. OPEN CONTAINER LAWS.

(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by inserting after section 153 the following:

''§154. Open container requirements

''(a) DEFINITIONS.—In this section:

''(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning given the term in section 158(c).

''(2) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated exclusively on a rail or rails.

''(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' has the meaning given the term in section 410(i).

''(4) PASSENGER AREA.—The term 'passenger area' shall have the meaning given the term by the Secretary by regulation.

''(b) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

''(1) FISCAL YEAR 2002.—The Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1)(A), (1)(C), and (3) of section 104(b) on October 1, 2001, if the State does not have in effect a law described in paragraph (3) on that date.

''(2) SUBSEQUENT FISCAL YEARS.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1)(A), (1)(C), and (3) of section 104(b) on October 1, 2002, and on October 1 of each fiscal year thereafter, if the State does not have in effect a law described in paragraph (3) on that date.

''(3) OPEN CONTAINER LAWS.—

''(A) IN GENERAL.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State.

''(B) MOTOR VEHICLES DESIGNED TO TRANSPORT MANY PASSENGERS.—For the purposes of this section, if a State has in effect a law that makes unlawful the possession of any open alcoholic beverage container in the passenger area by the driver (but not by a passenger) of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or to the living quarters of a house coach or house trailer, the State shall be deemed to have in effect a law described in this subsection with respect to such a motor vehicle for each fiscal year during which the law is in effect.

''(c) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NONCOMPLIANCE.—

''(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

''(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 2003.—Any funds withheld under subsection (b) from apportionment to any State on or before September 30, 2003, shall remain available until the end of the third fiscal year following the fiscal year for which the funds are authorized to be appropriated.

''(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 2003.—No funds withheld under this section from apportionment to any State after September 30, 2003, shall be available for apportionment to the State.

''(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (b) from apportionment are to remain available for apportionment to a State under paragraph (1)(A), the State has in effect a law described in subsection (b)(3), the Secretary shall, on the first day on which the State has in effect such a law, apportion to the State the funds withheld under subsection (b) that remain available for apportionment to the State.

''(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—

''(A) IN GENERAL.—Any funds apportioned under paragraph (2) shall remain available for expenditure until the end of the third fiscal year following the fiscal year in which the funds are so apportioned.

''(B) TREATMENT OF CERTAIN FUNDS.—Sums not obligated at the end of the period referred to in subparagraph (A) shall—

''(i) lapse; or

''(ii) in the case of funds apportioned under section 104(b)(1)(A), lapse and be made available

by the Secretary for projects in accordance with section 118.

''(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (b) from apportionment are available for apportionment to a State under paragraph (1)(A), the State does not have in effect a law described in subsection (b)(3), the funds shall—

''(A) lapse; or

''(B) in the case of funds withheld from apportionment under section 104(b)(1)(A), lapse and be made available by the Secretary for projects in accordance with section 118.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by inserting after the item relating to section 153 the following:

''154. Open container requirements.''.

SEC. 1410. REPORT ON EFFECTS OF ALLOWING HEAVIER WEIGHT VEHICLES ON CERTAIN HIGHWAYS.

(a) DEFINITION OF HEAVIER WEIGHT VEHICLE.—In this section, the term ''heavier weight vehicle'' means a vehicle the operation of which on the Interstate System is prohibited under section 127 of title 23, United States Code.

(b) REPORT.—Not later than December 31, 2000, the Secretary shall submit to Congress a report on the effects of allowing operation of heavier weight vehicles on Interstate Route 95 in the States of Maine and New Hampshire.

(c) CONTENTS.—The report shall contain an analysis of the safety, infrastructure, cost recovery, environmental, and economic implications of that operation.

(d) CONSULTATION.—In preparing the report, the Secretary shall consult with the safety and modal administrations of the Department of Transportation, and the States of Maine and New Hampshire.

(e) MORATORIUM ON WITHHOLDING OF FUNDS.—Notwithstanding section 127 of title 23, United States Code, during the period beginning on the date of enactment of this Act and ending on the earlier of the end of fiscal year 2002 or the date that is 1 year after the date of submission of the report under subsection (b), the Secretary shall not withhold, under that section, funds from apportionment to the States of Maine and New Hampshire.

Subtitle E—Environment

SEC. 1501. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1406(a)) is amended by adding at the end the following:

''§ 165. National scenic byways program

''(a) DESIGNATION OF ROADS.—

''(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as National Scenic Byways or All-American Roads.

''(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

''(3) NOMINATION.—To be considered for the designation, a road must be nominated by a State or a Federal land management agency and must first be designated as a State scenic byway or, in the case of a road on Federal land, as a Federal land management agency byway.

''(b) GRANTS AND TECHNICAL ASSISTANCE.—

''(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States to—

''(A) implement projects on highways designated as National Scenic Byways or All-American Roads, or as State scenic byways; and

''(B) plan, design, and develop a State scenic byway program.

''(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

''(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway or All-American Road and that is consistent with the corridor management plan for the byway;

''(B) each eligible project along a State-designated scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as a National Scenic Byway or All-American Road; and

''(C) each eligible project that is associated with the development of a State scenic byway program.

''(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

''(1) An activity related to the planning, design, or development of a State scenic byway program.

''(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

''(3) Safety improvements to a State scenic byway, National Scenic Byway, or All-American Road to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, National Scenic Byway, or All-American Road.

''(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, passing lane, overlook, or interpretive facility.

''(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

''(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

''(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

''(8) Development and implementation of a scenic byways marketing program.

''(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

''(e) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byways project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.

''(f) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $17,000,000 for fiscal year 1999, $19,000,000 for fiscal year 2000, $19,000,000 for fiscal year 2001, $21,000,000 for fiscal year 2002, and $23,000,000 for fiscal year 2003.''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

''165. National scenic byways program.''.

SEC. 1502. PUBLIC-PRIVATE PARTNERSHIPS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

''(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

''(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

''(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

''(B) cost sharing of any project expense;

''(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

''(D) any other form of participation approved by the Secretary.

''(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(2) to an entity described in paragraph (1).

''(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

''(A) may include the costs of vehicle refueling infrastructure and other capital investments associated with the project; and

''(B) shall—

''(i) include only the incremental cost of an alternative fueled vehicle compared to a conventionally fueled vehicle that would otherwise be borne by a private party; and

''(ii) apply other governmental financial purchase contributions in the calculation of net incremental cost.

''(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.''.

SEC. 1503. WETLAND RESTORATION PILOT PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) surface transportation has unintended but negative consequences for wetlands and other water resources;

(2) in almost every State, construction and other highway activities have reduced or eliminated wetland functions and values, such as wildlife habitat, ground water recharge, flood control, and water quality benefits;

(3) the United States has lost more than ½ of the estimated 220,000,000 acres of wetlands that existed during colonial times; and

(4) while the rate of human-induced destruction and conversion of wetlands has slowed in recent years, the United States has suffered unacceptable wetland losses as a result of highway projects.

(b) ESTABLISHMENT.—The Secretary shall establish a national wetland restoration pilot program (referred to in this section as the ''program'') to fund mitigation projects to offset the degradation of wetlands, or the loss of functions and values of the aquatic resource, resulting from projects carried out before December 27, 1977, under title 23, United States Code (or similar projects as determined by the Secretary), for which mitigation has not been performed.

(c) APPLICATIONS.—To be eligible for funding under the program, a State shall submit an application to the Secretary that includes—

(1) a description of the wetland proposed to be restored by a mitigation project described in subsection (b) (referred to in this section as a ''wetland restoration project'') under the program (including the size and quality of the wetland);

(2) such information as is necessary to establish a nexus between—

(A) a project carried out under title 23, United States Code (or a similar project as determined by the Secretary); and

(B) the wetland values and functions proposed to be restored by the wetland restoration project;

(3) a description of the benefits expected from the proposed wetland restoration project (including improvement of water quality, improvement of wildlife habitat, ground water recharge, and flood control);

(4) a description of the State's level of commitment to the proposed wetland restoration project (including the monetary commitment of the State and any development of a State or regional conservation plan that includes the proposed wetland restoration); and

(5) the estimated total cost of the wetland restoration project.

(d) SELECTION OF WETLAND RESTORATION PROJECTS.—

(1) INTERAGENCY COUNCIL.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall establish an interagency advisory council to—

(A) review the submitted applications that meet the requirements of subsection (c); and

(B) not later than 60 days after the application deadline, select wetland restoration projects for funding under the program.

(2) SELECTION CRITERIA FOR PRIORITY WETLAND RESTORATION PROJECTS.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall give priority in funding under this section to wetland restoration projects that—

(A) provide for long-term monitoring and maintenance of wetland resources;

(B) are managed by an entity, such as a State wildlife agency, wetland conservation group, land trust, or nature conservancy, with expertise in the long-term monitoring and protection of wetland resources; and

(C) have a high likelihood of success.

(e) REPORTS.—Not later than April 1, 2000, and April 1, 2003, the Secretary shall submit a report to Congress on the results of the program.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for fiscal year 1998, $13,000,000 for fiscal year 1999, $14,000,000 for fiscal year 2000, $17,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $24,000,000 for fiscal year 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle F—Planning

SEC. 1601. METROPOLITAN PLANNING.

(a) IN GENERAL.—Section 134 of title 23, United States Code, is amended to read as follows:

"§ 134. Metropolitan planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—Congress finds that it is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

"(3) CONTENTS.—The plans and programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

"(4) PROCESS.—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.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) REDESIGNATION.—

"(A) PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(B) CERTAIN REQUESTS TO REDESIGNATE.—A metropolitan planning organization shall be redesignated upon request of a unit or units of general purpose local government representing at least 25 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) in any urbanized area—

"(i) whose population is more than 5,000,000 but less than 10,000,000, or

"(ii) which is an extreme nonattainment area for ozone or carbon monoxide as defined under the Clean Air Act.

Such redesignation shall be accomplished using procedures established by subparagraph (A).

"(3) 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.

"(4) STRUCTURE.—Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization as of June 1, 1991); and

"(C) appropriate State officials.

"(5) OTHER AUTHORITY.—Nothing in this subsection interferes with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; or

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities under State law.

"(6) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (2).

"(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an 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 Intermodal Surface Transportation Efficiency Act of 1998, shall be retained, except that the boundaries may be adjusted by agreement of the affected metropolitan planning organizations and Governors in the manner described in subsection (b)(2).

"(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998 as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established by agreement between the appropriate units of general purpose local government (including the central city) and the Governor;

"(B) shall encompass at least the urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period;

"(C) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census; and

"(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(3) LAKE TAHOE REGION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region (as defined in the Lake Tahoe Regional Planning Compact) 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, section 135, and chapter 53 of title 49.

"(B) INTERSTATE COMPACT.—

"(i) IN GENERAL.—Subject to clause (ii), notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the

Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.

''(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—

''(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under subparagraph (A) 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 this title and under chapter 53 of title 49, not more than 1 percent of the funds allocated under section 202 may be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.

''(C) ACTIVITIES.—

''(i) HIGHWAY PROJECTS.—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, be funded using funds allocated under section 202.

''(ii) TRANSIT PROJECTS.—Transit projects included in transportation plans developed under this paragraph may, in accordance with chapter 53 of title 49, be funded using amounts apportioned under that title for—

''(I) capital project funding, in order to accelerate completion of the transit projects; and

''(II) operating assistance, in order to pay the operating costs of the transit projects, including operating costs associated with unique circumstances in the Lake Tahoe region, such as seasonal fluctuations in passenger loadings, adverse weather conditions, and increasing intermodal needs.

''(e) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—If more than 1 metropolitan planning organization has authority within a metropolitan planning area or an area that is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each such metropolitan planning organization shall consult with the other metropolitan planning organizations designated for the area and the State in the development of plans and programs required by this section.

''(f) SCOPE OF PLANNING PROCESS.—The metropolitan transportation planning process for a metropolitan area under this section shall consider the following:

''(1) Supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.

''(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

''(3) Increasing the accessibility and mobility options available to people and for freight.

''(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

''(5) Enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight.

''(6) Promoting efficient system management and operation.

''(7) Emphasizing the preservation of the existing transportation system.

''(g) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—

''(1) IN GENERAL.—

''(A) DEVELOPMENT.—In accordance with this subsection, each metropolitan planning organization shall develop, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long-range transportation plan for its metropolitan area.

''(B) FORECAST PERIOD.—In developing long-range transportation plans, the metropolitan planning process shall address—

''(i) the considerations under subsection (f); and

''(ii) any State or local goals developed within the cooperative metropolitan planning process;

as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process.

''(C) FUNDING ESTIMATES.—For the purpose of developing the long-range transportation plan, the State shall consult with the metropolitan planning organization and each public transit agency in developing estimates of funds that are reasonably expected to be available to support plan implementation.

''(2) LONG-RANGE TRANSPORTATION PLAN.—A long-range transportation plan under this subsection shall, at a minimum, contain—

''(A) an identification of transportation facilities (including major roadways and transit, multimodal, and intermodal facilities) that should function as a future integrated transportation system, giving emphasis to those facilities that serve important national, regional, and metropolitan transportation functions;

''(B) an identification of transportation strategies necessary to—

''(i) ensure preservation, including requirements for management, operation, modernization, and rehabilitation, of the existing and future transportation system; and

''(ii) make the most efficient use of existing transportation facilities to relieve congestion, to efficiently serve the mobility needs of people and goods, and to enhance access within the metropolitan planning area; and

''(C) a financial plan that demonstrates how the long-range transportation plan can be implemented, indicates total resources from public and private sources that are reasonably expected to be available to carry out the plan (without any requirement for indicating project-specific funding sources), and recommends any additional financing strategies for needed projects and programs.

''(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are 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 long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

''(4) PARTICIPATION BY INTERESTED PARTIES.—Before adopting a long-range transportation plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan.

''(5) PUBLICATION OF LONG-RANGE TRANSPORTATION PLAN.—Each long-range transportation plan prepared by a metropolitan planning organization shall be—

''(A) published or otherwise made readily available for public review; and

''(B) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

''(h) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

''(B) OPPORTUNITY FOR COMMENT.—In developing the program, the metropolitan planning organization, in cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

''(C) FUNDING ESTIMATES.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

''(D) UPDATING AND APPROVAL.—The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

''(2) CONTENTS.—The transportation improvement program shall include—

''(A) a list, in order of priority, of proposed federally supported projects and strategies to be carried out within each 3-year-period after the initial adoption of the transportation improvement program; and

''(B) a financial plan that—

''(i) demonstrates how the transportation improvement program can be implemented;

''(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program (without any requirement for indicating project-specific funding sources); and

''(iii) identifies innovative financing techniques to finance projects, programs, and strategies (without any requirement for indicating project-specific funding sources).

''(3) INCLUDED PROJECTS.—

''(A) CHAPTER 1 AND CHAPTER 53 PROJECTS.—A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

''(B) CHAPTER 2 PROJECTS.—

''(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of this title shall be identified individually in the transportation improvement program.

''(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of this title that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

''(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

''(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(4) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall, in cooperation with the State and any affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

''(5) SELECTION OF PROJECTS.—

''(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the transportation improvement program development required under paragraph (1), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program—

''(i) by—

''(I) in the case of projects under chapter 1, the State; and

''(II) in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

''(ii) in cooperation with the metropolitan planning organization.

''(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project of higher priority in the program.

''(i) TRANSPORTATION MANAGEMENT AREAS.—

''(1) DESIGNATION.—

''(A) REQUIRED DESIGNATIONS.—The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

''(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

''(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and any affected public transit operator.

''(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies.

''(4) SELECTION OF PROJECTS.—

''(A) IN GENERAL.—In addition to the transportation improvement program development required under subsection (h)(1), all federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System) or under chapter 53 of title 49 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 carried out within the boundaries of a transportation management area on the National Highway System 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 in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

''(ii) subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

''(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

''(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law;

''(ii) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor;

''(iii) the public has been given adequate opportunity during the certification process to comment on—

''(I) the public participation process conducted by the metropolitan planning organization; and

''(II) the extent to which the transportation improvement program for the metropolitan area takes into account the needs of the entire metropolitan area, including the needs of low and moderate income residents, and the requirement of title VI of the Civil Rights Act; and

''(iv) public comments are—

''(I) included in the documentation supporting the metropolitan planning organization's request for certification; and

''(II) made publicly available.

''(C) EFFECT OF FAILURE TO CERTIFY.—

''(i) WITHHOLDING OF FUNDS.—If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

''(ii) RESTORATION OF WITHHELD FUNDS.—The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

''(iii) FEASIBILITY OF PRIVATE ENTERPRISE PARTICIPATION.—The Secretary shall not withhold certification under this paragraph based on the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49.

''(j) ABBREVIATED PLANS AND PROGRAMS 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 metropolitan transportation plan and program that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

''(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or programs 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.).

''(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

''(1) IN GENERAL.—Notwithstanding any other provision of this title or chapter 53 of title 49, in the case of a transportation management area classified as nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be programmed in the area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project results from an approved congestion management system.

''(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

''(l) LIMITATION.—Nothing in this section confers on a metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not eligible for assistance under this title or chapter 53 of title 49.

''(m) FUNDING.—

''(1) IN GENERAL.—Funds set aside under section 104(f) of this title and section 5303 of title 49 shall be available to carry out this section.

''(2) UNUSED FUNDS.—Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135.''.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 134 and inserting the following:

''134. Metropolitan planning.''.

SEC. 1602. STATEWIDE PLANNING.

(a) IN GENERAL.—Section 135 of title 23, United States Code, is amended to read as follows:

''§ 135. Statewide planning

''(a) GENERAL REQUIREMENTS.—

''(1) FINDINGS.—It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight throughout each State.

''(2) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134 of this title and sections 5303 through 5305 of title 49, each State shall develop transportation plans and programs for all areas of the State.

''(3) CONTENTS.—The plans and programs for each State shall provide for the development and integrated management and operation of transportation systems (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal State transportation system and an integral part of the intermodal transportation system of the United States.

''(4) 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.

''(b) SCOPE OF PLANNING PROCESS.—Each State shall carry out a transportation planning process that shall consider the following:

''(1) Supporting the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency.

''(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

''(3) Increasing the accessibility and mobility options available to people and for freight.

''(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

''(5) Enhancing the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight.

''(6) Promoting efficient system management and operation.

''(7) Emphasizing the preservation of the existing transportation system.

''(c) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall—

''(1) coordinate the planning with the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

''(2) carry out the responsibilities of the State for the development of the transportation portion of the State air quality implementation plan to the extent required by the Clean Air Act (42 U.S.C. 7401 et seq.).

''(d) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum, consider—

''(1) with respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;

''(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

''(3) coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.

''(e) LONG-RANGE TRANSPORTATION PLAN.—

''(1) DEVELOPMENT.—Each State shall develop a long-range transportation 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 AREAS.—With respect to each metropolitan area in the State, the plan shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

''(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area, the plan shall be developed in consultation with local elected officials representing units of general purpose local government.

''(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.

''(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the plan, the State shall—

''(A) provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

''(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

''(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.—

''(1) DEVELOPMENT.—

''(A) IN GENERAL.—The State shall develop a transportation improvement program for all areas of the State.

''(B) CONSULTATION WITH GOVERNMENTS.—

''(i) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

''(ii) NONMETROPOLITAN AREAS.—

''(I) IN GENERAL.—With respect to each nonmetropolitan area in the State, the program shall be developed in cooperation with the State, elected officials of affected local governments, and elected officials of subdivisions of affected local governments that have jurisdiction over transportation planning, through a process developed by the State that ensures participation by the elected officials.

''(II) REVIEW.—Not less than once every 2 years, the Secretary shall review the planning process through which the program was developed under subclause (I).

''(III) APPROVAL.—The Secretary shall approve the planning process if the Secretary finds that the planning process is consistent with this section and section 134.

''(iii) 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.

''(C) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

''(2) INCLUDED PROJECTS.—

''(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

''(B) CHAPTER 2 PROJECTS.—

''(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually.

''(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

''(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall—

''(i) be consistent with the long-range transportation plan developed under this section for the State;

''(ii) be identical to the project as described in an approved metropolitan transportation improvement program; and

''(iii) be 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.

''(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—

''(i) IN GENERAL.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(ii) LIMITATION.—Clause (i) does not require the indication of project-specific funding sources.

''(E) PRIORITIES.—The program shall reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

''(3) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

''(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals (excluding projects carried out on the National Highway System) shall be selected, from the approved statewide transportation improvement program, by the State in cooperation with the affected local officials.

''(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out in areas described in subparagraph (A) on the National Highway System shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials.

''(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and, on a finding that the planning process through which the program was developed is consistent with this section and section 134, approved not less frequently than biennially by the Secretary.

''(5) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide transportation improvement program in place of another project of higher priority in the program.

''(g) FUNDING.—Funds set aside under section 505 of this title and section 5313(b) of title 49 shall be available to carry out this section.

''(h) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section or section 134 are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section or section 134 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.).''.

(b) REDUNDANT METROPOLITAN TRANSPORTATION PLANNING REQUIREMENTS.—

(1) FINDING.—Congress finds that certain major investment study requirements under section 450.318 of title 23, Code of Federal Regulations, are redundant to the planning and project development processes required under other provisions in titles 23 and 49, United States Code.

(2) STREAMLINING.—

(A) IN GENERAL.—The Secretary shall streamline the Federal transportation planning and NEPA decision process requirements for all transportation improvements supported with Federal surface transportation funds or requiring Federal approvals, with the objective of reducing the number of documents required and better integrating required analyses and findings wherever possible.

(B) REQUIREMENTS.—The Secretary shall amend regulations as appropriate and develop procedures to—

(i) eliminate, within six months of the date of enactment of this section, the major investment study under section 450.318 of title 23, Code of Federal Regulations, as a stand-alone requirement independent of other transportation planning requirements, and integrate those components of the major investment study procedure which are not duplicated elsewhere with other transportation planning requirements, provided that in integrating such requirements, the Secretary shall not apply such requirements to any project which previously would not have been subject to section 450.318 of title 23, Code of Federal Regulations;

(ii) eliminate stand-alone report requirements wherever possible;

(iii) prevent duplication by drawing on the products of the planning process in the completion of all environmental and other project development analyses;

(iv) reduce project development time by achieving to the maximum extent practicable a single public interest decision process for Federal environmental analyses and clearances; and

(v) expedite and support all phases of decisionmaking by encouraging and facilitating the early involvement of metropolitan planning organizations, State departments of transportation, transit operators, and Federal and State environmental resource and permit agencies throughout the decisionmaking process.

(3) SAVINGS CLAUSE.—Nothing in this subsection shall affect the responsibility of the Secretary to conform review requirements for transit projects under the National Environmental Policy Act of 1969 to comparable requirements under such Act applicable to highway projects.

SEC. 1603. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish an advanced travel forecasting procedures program—

(1) to provide for completion of the advanced transportation model developed under the Transportation Analysis Simulation System (referred to in this section as ''TRANSIMS''); and

(2) to provide support for early deployment of the advanced transportation modeling computer software and graphics package developed under TRANSIMS and the program established under this section to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available under this section to—

(1) provide funding for completion of core development of the advanced transportation model;

(2) develop user-friendly advanced transportation modeling computer software and graphics packages;

(3) provide training and technical assistance with respect to the implementation and application of the advanced transportation model to States, local governments, and metropolitan planning organizations with responsibility for travel modeling; and

(4) allocate funds to not more than 12 entities described in paragraph (3), representing a diversity of populations and geographic regions, for a pilot program to enable transportation management areas designated under section 134(i) of title 23, United States Code, to convert from the use of travel forecasting procedures in use by

the areas as of the date of enactment of this Act to the use of the advanced transportation model.

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for fiscal year 1998, $3,000,000 for fiscal year 1999, $6,500,000 for fiscal year 2000, $5,000,000 for fiscal year 2001, $4,000,000 for fiscal year 2002, and $2,500,000 for fiscal year 2003.

(2) ALLOCATION OF FUNDS.—

(A) FISCAL YEARS 1998 AND 1999.—For each of fiscal years 1998 and 1999, 100 percent of the funds made available under paragraph (1) shall be allocated to activities in described in paragraphs (1), (2), and (3) of subsection (b).

(B) FISCAL YEARS 2000 THROUGH 2003.—For each of fiscal years 2000 through 2003, not more than 50 percent of the funds made available under paragraph (1) may be allocated to activities described in subsection (b)(4).

(3) CONTRACT AUTHORITY.—Funds authorized under this subsection 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) any activity described in paragraph (1), (2), or (3) of subsection (b) shall not exceed 100 percent; and

(B) any activity described in subsection (b)(4) shall not exceed 80 percent.

SEC. 1604. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.

(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a comprehensive initiative to investigate and address the relationships between transportation and community and system preservation.

(b) RESEARCH.—

(1) IN GENERAL.—In cooperation with appropriate Federal agencies, State, regional, and local governments, and other entities eligible for assistance under subsection (d), the Secretary shall carry out a comprehensive research program to investigate the relationships between transportation, community preservation, and the environment.

(2) REQUIRED ELEMENTS.—The program shall provide for monitoring and analysis of projects carried out with funds made available to carry out subsections (c) and (d).

(c) PLANNING.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to plan, develop, and implement strategies to integrate transportation and community and system preservation plans and practices.

(2) PURPOSES.—The purposes of the allocations shall be—

(A) to improve the efficiency of the transportation system;

(B) to reduce the impacts of transportation on the environment;

(C) to reduce the need for costly future investments in public infrastructure; and

(D) to provide efficient access to jobs, services, and centers of trade.

(3) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) propose projects for funding that address the purposes described in paragraph (2);

(B) demonstrate a commitment to public involvement, including involvement of nontraditional partners in the project team; and

(C) demonstrate a commitment of non-Federal resources to the proposed projects.

(d) 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 title 23 and chapter 53 of title 49, United States Code; and

(ii) are—

(I) coordinated with adopted preservation or development plans; or

(II) intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment;

(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; and

(D) propose projects for funding that address the purposes described in subsection (c)(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 title 23 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.

(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $20,000,000 for each of fiscal years 1998 through 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle G—Technical Corrections

SEC. 1701. FEDERAL-AID SYSTEMS.

(a) IN GENERAL.—Section 103 of title 23, United States Code, is amended to read as follows:

''§ 103. Federal-aid systems

''(a) IN GENERAL.—For the purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

''(b) NATIONAL HIGHWAY SYSTEM.—

''(1) DESCRIPTION.—The National Highway System consists of an interconnected system of major routes and connectors that—

''(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

''(B) meet national defense requirements; and

''(C) serve interstate and interregional travel.

''(2) COMPONENTS.—The National Highway System consists of the following:

''(A) The Interstate System described in subsection (c).

''(B) Other urban and rural principal arterial routes.

''(C) Other connector highways (including toll facilities) that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

''(D) A strategic highway network consisting of a network of highways that are important to the United States strategic defense policy and that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime. The highways may be highways on or off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

''(E) Major strategic highway network connectors consisting of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network. The highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

''(3) MAXIMUM MILEAGE.—The mileage of highways on the National Highway System shall not exceed 178,250 miles.

''(4) MODIFICATIONS TO NHS.—

''(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State or that is proposed by a State and revised by the Secretary if the Secretary determines that the modification—

''(i) meets the criteria established for the National Highway System under this title; and

''(ii) enhances the national transportation characteristics of the National Highway System.

''(B) COOPERATION.—

''(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

''(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

''(c) INTERSTATE SYSTEM.—

''(1) DESCRIPTION.—

''(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico), consists of highways—

''(i) designed—

''(I) in accordance with the standards of section 109(b); or

''(II) in the case of highways in Alaska and Puerto Rico, in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway; and

''(ii) located so as—

''(I) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

''(II) to serve the national defense; and

''(III) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

''(B) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation departments of the State in which the route is located and the adjoining States, in cooperation with local and regional officials, and subject to the approval of the Secretary.

''(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

''(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

''(4) INTERSTATE SYSTEM DESIGNATIONS.—

''(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

''(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

''(i) IN GENERAL.—If the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A), the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

''(ii) WRITTEN AGREEMENT OF STATES.—A designation under clause (i) shall be made only upon the written agreement of the State or States described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by the date that is 12 years after the date of the agreement.

''(iii) REMOVAL OF DESIGNATION.—

''(I) IN GENERAL.—If the State or States described in clause (i) have not substantially completed the construction of a highway designated under this subparagraph within the time provided for in the agreement between the Secretary and the State or States under clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

''(II) EFFECT OF REMOVAL.—Removal of the designation of a highway under subclause (I) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

''(iv) PROHIBITION ON REFERRAL AS INTERSTATE SYSTEM ROUTE.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as the highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a route on the Interstate System.

''(C) FINANCIAL RESPONSIBILITY.—

''(i) IN GENERAL.—Except as provided in clause (ii), the designation of a highway under this paragraph shall create no additional Federal financial responsibility with respect to the highway.

''(ii) CERTAIN HIGHWAYS.—Subject to section 119(b)(1)(B), a State may use funds available to the State under section 104(b)(1) for the resurfacing, restoration, rehabilitation, and reconstruction of a highway—

''(I) designated before March 9, 1984, as a route on the Interstate System under subparagraph (A) or as a future Interstate System route under subparagraph (B); or

''(II) designated under subparagraph (A) and located in Alaska or Puerto Rico.

''(d) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—

''(1) INTERSTATE CONSTRUCTION FUNDS NOT IN SURPLUS.—

''(A) IN GENERAL.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998), if the amount does not exceed the Federal share of the costs of construction of segments of the Interstate System in the State included in the most recent Interstate System cost estimate.

''(B) EFFECT OF TRANSFER.—Upon transfer of an amount under subparagraph (A), the construction on which the amount is based, as included in the most recent Interstate System cost estimate, shall be ineligible for funding under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998) or 104(k).

''(2) SURPLUS INTERSTATE CONSTRUCTION FUNDS.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of surplus funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998), if the State has fully financed all work eligible under the most recent Interstate System cost estimate.

''(3) APPLICABILITY OF CERTAIN LAWS.—Funds transferred under this subsection shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred.

''(e) UNOBLIGATED BALANCES OF INTERSTATE SUBSTITUTE FUNDS.—Unobligated balances of funds apportioned to a State under section 103(e)(4)(H) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998) shall be available for obligation by the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on that date.''.

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining ''Interstate System'' by striking ''subsection (e) of section 103 of this title'' and inserting ''section 103(c)''.

(B) Section 104(f)(1) of title 23, United States Code, is amended by striking '', except that'' and all that follows through ''programs''.

(C) Section 115(a) of title 23, United States Code, is amended—

(i) in the subsection heading, by striking ''SUBSTITUTE,''; and

(ii) in paragraph (1)(A)(i), by striking ''103(e)(4)(H),'';

(D) Section 118 of title 23, United States Code (as amended by section 1118(b)), is amended—

(i) by striking subsection (d); and

(ii) by redesignating subsections (e), (f), and (g) (as added by section 1103(d)) as subsections (c), (d), and (e), respectively.

(E) Section 129(b) of title 23, United States Code, is amended in the first sentence by striking ''which has been'' and all that follows through ''and has not'' and inserting ''which is a public road and has not''.

(2)(A) Section 139 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 139.

(C) Section 119(a) of title 23, United States Code, is amended in the first sentence—

(i) by striking ''sections 103 and 139(c) of this title'' and inserting ''section 103(c)(1) and, in Alaska and Puerto Rico, under section 103(c)(4)(A)''; and

(ii) by striking ''section 139 (a) and (b) of this title'' and inserting ''subparagraphs (A) and (B) of section 103(c)(4)''.

(D) Section 127(f) of title 23, United States Code, is amended by striking ''section 139(a)'' and inserting ''section 103(c)(4)(A)''.

(E) Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597) is amended by striking subparagraph (B) and inserting the following:

''(B) TREATMENT OF SEGMENTS.—Subject to subparagraph (C), segments designated as parts of the Interstate System under this paragraph shall be treated in the same manner as segments designated under section 103(c)(4)(A) of title 23, United States Code.''.

SEC. 1702. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) DEFINITIONS AND DECLARATION OF POLICY.—

(1) CREATION OF POLICY SECTION.—Section 102 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

''§ 102. Declaration of policy'';

(B) by redesignating subsection (a) as subsection (c) and moving that subsection to the end of section 146; and

(C) by redesignating subsection (b) as subsection (f) and moving that subsection to the end of section 118 (as amended by section 1701(b)(1)(D)(ii)).

(2) TRANSFER OF POLICY PROVISIONS.—Section 101 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

''§ 101. Definitions'';

(B) in subsection (a), by striking ''(a)'';

(C) by striking subsection (b); and

(D) by redesignating subsections (c) through (e) as subsections (a) through (c), respectively, and moving those subsections to section 102 (as amended by paragraph (1)).

(3) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 101 and 102 and inserting the following:

''101. Definitions.

''102. Declaration of policy.''.

(B) Section 47107(j)(1)(B) of title 49, United States Code, is amended by striking ''section 101(a)'' and inserting ''section 101''.

(b) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking ''PROJECTS'' and all that follows through ''When a State'' and inserting ''PROJECTS.—When a State'';

(B) by striking paragraphs (2) and (3); and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and indenting appropriately;

(2) by striking subsection (c);

(3) in subsection (d), by striking ''section 135(f)'' and inserting ''section 135''; and

(4) by redesignating subsection (d) as subsection (c).

(c) MAINTENANCE.—Section 116 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in the first sentence, by striking ''he'' and inserting ''the Secretary''; and

(B) in the second sentence, by striking ''further projects'' and inserting ''further expenditure of Federal-aid highway funds''; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(d) INTERSTATE MAINTENANCE PROGRAM.—Section 119(a) of title 23, United States Code, is amended in the first sentence by striking ''the date of enactment of this sentence'' and inserting ''March 9, 1984''.

(e) ADVANCES TO STATES.—Section 124 of title 23, United States Code, is amended—

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

(2) by striking subsection (b).

(f) DIVERSION.—

(1) IN GENERAL.—Section 126 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 126.

(g) RAILWAY-HIGHWAY CROSSINGS.—Section 130(f) of title 23, United States Code, is amended by striking ''APPORTIONMENT'' and all that follows through the first sentence and inserting ''FEDERAL SHARE.—''.

(h) SURFACE TRANSPORTATION PROGRAM.—Section 133(a) of title 23, United States Code, is amended by striking ''ESTABLISHMENT.—The Secretary shall establish'' and inserting ''IN GENERAL.—The Secretary shall carry out''.

(i) CONTROL OF JUNKYARDS.—Section 136 of title 23, United States Code, is amended by striking subsection (m) and inserting the following:

''(m) PRIMARY SYSTEM DEFINED.—For purposes of this section, the term 'primary system' means the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.''.

(j) 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''.

(k) NONDISCRIMINATION.—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 106(a),'';

(B) by striking ''he'' each place it appears and inserting ''the Secretary'';

(C) in the second sentence, by striking ''He'' and inserting ''The Secretary'';

(D) in the third sentence, by striking ''In approving programs for projects on any of the Federal-aid systems,'' and inserting ''Before approving any project under section 106(a),''; and

(E) in the last sentence, by striking ''him'' and inserting ''the Secretary'';

(2) by striking subsection (b);

(3) in the subsection heading of subsection (d), by striking ''AND CONTRACTING''; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(l) PUBLIC TRANSPORTATION.—Section 142(a)(2) of title 23, United States Code, is amended by striking ''the the'' and inserting ''the''.

(m) PRIORITY PRIMARY ROUTES.—

(1) IN GENERAL.—Section 147 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147.

(n) DEVELOPMENT OF A NATIONAL SCENIC AND RECREATIONAL HIGHWAY.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148.

(o) HAZARD ELIMINATION PROGRAM.—Section 152(e) of title 23, United States Code, is amended by striking ''apportioned to'' in the first sentence and all that follows through ''shall be'' in the second sentence.

(p) ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES.—

(1) IN GENERAL.—Section 155 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155.

SEC. 1703. NONDISCRIMINATION.

(a) IN GENERAL.—Section 324 of title 23, United States Code, is amended—

(1) by inserting ''(d) PROHIBITION OF DISCRIMINATION ON THE BASIS OF SEX.—'' before ''No person''; and

(2) by moving subsection (d) (as designated by paragraph (1)) to the end of section 140 (as amended by section 1702(k)).

(b) CONFORMING AMENDMENTS.—

(1) Section 324 of title 23, United States Code, is repealed.

(2) The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 324.

SEC. 1704. STATE TRANSPORTATION DEPARTMENT.

(a) IN GENERAL.—Section 302 of title 23, United States Code, is amended—

(1) in subsection (a)—

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

(B) by striking the second sentence; and

(C) by adding at the end the following: ''Compliance with this section shall have no effect on the eligibility of costs.''; and

(2) by striking subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) Title 23, United States Code, is amended—

(A) by striking ''State highway department'' each place it appears and inserting ''State transportation department''; and

(B) by striking ''State highway departments'' each place it appears and inserting ''State transportation departments''.

(2) The analysis for chapter 3 of title 23, United States Code, is amended in the item relating to section 302 by striking ''highway'' and inserting ''transportation''.

(3) Section 302 of title 23, United States Code, is amended in the section heading by striking ''**highway**'' and inserting ''**transportation**''.

(4) Section 410(h)(5) of title 23, United States Code, is amended in the paragraph heading by striking ''HIGHWAY'' and inserting ''TRANSPORTATION''.

(5) Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by striking ''State highway department'' and inserting ''State transportation department''.

(6) Section 138(c) of the Surface Transportation Assistance Act of 1978 (40 U.S.C. App. note to section 201 of the Appalachian Regional Development Act of 1965; Public Law 95–599) is amended in the first sentence by striking ''State highway department'' and inserting ''State transportation department''.

Subtitle H—Miscellaneous Provisions

SEC. 1801. DESIGNATION OF PORTION OF STATE ROUTE 17 IN NEW YORK AND PENNSYLVANIA AS INTERSTATE ROUTE 86.

(a) IN GENERAL.—Subject to subsection (b)(2), notwithstanding section 103(c), the portion of State Route 17 located between the junction of State Route 17 and Interstate Route 87 in Harriman, New York, and the junction of State Route 17 and Interstate Route 90 near Erie, Pennsylvania, is designated as Interstate Route 86.

(b) SUBSTANDARD FEATURES.—

(1) UPGRADING.—Each segment of State Route 17 described in subsection (a) that does not substantially meet the Interstate System design standards under section 109(b) of title 23, United States Code, in effect on the date of enactment of this Act shall be upgraded in accordance with plans and schedules developed by the applicable State.

(2) DESIGNATION.—Each segment of State Route 17 that on the date of enactment of this Act is not at least 4 lanes wide, separated by a median, access-controlled, and grade-separated shall—

(A) be designated as a future Interstate System route; and

(B) become part of Interstate Route 86 at such time as the Secretary determines that the segment substantially meets the Interstate System design standards described in paragraph (1).

(c) TREATMENT OF ROUTE.—

(1) MILEAGE LIMITATION.—The mileage of Interstate Route 86 designated under subsection (a) shall not be charged against the limitation established by section 103(c)(2) of title 23, United States Code.

(2) FEDERAL FINANCIAL RESPONSIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), the designation of Interstate Route 86 under subsection (a) shall not create increased Federal financial responsibility with respect to the designated Route.

(B) USE OF CERTAIN FUNDS.—A State may use funds available to the State under paragraphs (1) and (3) of section 104(b) of title 23, United States Code, to eliminate substandard features of, and to resurface, restore, rehabilitate, or reconstruct, any portion of the designated Route.

SEC. 1802. IDENTIFICATION OF HIGH PRIORITY CORRIDOR ROUTES IN LOUISIANA.

Section 1105 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2031) is amended—

(1) in subsection (c)(1)—

(A) by striking ''Corridor from Kansas'' and inserting the following: ''Corridor—

''(A) from Kansas'';

(B) in subparagraph (A) (as so designated), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(B) from Shreveport, Louisiana, along Interstate Route 49 to Lafayette, Louisiana, and along United States Route 90 to the junction with Interstate Route 10 in New Orleans, Louisiana.''; and

(2) in subsection (e)(5)(A), by inserting ''in subsection (c)(1)(B),'' after ''routes referred to''.

SEC. 1803. SENSE OF SENATE CONCERNING THE OPERATION OF LONGER COMBINATION VEHICLES.

(a) FINDINGS.—Congress finds that—

(1) section 127(d) of title 23, United States Code, contains a prohibition that took effect on June 1, 1991, concerning the operation of certain longer combination vehicles, including certain double-trailer and triple-trailer trucks;

(2) reports on the results of recent studies conducted by the Federal Government describe, with respect to longer combination vehicles—

(A) problems with the adequacy of rearward amplification braking;

(B) the difficulty in making lane changes; and

(C) speed differentials that occur while climbing or accelerating; and

(3) surveys of individuals in the United States demonstrate that an overwhelming majority of residents of the United States oppose the expanded use of longer combination vehicles.

(b) LONGER COMBINATION VEHICLE DEFINED.—In this section, the term ''longer combination vehicle'' has the meaning given that term in section 127(d)(4) of title 23, United States Code.

(c) SENSE OF THE SENATE.—It is the sense of the Senate that the prohibitions and restrictions under section 127(d) of title 23, United States Code, as in effect on the date of enactment of this Act, should not be amended so as to result in any less restrictive prohibition or restriction.

SEC. 1804. INTERNATIONAL BRIDGE, SAULT STE. MARIE, MICHIGAN.

The International Bridge Authority, or its successor organization, shall be permitted to continue collecting tolls for maintenance of, operation of, capital improvements to, and future expansions to the International Bridge, Sault Ste. Marie, Michigan, and its approaches, plaza areas, and associated structures.

SEC. 1805. AMENDMENT TO NATIONAL TRAILS SYSTEM ACT.

Section 8(d) of the National Trails System Act (43 U.S.C. 1247(d)) is amended—

(1) by striking ''The'' and inserting in lieu thereof ''(1) The'';

(2) by adding at the end thereof the following new paragraphs:

''(2) Consistent with the terms and conditions imposed under paragraph (1), the Surface Transportation Board shall approve a proposal for interim trail use of a railroad right-of-way unless—

''(A) at least half of the units of local government located within the rail corridor for which the interim trail use is proposed pass a resolution opposing the proposed trail use; and

''(B) the resolution is transmitted to the Surface Transportation Board within the applicable time requirements for rail line abandonment proceedings.

''(3) The limitation in paragraph (2) shall not apply if a State has assumed responsibility for the management of such right-of-way.''.

SEC. 1806. AMENDMENTS TO TITLE 23.

(a) Section 144 of title 23, United States Code, is amended—

(1) in each of subsections (d) and (g)(3) by inserting after ''magnesium acetate'' the following: ''or agriculturally derived, environmentally acceptable, minimally corrosive anti-icing and de-icing compositions''; and

(2) in subsection (d) by inserting ''or such anti-icing or de-icing composition'' after ''such acetate''.

(b) Section 133(b)(1) of title 23, United States Code, is amended by inserting after ''magnesium acetate'' the following: ''or agriculturally derived, environmentally acceptable, minimally corrosive anti-icing and de-icing compositions''.

SEC. 1807. LIMITATIONS.

(a) PROHIBITION ON LOBBYING ACTIVITIES.—No funds authorized in this title shall be available for any activity to build support for or against, or to influence the formulation, or adoption of State or local legislation, unless such activity is consistent with previously-existing Federal mandates or incentive programs.

(b) TESTIFYING.—Nothing in this section shall prohibit officers or employees of the United States or its departments or agencies from testifying before any State or local legislative body upon the invitation of such legislative body.

SEC. 1808. ADDITIONAL QUALIFIED EXPENSES AVAILABLE TO NONAMTRAK STATES.

(a) IN GENERAL.—Section 977(e)(1)(B) of the Taxpayer Relief Act of 1997 (defining qualified expenses) is amended—

(1) by striking ''and'' at the end of clause (iii) and all that follows through ''clauses (i) and (iv).'', and

(2) by adding after clause (iii) the following:

''(iv) capital expenditures related to State-owned rail operations in the State,

''(v) any project that is eligible to receive funding under section 5309, 5310, or 5311 of title 49, United States Code,

''(vi) any project that is eligible to receive funding under section 130 or 152 of title 23, United States Code,

''(vii) the upgrading and maintenance of intercity primary and rural air service facilities, and the purchase of intercity air service between primary and rural airports and regional hubs,

''(viii) the provision of passenger ferryboat service within the State, and

''(ix) the payment of interest and principal on obligations incurred for such acquisition, upgrading, maintenance, purchase, expenditures, provision, and projects.''

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 977 of the Taxpayer Relief Act of 1997.

SEC. 1809. CONTINUANCE OF COMMERCIAL OPERATIONS AT CERTAIN SERVICE PLAZAS IN THE STATE OF MARYLAND.

(a) WAIVER.—Notwithstanding section 111 of title 23, United States Code, and the agreements described in subsection (b), at the request of the Maryland Transportation Authority, the Secretary shall allow the continuance of commercial operations at the service plazas on the John F. Kennedy Memorial Highway on Interstate Route 95.

(b) AGREEMENTS.—The agreements referred to in subsection (a) are agreements between the Department of Transportation of the State of Maryland and the Federal Highway Administration concerning the highway described in subsection (a).

SEC. 1810. PENNSYLVANIA STATION REDEVELOPMENT CORPORATION BOARD OF DIRECTORS.

Section 1069(gg) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2011) is amended by adding at the end the following: ''(3) In furtherance of the redevelopment of the James A. Farley Post Office Building in the city of New York, New York, into an intermodal transportation facility and commercial center, the Secretary of Transportation, the Federal Railroad Administrator, and their designees are authorized to serve as ex officio members of the Board of Directors of the Pennsylvania Station Redevelopment Corporation.

SEC. 1811. UNION STATION REDEVELOPMENT CORPORATION BOARD OF DIRECTORS.

Subchapter I of chapter 18 of title 40 of the United States Code is amended by adding a new section at the end thereof as follows:

''§ 820. Union Station Redevelopment Corporation

''To further the rehabilitation, redevelopment and operation of the Union Station complex, the Secretary of Transportation, the Federal Railroad Administrator, and their designees are authorized to serve as ex officio members of the Board of Directors of the Union Station Redevelopment Corporation.''.

SEC. 1812. ADDITIONS TO APPALACHIAN REGION.

Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the undesignated paragraph relating to Alabama, by inserting ''Hale,'' after ''Franklin,'';

(2) in the undesignated paragraph relating to Georgia—

(A) by inserting ''Elbert,'' after ''Douglas,''; and

(B) by inserting ''Hart,'' after ''Haralson,'';

(3) in the undesignated paragraph relating to Mississippi, by striking ''and Winston'' and inserting ''Winston, and Yalobusha''; and

(4) in the undesignated paragraph relating to Virginia—

(A) by inserting ''Montgomery,'' after ''Lee,''; and

(B) by inserting ''Rockbridge,'' after ''Pulaski,''.

SEC. 1813. SOUTHWEST BORDER TRANSPORTATION INFRASTRUCTURE ASSESSMENT.

(a) IN GENERAL.—The Secretary shall conduct a comprehensive assessment of the state of the transportation infrastructure on the southwest border between the United States and Mexico (referred to in this section as the ''border'').

(b) CONSULTATION.—In carrying out subsection (a), the Secretary shall consult with—

(1) the Secretary of State;

(2) the Attorney General;

(3) the Secretary of the Treasury;

(4) the Commandant of the Coast Guard;

(5) the Administrator of General Services;

(6) the American Commissioner on the International Boundary Commission, United States and Mexico;

(7) State agencies responsible for transportation and law enforcement in border States; and

(8) municipal governments and transportation authorities in sister cities in the border area.

(c) REQUIREMENTS.—In carrying out the assessment, the Secretary shall—

(1) assess—

(A) the flow of commercial and private traffic through designated ports of entry on the border;

(B) the adequacy of transportation infrastructure in the border area, including highways, bridges, railway lines, and border inspection facilities;

(C) the adequacy of law enforcement and narcotics abatement activities in the border area, as the activities relate to commercial and private traffic; and

(D) future demands on transportation infrastructure in the border area; and

(2) make recommendations to facilitate legitimate cross-border traffic in the border area, while maintaining the integrity of the border.

(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the assessment conducted under this section, including any related legislative and administrative recommendations.

SEC. 1814. MODIFICATION OF HIGH PRIORITY CORRIDOR.

Section 1105(c)(18) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended—

(1) by striking ''(18) Corridor from Indianapolis,'' and inserting the following:

''(18)(A) Corridor from Sarnia, Ontario, Canada, through Port Huron, Michigan, southwesterly along Interstate Route 69 through Indianapolis,''; and

(2) by adding at the end the following:

''(B) Corridor from Sarnia, Ontario, Canada, southwesterly along Interstate Route 94 to the Ambassador Bridge interchange in Detroit, Michigan.

''(C) Corridor from Windsor, Ontario, Canada, through Detroit, Michigan, westerly along Interstate Route 94 to Chicago, Illinois.''.

SEC. 1815. DESIGNATION OF CORRIDORS IN MISSISSIPPI AND ALABAMA AS ROUTES ON THE INTERSTATE SYSTEM.

(a) IN GENERAL.—

(1) DESIGNATION.—Subject to subsection (b)(2), notwithstanding section 103(c) of title 23, United States Code, the segments described in paragraph (2) are designated as routes on the Interstate System.

(2) SEGMENTS.—The segments referred to in paragraph (1) are—

(A) the portion of Corridor V of the Appalachian development highway system from Interstate Route 55 near Batesville, Mississippi, to the intersection with Corridor X of the Appalachian development highway system near Fulton, Mississippi; and

(B) the portion of Corridor X of the Appalachian development highway system from near Fulton, Mississippi, to the intersection with Interstate Route 65 near Birmingham, Alabama.

(b) SUBSTANDARD FEATURES.—

(1) UPGRADING.—Each portion of the segments described in subsection (a)(2) that does not substantially meet the Interstate System design standards under section 109(b) of title 23, United States Code, in effect on the date of enactment of this Act shall be upgraded in accordance with plans and schedules developed by the applicable State.

(2) DESIGNATION.—Each portion of the segments described in subsection (a)(2) that on the date of enactment of this Act does not meet the Interstate System design standards under section 109(b) of that title and does not connect to a segment of the Interstate System shall—

(A) be designated as a future Interstate System route; and

(B) become part of the Interstate System at such time as the Secretary determines that the portion of the segment—

(i) meets the Interstate System design standards; and

(ii) connects to another segment of the Interstate System.

(c) TREATMENT OF ROUTES.—

(1) MILEAGE LIMITATION.—The mileage of the routes on the Interstate System designated under subsection (a) shall not be charged against the limitation established by section 103(c)(2) of title 23, United States Code.

(2) FEDERAL FINANCIAL RESPONSIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), the designation of the routes on the Interstate System under subsection (a) shall not create increased Federal financial responsibility with respect to the designated segments.

(B) USE OF CERTAIN FUNDS.—A State may use funds available to the State under paragraphs (1)(C) and (3) of section 104(b) of title 23, United States Code, to eliminate substandard features of, and to resurface, restore, rehabilitate, or reconstruct, any portion of the designated segments.

(3) ELIGIBILITY FOR OTHER FUNDING.—(A) This section shall not affect the amount of funding that a State shall be entitled to receive under any other section of this Act or under any other law.

(B) EFFECT OF PROVISION.—Nothing in this section shall result in an increase in a State's estimated cost to complete the Appalachian development highway system or in the amount of assistance that the State shall be entitled to receive from the Appalachian Development Highway System under this Act or any other Act.

SEC. 1816. REAUTHORIZATION OF FERRY AND FERRY TERMINAL PROGRAM.

(a) Section 1064(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note) is amended by striking ''$14,000,000'' and all that follows through ''this section'' and inserting in lieu thereof ''$30,000,000 for fiscal year 1998, $25,000,000 for fiscal year 1999, $25,000,000 for fiscal year 2000, $30,000,000 for fiscal year 2001, $35,000,000 for fiscal year 2002, and $35,000,000 for fiscal year 2003 in carrying out this section, at least $12,000,000 of which in each such fiscal year shall be obligated for the construction of ferry boats, terminal facilities and approaches to such facilities within marine highway systems that are part of the National Highway System''.

(b) In addition to the obligation authority provided in subsection (a), there are authorized to be appropriated $20,000,000 in each of fiscal years 1999, 2000, 2001, 2002, and 2003 for the ferry boat and ferry terminal facility program under section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note).

SEC. 1817. REPORT ON UTILIZATION POTENTIAL.

(a) STUDY.—The Secretary of Transportation shall conduct a study of ferry transportation in the United States and its possessions—

(1) to identify existing ferry operations, including—

(A) the locations and routes served;

(B) the name, United States official number, and a description of each vessel operated as a ferry;

(C) the source and amount, if any, of funds derived from Federal, State, or local government sources supporting ferry construction or operations;

(D) the impact of ferry transportation on local and regional economies; and

(E) the potential for use of high-speed ferry services.

(2) identify potential domestic ferry routes in the United States and its possessions and to develop information on those routes, including—

(A) locations and routes that might be served;

(B) estimates of capacity required;

(C) estimates of capital costs of developing these routes;

(D) estimates of annual operating costs for these routes;

(E) estimates of the economic impact of these routes on local and regional economies; and

(F) the potential for use of high-speed ferry services.

(b) REPORT.—The Secretary shall report the results of the study under subsection (a) within one year after the date of enactment of this Act to the Committee on Commerce, Science, and Transportation of the United States Senate and the Committee on Transportation and Infrastructure of the United States House of Representatives.

(c) FINDINGS.—After reporting the results of the study required by paragraph (b), the Secretary of Transportation shall meet with the relevant State and municipal planning organizations to discuss the results of the study and the availability of resources, both Federal and State, for providing marine ferry service.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

SEC. 2001. STRATEGIC RESEARCH PLAN.

Subtitle III of title 49, United States Code, is amended—

(1) in the table of chapters, by inserting after the item relating to chapter 51 the following:

''52. RESEARCH AND DEVELOPMENT ..... 5201''; and

(2) by inserting after chapter 51 the following:

''CHAPTER 52—RESEARCH AND DEVELOPMENT

''§ 5201. Definitions

''In this chapter:

''(1) DEPARTMENT.—The term 'Department' means the Department of Transportation.

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

''SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

''§ 5211. Transactional authority

''To further the objectives of this chapter, the Secretary may make grants to, and enter into contracts, cooperative agreements, and other transactions with—

''(1) any person or any agency or instrumentality of the United States;

''(2) any unit of State or local government;

''(3) any educational institution;

''(4) any Federal laboratory; and

''(5) any other entity.

''SUBCHAPTER II—STRATEGIC PLANNING

''§ 5221. Strategic planning

''(a) AUTHORITY.—The Secretary shall establish a strategic planning process to—

''(1) determine national transportation research, development, and technology deployment priorities, strategies, and milestones over the next 5 years;

''(2) coordinate Federal transportation research, development, and technology deployment activities; and

''(3) measure the impact of the research, development, and technology investments described in paragraph (2) on the performance of the transportation system of the United States.

''(b) CRITERIA.—In developing strategic plans for intermodal, multimodal, and mode-specific research, development, and technology deployment, the Secretary shall consider the need to—

''(1) coordinate and integrate Federal, regional, State, and metropolitan planning research, development, and technology activities in urban and rural areas;

''(2) promote standards that facilitate a seamless and interoperable transportation system;

''(3) encourage innovation;

''(4) identify and facilitate initiatives and partnerships to deploy technology with the potential for improving transportation systems during the next 5-year and 10-year periods;

''(5) identify core research to support the long-term transportation technology and system needs of urban and rural areas of the United States, including safety;

''(6) ensure the ability of the United States to compete on a global basis; and

''(7) provide a means of assessing the impact of Federal research and technology investments on the performance of the transportation system of the United States.

''(c) IMPLEMENTATION.—

''(1) IN GENERAL.—In carrying out subsection (a), the Secretary shall adopt such policies and procedures as are appropriate—

''(A) to provide for integrated planning, coordination, and consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research, development, and technology transfer important to national transportation needs;

''(B) to promote the exchange of information on transportation-related research and development activities among the operating elements of the Department, other Federal departments and agencies, Federal laboratories, State and local governments, colleges and universities, industry, and other private and public sector organizations engaged in the activities;

''(C) to ensure that the research and development programs of the Department do not duplicate other Federal and, to the maximum extent practicable, private sector research and development programs; and

''(D) to ensure that the research and development activities of the Department—

''(i) make appropriate use of the talents, skills, and abilities at the Federal laboratories; and

''(ii) leverage, to the maximum extent practicable, the research, development, and technology transfer capabilities of institutions of higher education and private industry.

''(2) CONSULTATION.—The procedures and policies adopted under paragraph (1) shall include consultation with State officials and members of the private sector.

''(d) REPORTS.—

''(1) IN GENERAL.—Concurrent with the submission to Congress of the budget of the President 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 on the strategic plans, goals, and milestones developed under subsections (a) and (b) to help guide research, development, and technology transfer activities during the 5-year period beginning on the date of the report.

''(2) COMPARISON TO PREVIOUS REPORT.—The report shall include a delineation of the progress made with respect to each of the plans, goals, and milestones specified in the previous report.

''(3) PROHIBITION ON OBLIGATION FOR FAILURE TO SUBMIT REPORT.—Beginning on the date of the submission to Congress of the budget of the President for fiscal year 2000, and on the date of the submission for each fiscal year thereafter, none of the funds made available under this chapter or chapter 5 of title 23 may be obligated until the report required under paragraph (1) for that fiscal year is submitted.

''§ 5222. Authorization of contract authority

''(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $1,500,000 for each of fiscal years 1998 through 2003.

''(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

''(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

''(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.

''(c) USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under subsection (a) exceed the amounts used to carry out section 5221 for the fiscal year, the excess amounts—

''(1) shall be apportioned in accordance with section 104(b)(3) of title 23;

''(2) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d) of that title; and

''(3) shall be available for any purpose eligible for funding under section 133 of that title.''.

SEC. 2002. MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM.

Chapter 52 of title 49, United States Code (as added by section 2001), is amended by adding at the end the following:

''SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM

''§ 5231. Multimodal Transportation Research and Development Program

''(a) ESTABLISHMENT.—The Secretary shall establish a program to be known as the 'Multimodal Transportation Research and Development Program'.

''(b) PURPOSES.—The purposes of the Multimodal Transportation Research and Development Program are to—

''(1) enhance the capabilities of Federal agencies to meet national transportation needs, as defined by the missions of the agencies, through support for long-term and applied research and development that would benefit the various modes of transportation, including research and development in safety, security, mobility, energy and the environment, information and physical infrastructure, and industrial design;

''(2) identify and apply innovative research performed by the Federal Government, Federal laboratories, academia, and the private sector to the intermodal and multimodal transportation research, development, and deployment needs of the Department and the transportation enterprise of the United States;

''(3) identify and leverage research, technologies, and other information developed by the Federal Government for national defense and nondefense purposes for the benefit of the public, commercial, and defense transportation sectors; and

''(4) share information and analytical and research capabilities among the Federal Government, State and local governments, colleges and universities, and private organizations to advance their ability to meet their transportation research, development, and deployment needs.

''(c) PROCESS FOR CONSULTATION.—To advise the Secretary in establishing priorities within the Program, the Secretary shall establish a process for consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research.

''§ 5232. Authorization of contract authority

''(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $2,500,000 for each of fiscal years 1998 through 2003.

''(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

''(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

''(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.''.

SEC. 2003. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

(a) IN GENERAL.—Chapter 52 of title 49, United States Code (as amended by section 2002), is amended by adding at the end the following:

''SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS

''§ 5241. National university transportation centers

''(a) IN GENERAL.—The Secretary shall make grants to, or enter into contracts with, the nonprofit institutions of higher learning selected under section 5317 (as in effect on the day before the date of enactment of this section)—

''(1) to operate 1 university transportation center in each of the 10 Federal administrative regions that comprise the Standard Federal Regional Boundary System; and

''(2) to continue operation of university transportation centers at the Mack-Blackwell National Rural Transportation Study Center, the National Center for Transportation and Industrial Productivity, the Institute for Surface Transportation Policy Studies, the Urban Transit Institute at the University of South Florida, the National Center for Advanced Transportation Technology, and the University of Alabama Transportation Research Center.

''(b) ADDITIONAL CENTERS.—

''(1) IN GENERAL.—The Secretary may make grants to nonprofit institutions of higher learning to establish and operate not more than 4 additional university transportation centers to address—

''(A) transportation management, research, and development, with special attention to increasing the number of highly skilled minority individuals and women entering the transportation workforce;

''(B) transportation and industrial productivity;

''(C) rural transportation;

''(D) advanced transportation technology;

''(E) international transportation policy studies;

''(F) transportation infrastructure technology;

''(G) urban transportation research;

''(H) transportation and the environment;

''(I) surface transportation safety; or

''(J) infrastructure finance studies.

''(2) SELECTION CRITERIA.—

''(A) APPLICATION.—A nonprofit institution of higher learning that desires to receive a grant under paragraph (1) shall submit an application to the Secretary in such manner and containing such information as the Secretary may require.

''(B) SELECTION OF RECIPIENTS.—The Secretary shall select each grant recipient under paragraph (1) on the basis of—

''(i) the demonstrated research and extension 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-term transportation problems;

''(iii) the establishment by the recipient of a surface transportation program that encompasses several modes of transportation;

''(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program;

''(v) the strategic plan that the recipient proposes to carry out using the grant funds; and

''(vi) the extent to which private funds have been committed to a university and public-private partnerships established to fulfill the objectives specified in paragraph (1).

''(c) OBJECTIVES.—Each university transportation center shall use grant funds under subsection (a) or (b) to carry out—

''(1) multimodal basic and applied research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation;

''(2) an education program that includes multidisciplinary course work and 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 readily implemented, used, or otherwise applied.

''(d) MAINTENANCE OF EFFORT.—Before making a grant under subsection (a) or (b), the Secretary shall require the grant recipient to enter into an agreement with the Secretary to ensure that the recipient will maintain, during the period of the grant, a level of total expenditures from all other sources for establishing and operating a university transportation center and carrying out related research activities that is at least equal to the average level of those expenditures in the 2 fiscal years of the recipient prior to the award of a grant under subsection (a) or (b).

''(e) ADDITIONAL GRANTS AND CONTRACTS.—

''(1) GRANTS OR CONTRACTS.—In addition to grants under subsection (a) or (b), the Secretary may make grants to, or enter into contracts with, university transportation centers without the need for a competitive process.

''(2) USE OF GRANTS OR CONTRACTS.—A noncompetitive grant or contract under paragraph (1) shall be used for transportation research, development, education, or training consistent with the strategic plan approved as part of the selection process for the center.

''(f) FEDERAL SHARE.—The Federal share of the cost of establishing and operating a university transportation center and carrying out related research activities under this section shall be not more than 50 percent.

''(g) PROGRAM COORDINATION.—

''(1) IN GENERAL.—The Secretary shall—

''(A) coordinate research, education, training, and technology transfer activities carried out by grant recipients under this section;

''(B) disseminate the results of the research; and

''(C) establish and operate a clearinghouse for disseminating the results of the research.

''(2) REVIEW AND EVALUATION.—

''(A) IN GENERAL.—Not less often than annually, the Secretary shall review and evaluate programs carried out by grant recipients under this section.

''(B) NOTIFICATION OF DEFICIENCIES.—In carrying out subparagraph (A), if the Secretary determines that a university transportation center is deficient in meeting the objectives of this section, the Secretary shall notify the grant recipient operating the center of each deficiency and provide specific recommendations of measures that should be taken to address the deficiency.

''(C) DISQUALIFICATION.—If, after the end of the 180-day period that begins on the date of notification to a grant recipient under subparagraph (B) with respect to a center, the Secretary determines that the recipient has not corrected each deficiency identified under subparagraph (B), the Secretary may, after notifying the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination—

''(i) disqualify the university transportation center from further participation under this section; and

''(ii) make a grant for the establishment of a new university transportation center, in lieu of the disqualified center, under subsection (a) or (b), as applicable.

''(3) FUNDING.—The Secretary may use not more than 1 percent of Federal funds made available under this section to carry out this subsection.

''(h) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section

$12,000,000 for each of fiscal years 1998 through 2003.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.

''(3) TECHNOLOGY TRANSFER ACTIVITIES.—For each fiscal year, not less than 5 percent of the amounts made available to carry out this section shall be available to carry out technology transfer activities.

''(i) LIMITATION ON AVAILABILITY OF FUNDS.—Funds authorized under this section shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.''.

(b) CONFORMING AMENDMENTS.—

(1) Sections 5316 and 5317 of title 49, United States Code, are repealed.

(2) The analysis for chapter 53 of title 49, United States Code, is amended by striking the items relating to sections 5316 and 5317.

SEC. 2004. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Section 111 of title 49, United States Code, is amended—

(1) in subsection (b)(4), by striking the second sentence;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (J), by striking ''and'' at the end;

(ii) in subparagraph (K), by striking the period at the end and inserting ''; and''; and

(iii) by adding at the end the following:

''(L) transportation-related variables that influence global competitiveness.'';

(B) in paragraph (2)—

(i) in the first sentence, by striking ''national transportation system'' and inserting ''transportation systems of the United States'';

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

''(A) be coordinated with efforts to measure outputs and outcomes of the Department of Transportation and the transportation systems of the United States under the Government Performance and Results Act of 1993 (Public Law 103–62) and the amendments made by that Act;''; and

(iii) in subparagraph (C), by inserting '', made relevant to the States and metropolitan planning organizations,'' after ''accuracy'';

(C) in paragraph (3), by adding at the end the following: ''The Bureau shall review and report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103–62), and the amendments made by that Act, and shall carry out such other reviews of the sources and reliability of other data collected by the heads of the operating administrations of the Department as shall be requested by the Secretary.''; and

(D) by adding at the end the following:

''(7) SUPPORTING TRANSPORTATION DECISIONMAKING.—Ensuring that the statistics compiled under paragraph (1) are relevant for transportation decisionmaking by the Federal Government, State and local governments, transportation-related associations, private businesses, and consumers.'';

(3) by redesignating subsections (d), (e), and (f) as subsections (h), (i), and (j), respectively;

(4) by striking subsection (g);

(5) by inserting after subsection (c) the following:

''(d) TRANSPORTATION DATA BASE.—

''(1) IN GENERAL.—In consultation with the Associate Deputy Secretary, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation data base for all modes of transportation.

''(2) USE.—The data base shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

''(3) CONTENTS.—The data base shall include—

''(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations, and by relevant classification;

''(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

''(C) information on the location and connectivity of transportation facilities and services; and

''(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

''(e) NATIONAL TRANSPORTATION LIBRARY.—

''(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

''(2) ACCESS.—The Bureau shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Bureau to make statistics readily accessible under subsection (c)(5).

''(3) COORDINATION.—The Bureau shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

''(f) NATIONAL TRANSPORTATION ATLAS DATA BASE.—

''(1) IN GENERAL.—The Director shall develop and maintain geospatial data bases that depict—

''(A) transportation networks;

''(B) flows of people, goods, vehicles, and craft over the networks; and

''(C) social, economic, and environmental conditions that affect or are affected by the networks.

''(2) INTERMODAL NETWORK ANALYSIS.—The data bases shall be able to support intermodal network analysis.

''(g) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State departments of transportation, metropolitan planning organizations, and institutions of higher education) for—

''(1) investigation of the subjects specified in subsection (c)(1) and research and development of new methods of data collection, management, integration, dissemination, interpretation, and analysis;

''(2) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (e); and

''(3) development and improvement of methods for sharing geographic data, in support of the national transportation atlas data base under subsection (f) and the National Spatial Data Infrastructure developed under Executive Order No. 12906.'';

(6) by striking subsection (i) (as redesignated by paragraph (3)) and inserting the following:

''(i) PROHIBITION ON CERTAIN DISCLOSURES.—

''(1) IN GENERAL.—An officer or employee of the Bureau may not—

''(A) make any disclosure in which the data provided by an individual or organization under subsection (c)(2) can be identified;

''(B) use the information provided under subsection (c)(2) for a nonstatistical purpose; or

''(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c)(2).

''(2) PROHIBITION ON REQUESTS FOR CERTAIN DATA.—

''(A) GOVERNMENT AGENCIES.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c)(2) with the Bureau or retained by an individual respondent.

''(B) COURTS.—Any copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

''(i) shall be immune from legal process; and

''(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

''(C) APPLICABILITY.—This paragraph shall apply only to information that permits information concerning an individual or organization to be reasonably inferred by direct or indirect means.

''(3) DATA COLLECTED FOR NONSTATISTICAL PURPOSES.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.'';

(7) in subsection (j) (as redesignated by paragraph (3)), by striking ''On or before January 1, 1994, and annually thereafter, the'' and inserting ''The''; and

(8) by adding at the end the following:

''(k) STUDY.—

''(1) IN GENERAL.—The Director shall carry out a study—

''(A) to measure the ton-miles and value-miles of international trade traffic carried by highway for each State;

''(B) to evaluate the accuracy and reliability of such measures for use in the formula for highway apportionments;

''(C) to evaluate the accuracy and reliability of the use of diesel fuel data as a measure of international trade traffic by State; and

''(D) to identify needed improvements in long-term data collection programs to provide accurate and reliable measures of international traffic for use in the formula for highway apportionments.

''(2) BASIS FOR EVALUATIONS.—The study shall evaluate the accuracy and reliability of measures for use as formula factors based on statistical quality standards developed by the Bureau in consultation with the Committee on National Statistics of the National Academy of Sciences.

''(3) REPORT.—Not later than 3 years after the date of enactment of this subsection, the Director 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 on the results of the study carried out under paragraph (1), including recommendations for changes in law necessary to implement the identified needs for improvements in long-term data collection programs.

''(l) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

''(m) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $26,000,000 for fiscal year 1998, $27,000,000 for fiscal year 1999, $28,000,000 for fiscal year 2000, $29,000,000 for fiscal year 2001, $30,000,000 for fiscal year 2002, and $31,000,000 for fiscal year 2003, except that not more than $500,000 for each fiscal year may be made available to carry out subsection (g).

''(2) AVAILABILITY.—Funds authorized under this subsection shall remain available for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

''(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23.''.

(b) CONFORMING AMENDMENTS.—Section 5503 of title 49, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

SEC. 2005. RESEARCH AND TECHNOLOGY PROGRAM.

Title 23, United States Code, is amended—

(1) in the table of chapters, by adding at the end the following:

''5. Research and Technology ..... 501''; and

(2) by adding at the end the following:

''CHAPTER 5—RESEARCH AND TECHNOLOGY

''SUBCHAPTER I—RESEARCH AND TRAINING

''SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

''SUBCHAPTER III—FUNDING

''SUBCHAPTER I—RESEARCH AND TRAINING

''§ 501. Definitions

''In this chapter:

''(1) SAFETY.—The term 'safety' includes highway and traffic safety systems, research, and development relating to vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

''(2) FEDERAL LABORATORY.—The term 'Federal laboratory' includes a Government-owned, Government-operated laboratory and a Government-owned, contractor-operated laboratory.

''§ 502. Research and technology program

''(a) GENERAL AUTHORITY AND COLLABORATIVE AGREEMENTS.—

''(1) AUTHORITY OF THE SECRETARY.—

''(A) IN GENERAL.—The Secretary—

''(i) shall carry out research, development, and technology transfer activities with respect to—

''(I) motor carrier transportation;

''(II) all phases of transportation planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions); and

''(III) the effect of State laws on the activities described in subclauses (I) and (II); and

''(ii) may test, develop, or assist in testing and developing any material, invention, patented article, or process.

''(B) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

''(i) independently;

''(ii) in cooperation with other Federal departments, agencies, and instrumentalities and multipurpose Federal laboratories; or

''(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, any Federal laboratory, any State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

''(C) TECHNICAL INNOVATION.—The Secretary shall develop and carry out programs to facilitate the application of such products of research and technical innovations as will improve the safety, efficiency, and effectiveness of the transportation system.

''(D) FUNDS.—

''(i) IN GENERAL.—Except as otherwise specifically provided in other sections of this chapter—

''(I) to carry out this section, the Secretary shall use—

''(aa) funds made available under section 541 for research, technology, and training; and

''(bb) such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose; and

''(II) the funds described in item (aa) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

''(ii) USE OF FUNDS.—The Secretary shall use funds described in clause (i) to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

''(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

''(A) 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—

''(i) 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

''(ii) multipurpose Federal laboratories.

''(B) AGREEMENTS.—In carrying out this paragraph, 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)).

''(C) FEDERAL SHARE.—

''(i) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this paragraph shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

''(ii) 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 clause (i).

''(D) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this paragraph, 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.).

''(3) 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.

''(b) MANDATORY ELEMENTS OF PROGRAM.—The Secretary shall include in the surface transportation research, development, and technology transfer programs under this section and as specified elsewhere in this title—

''(1) a coordinated long-term program of research for the development, use, and dissemination of performance indicators to measure the performance of the surface transportation systems of the United States, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the system; and

''(2) a program to strengthen and expand surface transportation infrastructure research, development, and technology transfer, which shall include, at a minimum—

''(A) methods and materials for improving the durability of surface transportation infrastructure facilities and extending the life of bridge structures, including new and innovative technologies to reduce corrosion;

''(B) a research and development program directed toward the reduction of costs, and the mitigation of impacts, associated with the construction of highways and mass transit systems;

''(C) a surface transportation research program to develop nondestructive evaluation equipment for use with existing infrastructure facilities and with next-generation infrastructure facilities that use advanced materials;

''(D)(i) information technology, including appropriate computer programs to collect and analyze data on the status of infrastructure facilities described in subparagraph (C) with respect to enhancing management, growth, and capacity; and

''(ii) dynamic simulation models of surface transportation systems for—

''(I) predicting capacity, safety, and infrastructure durability problems;

''(II) evaluating planned research projects; and

''(III) testing the strengths and weaknesses of proposed revisions to surface transportation operation programs;

''(E) new innovative technologies to enhance and facilitate field construction and rehabilitation techniques for minimizing disruption during repair and maintenance of structures;

''(F) initiatives to improve the ability of the United States to respond to emergencies and natural disasters and to enhance national defense mobility;

''(G) an evaluation of traffic calming measures that promote community preservation, transportation mode choice, and safety; and

''(H) research on telecommuting, research on the linkages between transportation, information technology, and community development, and research on the impacts of technological change and economic restructuring on travel demand.

''(c) REPORT ON GOALS, MILESTONES, AND ACCOMPLISHMENTS.—The goals, milestones, and accomplishments relevant to each of the mandatory program elements described in subsection (b) shall be specified in the report required under section 5221(d) of title 49.''.

SEC. 2006. ADVANCED RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

''§ 503. Advanced research program

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Secretary shall establish an advanced research program within the Federal Highway Administration to address longer-term, higher-risk research that shows potential benefits for improving the durability, mobility, efficiency, environmental impact, productivity, and safety of transportation systems.

''(2) DEVELOPMENT OF PARTNERSHIPS.—In carrying out the program, the Secretary shall attempt to develop partnerships with the public and private sectors.

''(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts for advanced research.

''(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $9,000,000 for fiscal year 2000, and $10,000,000 for each of fiscal years 2001 through 2003.

''(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary.''.

SEC. 2007. LONG-TERM PAVEMENT PERFORMANCE PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2006), is amended by adding at the end the following:

''§ 504. Long-term pavement performance program

''(a) AUTHORITY.—The Secretary shall complete the long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section) and continued by the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) through the midpoint of a planned 20-year life of the long-term pavement performance program (referred to in this section as the 'program').

''(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

''(1) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

''(2) analyze the data obtained in carrying out paragraph (1); and

''(3) prepare products to fulfill program objectives and meet future pavement technology needs.

''(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 1998 through 2003.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

''(A) the Federal share of the cost of any activity funded under this section shall be determined by the Secretary; and

''(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.''.

SEC. 2008. STATE PLANNING AND RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2007), is amended by adding at the end the following:

''§ 505. State planning and research program

''(a) IN GENERAL.—

''(1) AVAILABILITY OF FUNDS.—Two percent of the sums apportioned for fiscal year 1998 and each fiscal year thereafter to any State under section 104 (except section 104(f)) and any transfers or additions to the surface transportation program under section 133 shall be available for expenditure by the State transportation department, in consultation with the Secretary, in accordance with this section.

''(2) USE OF FUNDS.—The sums referred to in paragraph (1) shall be available only for—

''(A) intermodal metropolitan, statewide, and nonmetropolitan planning under sections 134 and 135;

''(B) development and implementation of management systems referred to in section 303;

''(C) studies, research, development, and technology transfer activities necessary for the planning, design, construction, management, operation, maintenance, regulation, and taxation of the use of surface transportation systems, including training and accreditation of inspection and testing on engineering standards and construction materials for the systems; and

''(D) studies of the economy, safety, and convenience of surface transportation usage and the desirable regulation and equitable taxation of surface transportation usage.

''(b) MINIMUM EXPENDITURES ON STUDIES, RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

''(1) IN GENERAL.—For each fiscal year, not less than 25 percent of the funds of a State that are subject to subsection (a) shall be expended by the State transportation department for studies, research, development, and technology transfer activities described in subparagraphs (C) and (D) of subsection (a)(2) unless the State certifies to the Secretary for the fiscal year that the total expenditures by the State transportation department for transportation planning under sections 134 and 135 will exceed 75 percent of the amount of the funds and the Secretary accepts the certification.

''(2) EXEMPTION FROM SMALL BUSINESS 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 financed with funds referred to in subsection (a) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

''(d) ADMINISTRATION OF FUNDS.—Funds referred to in subsection (a) shall be combined and administered by the Secretary as a single fund, which shall be available for obligation for the same period as funds apportioned under section 104(b)(1).''.

SEC. 2009. EDUCATION AND TRAINING.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2008), is amended by adding at the end the following:

''§ 506. Education and training

''(a) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

''(1) AUTHORITY.—The Secretary shall carry out a transportation assistance program that will provide access to modern highway technology to—

''(A) highway and transportation agencies in urbanized areas with populations of between 50,000 and 1,000,000 individuals;

''(B) highway and transportation agencies in rural areas; and

''(C) contractors that do work for the agencies.

''(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 that will—

''(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 their expertise in road and transportation areas (including pavement, bridge, safety management systems, 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) 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;

''(C) operate, in cooperation with State transportation departments and universities—

''(i) local technical assistance program centers to provide transportation technology transfer services to rural areas and to urbanized areas with populations of between 50,000 and 1,000,000 individuals; and

''(ii) local technical assistance program centers designated to provide transportation technical assistance to Indian tribal governments; and

''(D) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

''(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $7,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $7,000,000 for fiscal year 2000, $8,000,000 for fiscal year 2001, $8,000,000 for fiscal year 2002, and $8,000,000 for fiscal year 2003 to be used to develop and administer the program established under this section and to provide technical and financial support for the centers operated under paragraph (2)(C).

''(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

''(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

''(ii) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

''(b) NATIONAL HIGHWAY INSTITUTE.—

''(1) ESTABLISHMENT; DUTIES; PROGRAMS.—

''(A) ESTABLISHMENT.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute (referred to in this subsection as the 'Institute').

''(B) DUTIES.—

''(i) INSTITUTE.—In cooperation with State transportation departments, United States industry, and any national or international entity, the Institute shall develop and administer education and training programs of instruction for—

''(I) Federal Highway Administration, State, and local transportation agency employees;

''(II) regional, State, and metropolitan planning organizations;

''(III) State and local police, public safety, and motor vehicle employees; and

''(IV) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

''(ii) SECRETARY.—The Secretary shall 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.

''(C) TYPES OF PROGRAMS.—Programs that the Institute may develop and administer may include courses in modern developments, techniques, methods, regulations, management, and procedures relating to—

''(i) surface transportation;

''(ii) environmental factors;

''(iii) acquisition of rights-of-way;

''(iv) relocation assistance;

''(v) engineering;

''(vi) safety;

''(vii) construction;

''(viii) maintenance;

''(ix) operations;

''(x) contract administration;

''(xi) motor carrier activities;

''(xii) inspection; and

''(xiii) highway finance.

''(2) SET-ASIDE; FEDERAL SHARE.—Not to exceed ¼ of 1 percent of 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 travel, subsistence, or salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

''(3) 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 received by them unless the Secretary determines that a lower cost is of critical importance to the public interest.

''(4) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

''(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

''(B) carry out its authority independently or in cooperation with any other branch of the Federal Government or any State agency, authority, association, institution, for-profit or nonprofit corporation, other national or international entity, or other person.

''(5) COLLECTION OF FEES.—

''(A) GENERAL RULE.—In accordance with this subsection, the Institute may assess and collect fees solely to defray the costs of the Institute in developing or administering education and training programs under this subsection.

''(B) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner that may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount that does not exceed the aggregate amount of the costs referred to in subparagraph (A) for the fiscal year.

''(C) 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.

''(D) 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.

''(E) USE.—All fees collected under this subsection shall be used to defray costs associated with the development or administration of education and training programs authorized under this subsection.

''(6) FUNDING.—

''(A) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for fiscal year 1998, $5,000,000 for fiscal year 1999, $5,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $6,000,000 for fiscal year 2002, and $6,000,000 for fiscal year 2003.

''(B) RELATION TO FEES.—The funds provided under this paragraph may be combined with or held separate from the fees collected under paragraph (5).

''(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

''(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

''(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

''(7) CONTRACTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this subsection.

''(c) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

''(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal departments, agencies, and instrumentalities, may make grants for fellowships for any purpose for which research, technology, or capacity building is authorized under this chapter.

''(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

''(A) IN GENERAL.—The Secretary shall carry out a transportation 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.

''(B) TYPES OF FELLOWSHIPS.—The program shall offer fellowships at the junior through postdoctoral levels of college education.

''(C) CITIZENSHIP.—Each recipient of a fellowship under the program shall be a United States citizen.

''(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $2,000,000 for each of fiscal years 1998 through 2003.

''(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

''(i) the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary; and

''(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

''(d) HIGHWAY CONSTRUCTION TRAINING PROGRAMS.—

''(1) USE OF FUNDS BY THE SECRETARY.—

''(A) IN GENERAL.—The Secretary, in cooperation with any other department or agency of the Federal Government, State agency, authority, association, institution, Indian tribal government, for-profit or nonprofit corporation, or other organization or person, may—

''(i) develop, conduct, and administer highway construction and technology training, including skill improvement, programs; and

''(ii) develop and fund Summer Transportation Institutes.

''(B) 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 by the Secretary under this subsection.

''(C) FUNDING.—

''(i) IN GENERAL.—Before making apportionments under section 104(b) for a fiscal year, the Secretary shall deduct such sums as the Secretary determines are necessary, but not to exceed $10,000,000 for each fiscal year, to carry out this subsection.

''(ii) AVAILABILITY.—Sums deducted under clause (i) shall remain available until expended.

''(2) USE OF FUNDS APPORTIONED TO STATES.—Notwithstanding any other provision of law, upon request of a State transportation department to the Secretary, not to exceed ½ of 1 percent of the funds apportioned to the State for a fiscal year under paragraphs (1) and (3) of section 104(b) may be made available to carry out this subsection.

''(3) RESERVATION OF TRAINING POSITIONS FOR INDIVIDUALS RECEIVING WELFARE ASSISTANCE.—In carrying out this subsection, the Secretary and States may reserve training positions for individuals who receive welfare assistance from a State.''.

SEC. 2010. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

(a) IN GENERAL.—Title 23, United States Code, is amended—

(1) by redesignating section 325 as section 507;

(2) by moving that section to appear at the end of subchapter I of chapter 5 (as amended by section 2009);

(3) in subsection (a) of that section, by inserting '', goods, and services'' after ''expertise''; and

(4) by striking subsection (c) of that section and inserting the following:

''(c) USE OF FUNDS.—

''(1) FUNDS DEPOSITED IN SPECIAL ACCOUNT.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person in a special account for the program established under this section with the Secretary of the Treasury.

''(2) USE OF FUNDS.—The funds deposited in the special account and other funds available to carry out this section shall be available to pay the cost of any activity eligible under this section, including the cost of promotional materials, travel, reception and representation expenses, and salaries and benefits of officers and employees of the Department of Transportation.

''(3) REIMBURSEMENTS.—Reimbursements for the salaries and benefits of Federal Highway Administration employees who provide services under this section shall be credited to the special account.

''(d) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out section 505 for any activity authorized under subsection (a).''.

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 325.

SEC. 2011. NATIONAL TECHNOLOGY DEPLOYMENT INITIATIVES AND PARTNERSHIPS PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2010), is amended by adding at the end the following:

''§508. National technology deployment initiatives and partnerships program

''(a) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment initiatives and partnerships program (referred to in this section as the 'program').

''(b) PURPOSE.—The purpose of the program is to significantly accelerate the adoption of innovative technologies by the surface transportation community.

''(c) DEPLOYMENT GOALS.—

''(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish not more than 5 deployment goals to carry out subsection (a).

''(2) 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, or sustainability.

''(3) 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.

''(d) CONTINUATION OF SHRP PARTNERSHIPS.—Under the program, the Secretary shall continue the partnerships established through the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section).

''(e) 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, including—

''(1) the testing and evaluation of products of the strategic highway research program;

''(2) the further development and implementation of technology in areas such as the Superpave system and the use of lithium salts to prevent and mitigate alkali silica reactivity; and

''(3) the provision of support for long-term pavement performance product implementation and technology access.

''(f) REPORTS.—Not later than 18 months after the date of enactment of this section, and biennially 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 on the progress and results of activities carried out under this section.

''(g) FUNDING.—

''(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $50,000,000 for each of fiscal years 1998 through 2003, of which not less than $500,000 shall be made available to carry out the study under section 511.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

''(A) the Federal share of the cost of any activity under this section shall be determined by the Secretary; and

''(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

''(3) ALLOCATION.—To the extent appropriate to achieve the goals established under subsection (c), the Secretary may further allocate funds made available under this subsection to States for their use.''.

SEC. 2012. INFRASTRUCTURE INVESTMENT NEEDS REPORT.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2011), is amended by adding at the end the following:

''§509. Infrastructure investment needs report

''(a) IN GENERAL.—Not later than January 31, 1999, and January 31 of every second year thereafter, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on—

''(1) estimates of the future highway and bridge needs of the United States; and

''(2) the backlog of current highway and bridge needs.

''(b) FORMAT.—Each report under subsection (a) shall, at a minimum, include explanatory materials, data, and tables comparable in format to the report submitted in 1995 under section 307(h) (as in effect on the day before the date of enactment of this section).''.

SEC. 2013. INNOVATIVE BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2012), is amended by adding at the end the following:

''§510. Innovative bridge research and construction program

''(a) IN GENERAL.—The Secretary shall establish and carry out a program to demonstrate the application of innovative material technology in the construction of bridges and other structures.

''(b) GOALS.—The goals of the program shall include—

''(1) the development of new, cost-effective innovative material highway bridge applications;

''(2) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

''(3) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

''(4) the development of engineering design criteria for innovative products and materials for use in highway bridges and structures;

''(5) the development of cost-effective and innovative techniques to separate vehicle and pedestrian traffic from railroad traffic;

''(6) the development of highway bridges and structures that will withstand natural disasters, including alternative processes for the seismic retrofit of bridges; and

''(7) the development of new nondestructive bridge evaluation technologies and techniques.

''(c) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

''(1) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

''(A) 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

''(B) States to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of bridges or structures that demonstrates the application of innovative materials.

''(2) GRANTS.—

''(A) APPLICATIONS.—

''(i) SUBMISSION.—To receive a grant under this section, an entity described in paragraph (1) shall submit an application to the Secretary.

''(ii) CONTENTS.—The application shall be in such form and contain such information as the Secretary may require.

''(B) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this section based on whether the project that is the subject of the grant meets the goals of the program described in subsection (b).

''(d) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under subsection (c) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

''(e) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

''(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account)—

''(A) to carry out subsection (c)(1)(A) $1,000,000 for each of fiscal years 1998 through 2003; and

''(B) to carry out subsection (c)(1)(B)—

''(i) $10,000,000 for fiscal year 1998;

''(ii) $15,000,000 for fiscal year 1999;

''(iii) $17,000,000 for fiscal year 2000; and

''(iv) $20,000,000 for each of fiscal years 2001 through 2003.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.''.

SEC. 2014. USE OF BUREAU OF INDIAN AFFAIRS ADMINISTRATIVE FUNDS.

Section 204(b) of title 23, United States Code, is amended in the last sentence by striking ''326'' and inserting ''506''.

SEC. 2015. STUDY OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2013), is amended by adding at the end the following:

''§511. Study of future strategic highway research program

''(a) STUDY.—

''(1) IN GENERAL.—Not later than 120 days after the date of enactment of this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, the Transportation Research Board of the National Academy of Sciences (referred to in this section as the 'Board') to conduct a study to determine the goals, purposes, research agenda and projects, administrative structure, and fiscal needs for a new strategic highway research program to replace the program established under section 307(d) (as in effect on the day before the date of enactment of this section), or a similar effort.

''(2) CONSULTATION.—In conducting the study, the Board shall consult with the American Association of State Highway and Transportation Officials and such other entities as the Board determines to be necessary to the conduct of the study.

''(b) REPORT.—Not later than 5 years after making a grant or entering into a cooperative agreement or contract under subsection (a), the Board shall submit a final report on the results of the study 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.''.

SEC. 2016. ADVANCED VEHICLE TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

''§310. Advanced vehicle technologies program

''(a) PURPOSES.—The Secretary of Transportation, in coordination with other government agencies and private consortia, shall encourage and promote the research, development, and deployment of transportation technologies that will use technological advances in multimodal vehicles, vehicle components, environmental technologies, and related infrastructure to remove impediments to an efficient and cost-effective national transportation system.

''(b) DEFINITION OF ELIGIBLE CONSORTIUM.—In this section, the term 'eligible consortium' means a consortium that receives funding under the Department of Defense Appropriations Act, 1993 (Public Law 102–396; 106 Stat. 1876), and that comprises 2 or more of the following entities:

''(1) Businesses incorporated in the United States.

''(2) Public or private educational or research organizations located in the United States.

''(3) Entities of State or local governments in the United States.

''(4) Federal laboratories.

''(c) PROGRAM.—The Secretary shall enter into contracts, cooperative agreements, and other transactions as authorized by section 2371 of title 10 with, and make grants to, eligible consortia to promote the development and deployment of innovation in transportation technology services, management, and operational practices.

''(d) ELIGIBILITY CRITERIA.—To be eligible to receive assistance under this section, an eligible consortium shall—

''(1) for a period of not less than the 3 years preceding the date of a contract, cooperative agreement, or other transaction, be organized on a statewide or multistate basis for the purpose of designing, developing, and deploying transportation technologies that address identified technological impediments in the transportation field;

''(2) facilitate the participation in the consortium of small- and medium-sized businesses, utilities, public laboratories and universities, and other relevant entities;

''(3) be actively engaged in transportation technology projects that address compliance in nonattainment areas under the Clean Air Act (42 U.S.C. 7401 et seq.);

''(4) be designed to use Federal and State funding to attract private capital in the form of grants or investments to carry out this section; and

''(5) ensure that at least 50 percent of the funding for the consortium project will be provided by non-Federal sources.

''(e) PROPOSALS.—The Secretary shall prescribe such terms and conditions as the Secretary determines to be appropriate for the content and structure of proposals submitted for assistance under this section.

''(f) REPORTING REQUIREMENTS.—At least once each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the projects undertaken by the eligible consortia and the progress made in advancing the purposes of this section.

''(g) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1998 through 2003, to remain available until expended.

''(2) AVAILABILITY.—Notwithstanding section 118(a), funds made available under paragraph (1) shall not be available in advance of an annual appropriation.''.

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

''310. Advanced vehicle technologies program.''.

SEC. 2017. TRANSPORTATION AND ENVIRONMENT COOPERATIVE RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2015), is amended by adding at the end the following:

''§ 512. Transportation and environment cooperative research program

''(a) IN GENERAL.—The Secretary shall establish and carry out a transportation and environment cooperative research program.

''(b) ADVISORY BOARD.—

''(1) ESTABLISHMENT.—In consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, the Secretary shall establish an advisory board to recommend environmental and energy conservation research, technology, and technology transfer activities related to surface transportation.

''(2) MEMBERSHIP.—The advisory board shall include—

''(A) representatives of State transportation and environmental agencies;

''(B) transportation and environmental scientists and engineers; and

''(C) representatives of metropolitan planning organizations, transit operating agencies, and environmental organizations.

''(3) DEVELOPMENT OF RESEARCH PRIORITIES.—In developing recommendations for priorities for research described in paragraph (1), the advisory board shall consider the research recommendations of the National Research Council report entitled 'Environmental Research Needs in Transportation'.

''(4) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

''(c) NATIONAL ACADEMY OF SCIENCES.—

''(1) IN GENERAL.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities related to the research, technology, and technology transfer activities described in subsection (b)(1) as the Secretary determines to be appropriate.

''(2) ECOSYSTEM INTEGRITY STUDY.—

''(A) IN GENERAL.—The Secretary shall give priority to conducting a study of, and preparing a report on, the relationship between highway density and ecosystem integrity, including an analysis of the habitat-level impacts of highway density on the overall health of ecosystems.

''(B) PROPOSAL OF RAPID ASSESSMENT METHODOLOGY.—To aid transportation and regulatory agencies, the report shall propose a rapid assessment methodology for determining the relationship between highway density and ecosystem integrity.

''(d) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1998 through 2003.

''(2) AVAILABILITY.—Notwithstanding section 118(a), funds made available under paragraph (1) shall not be available in advance of an annual appropriation.''.

SEC. 2018. RECYCLED MATERIALS RESOURCE CENTER.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2017), is amended by adding at the end the following:

''§ 513. Recycled materials resource center

''(a) ESTABLISHMENT.—The Secretary shall establish at the University of New Hampshire a research program to be known as the 'Recycled Materials Resource Center' (referred to in this section as the 'Center').

''(b) ACTIVITIES.—

''(1) IN GENERAL.—The Center shall—

''(A) systematically test, evaluate, develop appropriate guidelines for, and demonstrate environmentally acceptable and occupationally safe technologies and techniques for the increased use of traditional and nontraditional recycled and secondary materials in transportation infrastructure construction and maintenance;

''(B) make information available to State transportation departments, the Federal Highway Administration, the construction industry, and other interested parties to assist in evaluating proposals to use traditional and nontraditional recycled and secondary materials in transportation infrastructure construction;

''(C) encourage the increased use of traditional and nontraditional recycled and secondary materials by using sound science to analyze thoroughly all potential long-term considerations that affect the physical and environmental performance of the materials; and

''(D) work cooperatively with Federal and State officials to reduce the institutional barriers that limit widespread use of traditional and nontraditional recycled and secondary materials and to ensure that such increased use is consistent with the sustained environmental and physical integrity of the infrastructure in which the materials are used.

''(2) SITES AND PROJECTS UNDER ACTUAL FIELD CONDITIONS.—In carrying out paragraph (1)(C), the Secretary may authorize the Center to—

''(A) use test sites and demonstration projects under actual field conditions to develop appropriate performance data; and

''(B) develop appropriate tests and guidelines to ensure correct use of recycled and secondary materials in transportation infrastructure construction.

''(c) REVIEW AND EVALUATION.—

''(1) IN GENERAL.—Not less often than every 2 years, the Secretary shall review and evaluate the program carried out by the Center.

''(2) NOTIFICATION OF DEFICIENCIES.—In carrying out paragraph (1), if the Secretary determines that the Center is deficient in carrying out subsection (b), the Secretary shall notify the Center of each deficiency and recommend specific measures to address the deficiency.

''(3) DISQUALIFICATION.—If, after the end of the 180-day period that begins on the date of notification to the Center under paragraph (2), the Secretary determines that the Center has not corrected each deficiency identified under paragraph (2), the Secretary may, after notifying the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination, disqualify the Center from further participation under this section.

''(d) FUNDING.—Of amounts made available under section 541, $2,000,000 shall be made available for each fiscal year to carry out this section.''.

SEC. 2019. CONFORMING AMENDMENTS.

(a) Sections 307, 321, and 326 of title 23, United States Code, are repealed.

(b) The analysis for chapter 3 of title 23, United States Code, is amended by striking the items relating to sections 307, 321, and 326.

(c) Section 115(a)(1)(A)(i) of title 23, United States Code, is amended by striking ''or 307'' and inserting ''or 505''.

(d) Section 151(d) of title 23, United States Code, is amended by striking ''section 307(a),'' and inserting ''section 506,''.

(e) Section 106 of Public Law 89–564 (23 U.S.C. 403 note) is amended in the third sentence by striking ''sections 307 and 403 of title 23, United States Code,'' and inserting ''section 403 and chapter 5 of title 23, United States Code,''.

SEC. 2020. REMOTE SENSING AND SPATIAL INFORMATION TECHNOLOGIES.

(a) IN GENERAL.—The Secretary shall establish and carry out a program to validate remote sensing and spatial information technologies for application to national transportation infrastructure development and construction.

(b) PROGRAM STAGES.—

(1) FIRST STAGE.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall establish a national policy for the use of remote sensing and spatial information technologies in national transportation infrastructure development and construction.

(2) SECOND STAGE.—After establishment of the national policy under paragraph (1), the Secretary shall develop new applications of remote sensing and spatial information technologies for the implementation of such policy.

(c) COOPERATION.—The Secretary shall carry out this section in cooperation with the National Aeronautics and Space Administration and a consortium of university research centers.

(d) FUNDING.—There is authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1999 and $10,000,000 for each of fiscal years 2000 through 2004.

Subtitle B—Intelligent Transportation Systems

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the ''Intelligent Transportation Systems Act of 1998''.

SEC. 2102. FINDINGS.

Congress finds that—

(1) numerous studies conducted on behalf of the Department of Transportation document that investment in intelligent transportation systems offers substantial benefits in relationship to costs;

(2) as a result of the investment authorized by the Intelligent Transportation Systems Act of 1991 (23 U.S.C. 307 note; 105 Stat. 2189), progress has been made on each of the goals set forth for the national intelligent transportation system program in section 6052(b) of that Act; and

(3) continued investment by the Department of Transportation is needed to complete implementation of those goals.

SEC. 2103. INTELLIGENT TRANSPORTATION SYSTEMS.

Chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

''SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

''§ 521. Purposes

''The purposes of this subchapter are—

''(1) to expedite deployment and integration of basic intelligent transportation system services for consumers of passenger and freight transportation across the United States;

''(2) to encourage the use of intelligent transportation systems to enhance international trade and domestic economic productivity;

''(3) to encourage the use of intelligent transportation systems to promote the achievement of national environmental goals;

''(4) to continue research, development, testing, and evaluation activities to continually expand the state-of-the-art in intelligent transportation systems;

''(5) to provide financial and technical assistance to State and local governments and metropolitan planning organizations to ensure the integration of interoperable, intermodal, and cost-effective intelligent transportation systems;

''(6) to foster regional cooperation, standards implementation, and operations planning to maximize the benefits of integrated and coordinated intelligent transportation systems;

''(7) to promote the consideration of intelligent transportation systems in mainstream transportation planning and investment decisionmaking by ensuring that Federal and State transportation officials have adequate, working knowledge of intelligent transportation system technologies and applications and by ensuring comprehensive funding eligibility for the technologies and applications;

''(8) to encourage intelligent transportation system training for, and technology transfer to, State and local agencies;

''(9) to promote the deployment of intelligent transportation system services in rural America so as to achieve safety benefits, promote tourism, and improve quality of life;

''(10) to promote the innovative use of private resources, such as through public-private partnerships or other uses of private sector investment, to support the development and integration of intelligent transportation systems throughout the United States;

''(11) to complete the Federal investment in the deployment of Commercial Vehicle Information Systems and Networks by September 30, 2003;

''(12) to facilitate intermodalism through deployment of intelligent transportation systems, including intelligent transportation system technologies for transit systems to improve safety, efficiency, capacity, and utility for the public;

''(13) to enhance the safe operation of motor vehicles, including motorcycles, and non-motorized vehicles on the surface transportation systems of the United States, with a particular emphasis on decreasing the number and severity of collisions;

''(14) to encourage the use of intelligent transportation systems to promote the achievement of national transportation safety goals, including safety at at-grade railway-highway crossings; and

''(15) to accommodate the needs of all users of the surface transportation systems of the United States, including the operators of commercial vehicles, passenger vehicles, and motorcycles.

''§ 522. 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.—The term 'commercial vehicle operations'—

''(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

''(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

''(3) COMPLETED STANDARD.—The term 'completed standard' means a standard adopted and published by the appropriate standards-setting organization through a voluntary consensus standardmaking process.

''(4) CORRIDOR.—The term 'corridor' means any major transportation route that includes parallel limited access highways, major arterials, or transit lines.

''(5) 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.

''(6) NATIONAL ARCHITECTURE.—The term 'national 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.

''(7) PROVISIONAL STANDARD.—The term 'provisional standard' means a provisional standard established by the Secretary under section 529(c).

''(8) STANDARD.—The term 'standard' means a document that—

''(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

''(B) may support the national architecture and promote—

''(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

''(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

''§ 523. Cooperation, consultation, and analysis

''(a) COOPERATION.—In carrying out this subchapter, the Secretary shall—

''(1) foster enhanced operation and management of the surface transportation systems of the United States;

''(2) promote the widespread deployment of intelligent transportation systems; and

''(3) advance emerging technologies, in cooperation with State and local governments and the private sector.

''(b) CONSULTATION.—As appropriate, in carrying out this subchapter, the Secretary shall—

''(1) consult with the heads of other interested Federal departments and agencies; and

''(2) maximize the involvement of the United States private sector, colleges and universities, the Federal laboratories, and State and local governments in all aspects of carrying out this subchapter.

''(c) PROCUREMENT METHODS.—To meet the need for effective implementation of intelligent transportation system projects, the Secretary shall develop appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of procurement for intelligent transportation system projects, including innovative and non-traditional methods of procurement.

''§ 524. Research, development, and training

''(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, operational testing, technical assistance and training, national architecture activities, standards development and implementation, and other similar activities that are necessary to carry out the purposes of this subchapter.

''(b) INTELLIGENT VEHICLE AND INTELLIGENT INFRASTRUCTURE PROGRAMS.—

''(1) IN GENERAL.—

''(A) PROGRAM.—The Secretary shall carry out a program to conduct research, development, and engineering designed to stimulate and advance deployment of an integrated intelligent vehicle program and an integrated intelligent infrastructure program, consisting of—

''(i) projects such as crash avoidance, automated highway systems, advanced vehicle controls, and roadway safety and efficiency systems linked to intelligent vehicles; and

''(ii) projects that improve mobility and the quality of the environment, including projects for traffic management, incident management, transit management, toll collection, traveler information, and traffic control systems.

''(B) CONSIDERATION OF VEHICLE AND INFRASTRUCTURE ELEMENTS.—In carrying out subparagraph (A), the Secretary may consider systems that include both vehicle and infrastructure elements and determine the most appropriate mix of those elements.

''(2) NATIONAL ARCHITECTURE.—The program carried out under paragraph (1) shall be consistent with the national architecture.

''(3) PRIORITIES.—In carrying out paragraph (1), the Secretary shall give higher priority to activities that—

''(A) assist motor vehicle drivers in avoiding motor vehicle crashes;

''(B) assist in the development of an automated highway system; or

''(C) improve the integration of air bag technology with other on-board safety systems and maximize the safety benefits of the simultaneous use of an automatic restraint system and seat belts.

''(4) COST SHARING.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of a research project carried out in cooperation with a non-Federal entity under a program carried out under paragraph (1) shall not exceed 80 percent.

''(B) INNOVATIVE OR HIGH-RISK RESEARCH PROJECTS.—The Federal share of the cost of an innovative or high-risk research project described in subparagraph (A) may, at the discretion of the Secretary, be 100 percent.

''(5) PLAN.—The Secretary shall—

''(A) not later than 1 year after the date of enactment of this subchapter, submit to Congress a 6-year plan specifying the goals, objectives, and milestones to be achieved by each program carried out under paragraph (1); and

''(B) report biennially to Congress on the progress in meeting the goals, objectives, and milestones.

''(c) EVALUATION.—

''(1) GUIDELINES AND REQUIREMENTS.—

''(A) IN GENERAL.—The Secretary shall establish guidelines and requirements for the independent evaluation of field and related operational tests, and, if necessary, deployment projects, carried out under this subchapter.

''(B) REQUIRED PROVISIONS.—The guidelines and requirements established under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subchapter.

''(2) FUNDING.—

''(A) SMALL PROJECTS.—In the case of a test or project with a cost of less than $5,000,000, the Secretary may allocate not more than 15 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

''(B) MODERATE PROJECTS.—In the case of a test or project with a cost of $5,000,000 or more, but less than $10,000,000, the Secretary may allocate not more than 10 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

''(C) LARGE PROJECTS.—In the case of a test or project with a cost of $10,000,000 or more, the Secretary may allocate not more than 5 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

''(3) INAPPLICABILITY OF PAPERWORK REDUCTION ACT.—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.

''(d) INFORMATION CLEARINGHOUSE.—

''(1) IN GENERAL.—The Secretary shall—

''(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

''(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

''(2) DELEGATION OF AUTHORITY.—

''(A) IN GENERAL.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation.

''(B) FEDERAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal assistance under this section.

''(e) TRAFFIC INCIDENT MANAGEMENT AND RESPONSE.—The Secretary shall carry out a program to advance traffic incident management and response technologies, strategies, and partnerships that are fully integrated with intelligent transportation systems.

''(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $120,000,000 for fiscal year 1998, $125,000,000 for fiscal year 1999, $130,000,000 for fiscal year 2000, $135,000,000 for fiscal year 2001, $140,000,000 for fiscal year 2002, and $150,000,000 for fiscal year 2003, of which, for each fiscal year—

''(A) not less than $25,000,000 shall be available for activities that assist motor vehicle drivers in avoiding motor vehicle crashes, including activities that improve the integration of air bag technology with other on-board safety systems;

''(B) not less than $25,000,000 shall be available for activities that assist in the development of an automated highway system; and

''(C) not less than $3,000,000 shall be available for traffic incident management and response.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.

''§ 525. Intelligent transportation system integration program

''(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to in this section as the 'program') to accelerate the integration and interoperability of intelligent transportation systems.

''(b) SELECTION OF PROJECTS.—

''(1) IN GENERAL.—Under the program, the Secretary shall select for funding, through competitive solicitation, projects that will serve as models to improve transportation efficiency, promote safety, increase traffic flow, reduce emissions of air pollutants, improve traveler information, or enhance alternative transportation modes.

''(2) PRIORITIES.—Under the program, the Secretary shall give higher priority to funding projects that—

''(A) promote and foster integration strategies and written agreements among local governments, States, and other regional entities;

''(B) build on existing (as of the date of project selection) intelligent transportation system projects;

''(C) deploy integrated intelligent transportation system projects throughout metropolitan areas;

''(D) deploy integrated intelligent transportation system projects that enhance safe freight movement or coordinate intermodal travel, including intermodal travel at ports of entry into the United States; and

''(E) advance intelligent transportation system deployment projects that are consistent with the national architecture and, as appropriate, comply with required standards as described in section 529.

''(3) CONTINUATION OF PARTNERSHIP AGREEMENTS.—The Secretary shall continue through to completion public/private partnership agreements previously executed to promote the integration of surface transportation management systems, including the integration of highway, transit, railroad and emergency management systems.

''(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

''(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained.

''(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $100,000,000 for fiscal year 1998, $110,000,000 for fiscal year 1999, $115,000,000 for fiscal year 2000, $130,000,000 for fiscal year 2001, $135,000,000 for fiscal year 2002, and $145,000,000 for fiscal year 2003.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

''(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

''(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

''§ 526. Integration program for rural areas

''(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to in this section as the 'program') to accelerate the integration or deployment of intelligent transportation systems in rural areas.

''(b) SELECTION OF PROJECTS.—Under the program, the Secretary shall—

''(1) select projects through competitive solicitation; and

''(2) give higher priority to funding projects that—

''(A) promote and foster integration strategies and agreements among local governments, States, and other regional entities;

''(B) deploy integrated intelligent transportation system projects that improve mobility, enhance the safety of the movement of passenger vehicles and freight, or promote tourism; and

''(C) advance intelligent transportation system deployment projects that are consistent with the national architecture and comply with required standards as described in section 529.

''(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

''(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained

''(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1998, $10,000,000 for fiscal year 1999, $15,000,000 for fiscal year 2000, $15,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $20,000,000 for fiscal year 2003.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

''(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

''(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

''§ 527. Commercial vehicle intelligent transportation system infrastructure

''(a) IN GENERAL.—The Secretary shall carry out a comprehensive program—

''(1) to deploy intelligent transportation systems that will promote the safety and productivity of commercial vehicles and drivers; and

''(2) to reduce costs associated with commercial vehicle operations and State and Federal commercial vehicle regulatory requirements.

''(b) ELEMENTS OF PROGRAM.—

''(1) SAFETY INFORMATION SYSTEMS AND NETWORKS.—

''(A) IN GENERAL.—The program shall advance the technological capability and promote the deployment of commercial vehicle, commercial driver, and carrier-specific safety information systems and networks and other intelligent transportation system technologies used to assist States in identifying high-risk commercial operations and in conducting other innovative safety strategies, including the Commercial Vehicle Information Systems and Networks.

''(B) FOCUS OF PROJECTS.—Projects assisted under the program shall focus on—

''(i) identifying and eliminating unsafe and illegal carriers, vehicles, and drivers in a manner that does not unduly hinder the productivity and efficiency of safe and legal commercial operations;

''(ii) enhancing the safe passage of commercial vehicles across the United States and across international borders;

''(iii) reducing the numbers of violations of out-of-service orders;

''(iv) complying with directives to address other safety violations; and

''(v) developing and implementing unobtrusive eyetracking technology.

''(2) MONITORING SYSTEMS.—The program shall advance on-board driver and vehicle safety monitoring systems, including fitness-for-duty, brake, and other operational monitoring technologies, that will facilitate commercial vehicle safety, including inspection by motor carrier safety assistance program officers and employees under chapter 311 of title 49.

''(c) USE OF FEDERAL FUNDS.—

''(1) IN GENERAL.—Federal funds used to carry out the program shall be primarily used to improve—

''(A) commercial vehicle safety and the effectiveness and efficiency of enforcement efforts conducted under the motor carrier safety assistance program under chapter 311 of title 49;

''(B) electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information; and

''(C) communication of the information described in subparagraph (B) among the States.

''(2) LEVERAGING.—Federal funds used to carry out the program shall, to the maximum extent practicable—

''(A) be leveraged with non-Federal funds; and

''(B) be used for activities not carried out through the use of private funds.

''(d) FEDERAL SHARE.—The Federal share of the cost of a project assisted under the program shall be not more than 80 percent.

''(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

''(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for fiscal year 1998, $25,000,000 for fiscal year 1999, $25,000,000 for fiscal year 2000, $35,000,000 for fiscal year 2001, $35,000,000 for fiscal year 2002, and $40,000,000 for fiscal year 2003.

''(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

''(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

''(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

''§528. Corridor development and coordination

''(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements intended to promote regional cooperation, planning, and shared project implementation for intelligent transportation system projects.

''(b) FUNDING.—There shall be available to carry out this section for each fiscal year not more than—

''(1) $3,000,000 of the amounts made available under section 524(f); and

''(2) $7,000,000 of the amounts made available under section 525(e).

''§529. Standards

''(a) IN GENERAL.—

''(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—The Secretary shall develop, implement, and maintain a national architecture and supporting standards 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 standards shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the States.

''(3) USE OF STANDARDS-SETTING ORGANIZATIONS.—In carrying out this section, the Secretary may use the services of such standards-setting organizations as the Secretary determines appropriate.

''(b) REPORT.—

''(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report describing the status of all standards.

''(2) CONTENTS.—The report shall—

''(A) identify each standard that is needed for operation of intelligent transportation systems in the United States;

''(B) specify the status of the development of each standard;

''(C) provide a timetable for achieving agreement on each standard as described in this section; and

''(D) determine which standards are critical to ensuring national interoperability or critical to the development of other standards.

''(c) ESTABLISHMENT OF PROVISIONAL STANDARDS.—

''(1) ESTABLISHMENT.—Subject to subsection (d), if a standard determined to be critical under subsection (b)(2)(D) is not adopted and published by the appropriate standards-setting organization by January 1, 2001, the Secretary shall establish a provisional standard after consultation with affected parties.

''(2) PERIOD OF EFFECTIVENESS.—The provisional standard shall—

''(A) be published in the Federal Register;

''(B) take effect not later than May 1, 2001; and

''(C) remain in effect until the appropriate standards-setting organization adopts and publishes a standard.

''(d) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL STANDARDS.—

''(1) NOTICE.—The Secretary may waive the requirement to establish a provisional standard by submitting, not later than January 1, 2001, to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a notice that—

''(A) specifies the provisional standard subject to the waiver;

''(B) describes the history of the development of the standard subject to the waiver;

''(C) specifies the reasons why the requirement for the establishment of the provisional standard is being waived;

''(D) describes the impacts of delaying the establishment of the standard subject to the waiver, especially the impacts on the purposes of this subchapter; and

''(E) provides specific estimates as to when the standard subject to the waiver is expected to be adopted and published by the appropriate standards-setting organization.

''(2) PROGRESS REPORTS.—

''(A) IN GENERAL.—In the case of each standard subject to a waiver by the Secretary under paragraph (1), the Secretary shall submit, in accordance with the schedule specified in subparagraph (B), a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the progress of the adoption of a completed standard.

''(B) SCHEDULE OF REPORTS.—The Secretary shall submit a report under subparagraph (A) with respect to a standard—

''(i) not later than 180 days after the date of submission of the notice under paragraph (1) with respect to the standard; and

''(ii) at the end of each 180-day period thereafter until such time as a standard has been adopted and published by the appropriate standards-setting organization or the waiver is withdrawn under paragraph (3).

''(C) CONSULTATION.—In developing each progress report under subparagraph (A), the Secretary shall consult with the standards-setting organizations involved in the standardmaking process for the standard.

''(3) WITHDRAWAL OF WAIVER.—

''(A) IN GENERAL.—At any time, the Secretary may, through notification to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, withdraw a notice of a waiver of the requirement to establish a provisional standard.

''(B) IMPLEMENTATION.—If the Secretary submits notification under subparagraph (A) with respect to a provisional standard, not less than 30 days, but not more than 90 days, after the date of the notification, the Secretary shall implement the provisional standard, unless, by the end of the 90-day period beginning on the date of the notification, a standard has been adopted and published by the appropriate standards-setting organization.

''(e) REQUIREMENT FOR COMPLIANCE WITH STANDARD.—

''(1) IN GENERAL.—

''(A) STANDARD IN EXISTENCE.—Funds made available from the Highway Trust Fund shall not be used to deploy an intelligent transportation system technology if the technology does not comply with each applicable provisional standard or completed standard.

''(B) NO STANDARD IN EXISTENCE.—In the absence of a provisional standard or completed standard, Federal funds shall not be used to deploy an intelligent transportation system technology if the deployment is not consistent with the interfaces to ensure interoperability that are contained in the national architecture.

''(2) APPLICABILITY.—Paragraph (1) shall not apply to—

''(A) the operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter; or

''(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subchapter if the Secretary determines that the upgrade or expansion—

''(i) does not adversely affect the purposes of this subchapter, especially the goal of national or regional interoperability;

''(ii) is carried out before the end of the useful life of the system; and

''(iii) is cost effective as compared to alternatives that meet the compliance requirement of paragraph (1)(A) or the consistency requirement of paragraph (1)(B).

''(f) SPECTRUM.—

''(1) CONSULTATION.—The Secretary shall consult with the Secretary of Commerce, the Secretary of Defense, and the Chairman of the Federal Communications Commission to determine the best means for securing the necessary spectrum for the near-term establishment of a dedicated short-range vehicle-to-wayside wireless standard and any other spectrum that the Secretary determines to be critical to the implementation of this title.

''(2) PROGRESS REPORT.—After consultation under paragraph (1) and with other affected agencies, but not later than 1 year after the date of enactment of this subchapter, the Secretary shall submit a report to Congress on the progress made in securing the spectrum described in paragraph (1).

''(3) DEADLINE FOR SECURING SPECTRUM.—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this subchapter, the Secretary of Commerce shall release to the Federal Communications Commission, and the Federal Communications Commission shall allocate, the spectrum described in paragraph (1).

''(g) FUNDING.—The Secretary shall use funds made available under section 524 to carry out this section.

''§ 530. Funding limitations

''(a) CONSISTENCY WITH NATIONAL ARCHITECTURE.—The Secretary shall use funds made available under this subchapter to deploy intelligent transportation system technologies only if the technologies are consistent with the national architecture.

''(b) COMPETITION WITH PRIVATELY FUNDED PROJECTS.—To the maximum extent practicable, the Secretary shall not fund any intelligent transportation system operational test or deployment project that competes with a similar privately funded project.

''(c) INFRASTRUCTURE DEVELOPMENT.—Funds made available under this subchapter for operational tests and deployment projects—

''(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

''(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

''(d) PUBLIC RELATIONS AND TRAINING.—For each fiscal year, not more than $15,000,000 of the funds made available under this subchapter shall be used for intelligent transportation system outreach, public relations, training, mainstreaming, shareholder relations, or related activities.

''§ 531. Use of innovative financing

''(a) IN GENERAL.—The Secretary may use up to 25 percent of the funds made available under this subchapter and section 541 to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this title and that have significant intelligent transportation system elements.

''(b) CONSISTENCY WITH OTHER LAW.—Credit assistance described in subsection (a) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1998.

''§ 532. Advisory committees

''(a) IN GENERAL.—In carrying out this subchapter, the Secretary shall use 1 or more advisory committees.

''(b) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).''.

SEC. 2104. CONFORMING AMENDMENT.

The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title VI (23 U.S.C. 307 note; 105 Stat. 2189).

Subtitle C—Funding

SEC. 2201. FUNDING.

Chapter 5 of title 23, United States Code (as amended by section 2103), is amended by adding at the end the following:

''SUBCHAPTER III—FUNDING

''§ 541. Funding

''(a) RESEARCH, TECHNOLOGY, AND TRAINING.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out sections 502, 507, 509, and 511 $68,000,000 for fiscal year 1998, $1,500,000 for fiscal year 1999, $4,500,000 for fiscal year 2000, $2,500,000 for fiscal year 2001, $1,500,000 for fiscal year 2002, and $4,500,000 for fiscal year 2003.

''(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

''(1) any Federal share of the cost of an activity under this chapter shall be determined in accordance with this chapter; and

''(2) the funds shall remain available for obligation for a period of 4 years after the last day of the fiscal year for which the funds are authorized.

''(c) LIMITATIONS ON OBLIGATIONS.—Notwithstanding any other provision of law, the total amount of all obligations under subsection (a) shall not exceed—

''(1) $98,000,000 for fiscal year 1998;

''(2) $101,000,000 for fiscal year 1999;

''(3) $104,000,000 for fiscal year 2000;

''(4) $107,000,000 for fiscal year 2001;

''(5) $110,000,000 for fiscal year 2002; and

''(6) $114,000,000 for fiscal year 2003.''.

TITLE III—INTERMODAL TRANSPORTATION SAFETY AND RELATED MATTERS

SEC. 3001. SHORT TITLE.

This title may be cited as the ''Intermodal Transportation Safety Act of 1998''.

SEC. 3002. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

Subtitle A—Highway Safety

SEC. 3101. HIGHWAY SAFETY PROGRAMS.

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended by striking ''section 4007'' and inserting ''section 4004''.

(b) ADMINISTRATIVE REQUIREMENTS.—Section 402(b) of such title is amended—

(1) by striking the period at the end of subparagraph (A) and subparagraph (B) of paragraph (1) and inserting a semicolon;

(2) in paragraph (1)(C), by inserting '', including Indian tribes,'' after ''subdivisions of such State'';

(3) in paragraph (1)(C), by striking the period at the end and inserting a semicolon and ''and''; and

(4) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

(c) APPORTIONMENT OF FUNDS.—Section 402(c) of such title is amended—

(1) by inserting ''the apportionment to the Secretary of the Interior shall not be less than ¾ of 1 percent of the total apportionment and'' after ''except that'' in the sixth sentence; and

(2) by striking the seventh sentence.

(d) APPLICATION IN INDIAN COUNTRY.—Section 402(i) of title 23, United States Code, is amended to read as follows:

''(i) APPLICATION IN INDIAN COUNTRY.—

''(1) IN GENERAL.—For the purpose of application of this section in Indian country, the terms 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subsection (b)(1)(C), 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subparagraph (b)(1)(D) shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

''(2) INDIAN COUNTRY DEFINED.—For the purposes of this subsection, the term 'Indian country' means—

''(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

''(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

''(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.''.

(e) RULEMAKING PROCESS.—Section 402(j) of title 23, United States Code, is amended to read as follows:

''(j) RULEMAKING PROCESS.—The Secretary may from time to time conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries, and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.''.

(f) SAFETY INCENTIVE GRANTS.—Section 402 of title 23, United States Code, is amended by striking subsection (k) and inserting the following:

''(k) SAFETY INCENTIVE GRANTS.—

''(1) SAFETY INCENTIVE GRANTS: GENERAL AUTHORITY.—The Secretary shall make a grant to a State that takes specific actions to advance highway safety under subsection (l) or (m) or section 410. A State may qualify for more than 1 grant and shall receive a separate grant for each subsection for which it qualifies. Such grants may only be used by recipient States to implement and enforce, as appropriate, the programs for which the grants are awarded.

''(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under subsection (l) or (m) in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for the specific actions for which a grant is provided at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this subsection.

''(3) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—Each grant under subsection (l) or (m) shall be available for not more than 6 fiscal years beginning in the fiscal year after September 30, 1997, in which the State becomes eligible for the grant. The Federal share payable for any grant under subsection (l) or (m) shall not exceed—

''(A) in the first and second fiscal years in which the State receives the grant, 75 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year a program adopted by the State;

''(B) in the third and fourth fiscal years in which the State receives the grant, 50 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program; and

''(C) in the fifth and sixth fiscal years in which the State receives the grant, 25 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program.

''(l) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: BASIC GRANT ELIGIBILITY.—The Secretary shall make grants to those States that adopt and implement effective programs to reduce traffic safety problems resulting from persons driving under the influence of alcohol. A State shall become eligible for 1 or more of 3 basic grants under this subsection by adopting or demonstrating the following to the satisfaction of the Secretary:

''(1) BASIC GRANT A.—At least 7 of the following:

''(A) .08 BAC PER SE LAW.—A law that provides that any individual with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

''(B) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol that requires that—

''(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

''(I) shall suspend the driver's license of such person for a period of not less than 90 days if

such person is a first offender in such 5-year period; and

''(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

''(ii) the suspension and revocation referred to under subparagraph (A)(i) shall take effect not later than 30 days after the date on which the person refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures.

''(C) UNDERAGE DRINKING PROGRAM.—An effective system, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system shall include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

''(D) STOPPING MOTOR VEHICLES.—Either—

''(i) a statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol; or

''(ii) a statewide Special Traffic Enforcement Program for impaired driving that emphasizes publicity for the program.

''(E) REPEAT OFFENDERS.—Effective sanctions for repeat offenders convicted of driving under the influence of alcohol. Such sanctions, as determined by the Secretary, may include electronic monitoring; alcohol interlocks; intensive supervision of probation; vehicle impoundment, confiscation, or forfeiture; and dedicated detention facilities.

''(F) GRADUATED LICENSING SYSTEM.—A 3-stage graduated licensing system for young drivers that includes nighttime driving restrictions during the first 2 stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater.

''(G) DRIVERS WITH HIGH BAC's.—Programs to target individuals with high blood alcohol concentrations who operate a motor vehicle. Such programs may include implementation of a system of graduated penalties and assessment of individuals convicted of driving under the influence of alcohol.

''(H) YOUNG ADULT DRINKING PROGRAMS.—Programs to reduce driving while under the influence of alcohol by individuals age 21 through 34. Such programs may include awareness campaigns; traffic safety partnerships with employers, colleges, and the hospitality industry; assessment of first time offenders; and incorporation of treatment into judicial sentencing.

''(I) TESTING FOR BAC.—An effective system for increasing the rate of testing for blood alcohol concentration of motor vehicle drivers at fault in fatal accidents.

''(2) BASIC GRANT B.—Either of the following:

''(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

''(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as requested by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

''(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

''(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

''(ii) the suspension and revocation referred to under subparagraph (A)(i) shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or receives notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures; or

''(B) .08 BAC PER SE LAW.—A law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

''(3) BASIC GRANT C.—Both of the following:

''(A) FATAL IMPAIRED DRIVER PERCENTAGE REDUCTION.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and

''(B) FATAL IMPAIRED DRIVER PERCENTAGE COMPARISON.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has been lower than the average percentage for all States in each of such calendar years.

''(4) BASIC GRANT AMOUNT.—The amount of each basic grant under this subsection for any fiscal year shall be up to 15 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

''(5) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in no more than 2 fiscal years of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402. The State may receive a separate supplemental grant for meeting each of the following criteria:

''(A) OPEN CONTAINER LAWS.—The State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

''(i) as allowed in the passenger area, by a person (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

''(ii) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

''(B) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—The State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in a crash resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

''(C) VIDEO EQUIPMENT FOR DETECTION OF DRUNK DRIVERS.—The State provides for a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol and in prosecuting those persons, and to train personnel in the use of that equipment.

''(D) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—The State enacts and enforces a law providing that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated or driving under the influence of alcohol, and further provides for a minimum suspension of the person's driver's license for not less than 30 days.

''(E) SELF-SUSTAINING DRUNK DRIVING PREVENTION PROGRAM.—The State provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

''(F) REDUCING DRIVING WITH A SUSPENDED LICENSE.—The State enacts and enforces a law to reduce driving with a suspended license. Such law, as determined by the Secretary, may require a 'zebra' stripe that is clearly visible on the license plate of any motor vehicle owned and operated by a driver with a suspended license.

''(G) EFFECTIVE DWI TRACKING SYSTEM.—The State demonstrates an effective driving while intoxicated (DWI) tracking system. Such a system, as determined by the Secretary, may include data covering arrests, case prosecutions, court dispositions and sanctions, and provide for the linkage of such data and traffic records systems to appropriate jurisdictions and offices within the State.

''(H) ASSESSMENT OF PERSONS CONVICTED OF ABUSE OF CONTROLLED SUBSTANCES; ASSIGNMENT OF TREATMENT FOR ALL DWI/DUI OFFENDERS.—The State provides for assessment of individuals convicted of driving while intoxicated or driving under the influence of alcohol or controlled substances, and for the assignment of appropriate treatment.

''(I) USE OF PASSIVE ALCOHOL SENSORS.—The State provides for a program to acquire passive alcohol sensors to be used by police officers in detecting persons who operate motor vehicles while under the influence of alcohol, and to train police officers in the use of that equipment.

''(J) EFFECTIVE PENALTIES FOR PROVISION OR SALE OF ALCOHOL TO PERSONS UNDER 21.—The State enacts and enforces a law that provides for effective penalties or other consequences for the sale or provision of alcoholic beverages to any individual under 21 years of age. The Secretary shall determine what penalties are effective.

''(6) DEFINITIONS.—For the purposes of this subsection, the following definitions apply:

''(A) 'Alcoholic beverage' has the meaning such term has under section 158(c).

''(B) 'Controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

''(C) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

''(D) 'Open alcoholic beverage container' means any bottle, can, or other receptacle—

''(i) that contains any amount of an alcoholic beverage; and

''(ii)(I) that is open or has a broken seal, or

''(II) the contents of which are partially removed.

''(m) STATE HIGHWAY SAFETY DATA IMPROVEMENTS.—The Secretary shall make a grant to a State that takes effective actions to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the State's data needed to identify priorities within State and local highway and traffic safety programs, to evaluate the effectiveness of such efforts, and to link these State data systems, including traffic records, together and with other data systems within the State, such as systems that contain medical and economic data:

''(1) FIRST-YEAR GRANT ELIGIBILITY.—A State is eligible for a first-year grant under this subsection in a fiscal year if such State either:

''(A) Demonstrates, to the satisfaction of the Secretary, that it has—

''(i) established a Highway Safety Data and Traffic Records Coordinating Committee with a multidisciplinary membership including the administrators, collectors, and users of such data

(including the public health, injury control, and motor carrier communities) of highway safety and traffic records databases;

''(ii) completed within the preceding 5 years a highway safety data and traffic records assessment or audit of its highway safety data and traffic records system; and

''(iii) initiated the development of a multiyear highway safety data and traffic records strategic plan to be approved by the Highway Safety Data and Traffic Records Coordinating Committee that identifies and prioritizes its highway safety data and traffic records needs and goals, and that identifies performance-based measures by which progress toward those goals will be determined; or

''(B) provides, to the satisfaction of the Secretary—

''(i) certification that it has met the provisions outlined in clauses (i) and (ii) of subparagraph (A);

''(ii) a multiyear plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined; and

''(iii) certification that the Highway Safety Data and Traffic Records Coordinating Committee continues to operate and supports the multiyear plan described in clause (ii).

''(2) FIRST-YEAR GRANT AMOUNT.—The amount of a first-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State eligible for such a grant under paragraph (1)(A) shall equal $1,000,000, subject to the availability of appropriations, and for any State eligible for such a grant under paragraph (1)(B) of this subsection shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402, except that no State shall receive less than $250,000, subject to the availability of appropriations. The Secretary may award a grant of up to $25,000 for 1 year to any State that does not meet the criteria established in paragraph (1). The grant may only be used to conduct activities needed to enable that State to qualify for first-year funding to begin in the next fiscal year.

''(3) STATE HIGHWAY SAFETY DATA AND TRAFFIC RECORDS IMPROVEMENTS; SUCCEEDING-YEAR GRANTS.—A State shall be eligible for a grant in any fiscal year succeeding the first fiscal year in which the State receives a State highway safety data and traffic records grant if the State, to the satisfaction of the Secretary:

''(A) Submits or updates a multiyear plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined.

''(B) Certifies that its Highway Safety Data and Traffic Records Coordinating Committee continues to support the multiyear plan.

''(C) Reports annually on its progress in implementing the multi-year plan.

''(4) SUCCEEDING-YEAR GRANT AMOUNTS.—The amount of a succeeding-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State that is eligible for such a grant shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402, except that no State shall receive less than $225,000, subject to the availability of appropriations.''.

(g) OCCUPANT PROTECTION PROGRAM.—

(1) IN GENERAL.—Section 410 of title 23, United States Code, is amended to read as follows:

''§410. Safety belts and occupant protection programs

''(a) IN GENERAL.—The Secretary shall make basic grants to those States that adopt and implement effective programs to reduce highway deaths and injuries resulting from persons riding unrestrained or improperly restrained in motor vehicles. A State may establish its eligibility for 1 or both of the grants by adopting or demonstrating the following to the satisfaction of the Secretary:

''(1) BASIC GRANT A.—At least 4 of the following:

''(A) SAFETY BELT USE LAW FOR ALL FRONT SEAT OCCUPANTS.—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever a person in the front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly secured about the person's body.

''(B) PRIMARY SAFETY BELT USE LAW.—The State provides for primary enforcement of its safety belt use law.

''(C) CHILD PASSENGER PROTECTION LAW; PUBLIC AWARENESS PROGRAM.—The State has in effect—

''(i) a law that requires minors who are riding in a passenger motor vehicle to be properly secured in a child safety seat or other appropriate restraint system; and

''(ii) an effective public awareness program that advocates placing passengers under the age of 13 in the back seat of a motor vehicle equipped with a passenger-side air bag whenever possible.

''(D) CHILD OCCUPANT PROTECTION EDUCATION PROGRAM.—The State demonstrates implementation of a statewide comprehensive child occupant protection education program that includes education about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraints systems. The States are to submit to the Secretary an evaluation or report on the effectiveness of the programs at least 3 years after receipt of the grant.

''(E) MINIMUM FINES.—The State requires a minimum fine of at least $25 for violations of its safety belt use law and a minimum fine of at least $25 for violations of its child passenger protection law.

''(F) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State demonstrates implementation of a statewide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program.

''(2) BASIC GRANT B.—Both of the following:

''(A) STATE SAFETY BELT USE RATE.—The State demonstrates a statewide safety belt use rate in both front outboard seating positions in all passenger motor vehicles of 80 percent or higher in each of the first 3 years a grant under this paragraph is received, and of 85 percent or higher in each of the fourth, fifth, and sixth years a grant under this paragraph is received.

''(B) SURVEY METHOD.—The State follows safety belt use survey methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

''(3) BASIC GRANT AMOUNT.—The amount of each basic grant for which a State qualifies under this subsection for any fiscal year shall equal up to 20 percent of the amount apportioned to the State for fiscal year 1997 under section 402.

''(4) OCCUPANT PROTECTION PROGRAM: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in a fiscal year of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402. The State may receive a separate supplemental grant for meeting each of the following criteria:

''(A) PENALTY POINTS AGAINST A DRIVER'S LICENSE FOR VIOLATIONS OF CHILD PASSENGER PROTECTION REQUIREMENTS.—The State has in effect a law that requires the imposition of penalty points against a driver's license for violations of child passenger protection requirements.

''(B) ELIMINATION OF NONMEDICAL EXEMPTIONS TO SAFETY BELT AND CHILD PASSENGER PROTECTION LAWS.—The State has in effect safety belt and child passenger protection laws that contain no nonmedical exemptions.

''(C) SAFETY BELT USE IN REAR SEATS.—The State has in effect a law that requires safety belt use by all rear-seat passengers in all passenger motor vehicles with a rear seat.

''(5) DEFINITIONS.—As used in this subsection, the term—

''(A) 'child safety seat' means any device except safety belts, designed for use in a motor vehicle to restrain, seat, or position children who weigh 50 pounds or less;

''(B) 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line;

''(C) 'multipurpose passenger vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation;

''(D) 'passenger car' means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

''(E) 'passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle; and

''(F) 'safety belt' means—

''(i) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

''(ii) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

''(b) CHILD OCCUPANT PROTECTION EDUCATION GRANTS.—

''(1) DEFINITIONS.—In this subsection:

''(A) COVERED CHILD OCCUPANT PROTECTION EDUCATION PROGRAM.—The term 'covered child occupant protection education program' means a program described in subsection (a)(1)(D).

''(B) COVERED STATE.—The term 'covered State' means a State that demonstrates the implementation of a program described in subsection (a)(1)(D).

''(2) CHILD PASSENGER EDUCATION.—

''(A) GRANTS.—

''(i) IN GENERAL.—Subject to the availability of appropriations, the Secretary may make a grant to a covered State that submits an application, in such form and manner as the Secretary may prescribe, that is approved by the Secretary to carry out the activities specified in subparagraph (B) through—

''(I) the covered child occupant protection program of the State; and

''(II) at the option of the State, a grant program established by the State to provide for the carrying out of 1 or more of the activities specified in subparagraph (B) by a political subdivision of the State or an appropriate private entity.

''(ii) GRANT AWARDS.—The Secretary may make a grant under this subsection without regard to whether a covered State is eligible to receive, or has received, a grant under subsection (a).

''(B) USE OF FUNDS.—Funds provided to a State under a grant under this subsection shall be used to implement child restraint programs that—

''(i) are designed to prevent deaths and injuries to children under the age of 9; and

''(ii) educate the public concerning—

''(I) all aspects of the proper installation of child restraints using standard seatbelt hardware, supplemental hardware, and modification devices (if needed), including special installation techniques; and

''(II)(aa) appropriate child restraint design selection and placement and; and

''(bb) harness threading and harness adjustment; and

''(iii) train and retrain child passenger safety professionals, police officers, fire and emergency medical personnel, and other educators concerning all aspects of child restraint use.

''(C) REPORTS.—

''(i) IN GENERAL.—The appropriate official of each State that receives a grant under this subsection shall prepare, and submit to the Secretary, an annual report for the period covered by the grant.

''(ii) REQUIREMENTS FOR REPORTS.—A report described in clause (i) shall—

''(I) contain such information as the Secretary may require; and

''(II) at a minimum, describe the program activities undertaken with the funds made available under the grant.

''(D) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998, and annually thereafter, the Secretary shall prepare, and submit to Congress, a report on the implementation of this subsection that includes a description of the programs undertaken and materials developed and distributed by the States that receive grants under this subsection.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Transportation to carry out this subsection, $7,500,000 for each of fiscal years 1999 and 2000.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 4 of that title is amended by striking the item relating to section 410 and inserting the following:

''410. Safety belts and occupant protection programs.''.

(h) DRUGGED DRIVER RESEARCH AND DEMONSTRATION PROGRAM.—Section 403(b) of title 23, United States Code, is amended—

(1) by inserting ''(1)'' before ''In addition'';

(2) by striking ''is authorized to'' and inserting ''shall'';

(3) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(4) by inserting after subparagraph (B), as redesignated, the following:

''(C) Measures that may deter drugged driving.''.

SEC. 3102. NATIONAL DRIVER REGISTER.

(a) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—Section 30302 is amended by adding at the end the following:

''(e) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—

''(1) The Secretary may enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's computer timeshare and user assistance functions. If the Secretary decides to enter into such an agreement, the Secretary shall ensure that the management of these functions is compatible with this chapter and the regulations issued to implement this chapter.

''(2) Any transfer of the National Driver Register's computer timeshare and user assistance functions to an organization that represents the interests of the States shall begin only after a determination is made by the Secretary that all States are participating in the National Driver Register's 'Problem Driver Pointer System' (the system used by the Register to effect the exchange of motor vehicle driving records), and that the system is functioning properly.

''(3) The agreement entered into under this subsection shall include a provision for a transition period sufficient to allow the States to make the budgetary and legislative changes they may need to pay fees charged by the organization representing their interests for their use of the National Driver Register's computer timeshare and user assistance functions. During this transition period, the Secretary (through the National Highway Traffic Safety Administration) shall continue to fund these transferred functions.

''(4) The total of the fees charged by the organization representing the interests of the States in any fiscal year for the use of the National Driver Register's computer timeshare and user assistance functions shall not exceed the total cost to the organization for performing these functions in such fiscal year.

''(5) Nothing in this subsection shall be construed to diminish, limit, or otherwise affect the authority of the Secretary to carry out this chapter.''.

(b) ACCESS TO REGISTER INFORMATION.—Section 30305(b) is amended by—

(1) by striking ''request.'' in paragraph (2) and inserting the following: ''request, unless the information is about a revocation or suspension still in effect on the date of the request'';

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

''(7) The head of a Federal department or agency that issues motor vehicle operator's licenses may request the chief driver licensing official of a State to obtain information under subsection (a) about an individual applicant for a motor vehicle operator's license from such department or agency. The department or agency may receive the information, provided it transmits to the Secretary a report regarding any individual who is denied a motor vehicle operator's license by that department or agency for cause; whose motor vehicle operator's license is revoked, suspended, or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle-related offenses or comparable offenses listed in section 30304(a)(3) and over whom the department or agency has licensing authority. The report shall contain the information specified in section 30304(b).

''(8) The head of a Federal department or agency authorized to receive information regarding an individual from the Register under this section may request and receive such information from the Secretary.'';

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

(4) by striking ''paragraph (2)'' in paragraph (10), as redesignated, and inserting ''subsection (a)''.

SEC. 3103. AUTHORIZATIONS OF APPROPRIATIONS.

The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) CONSOLIDATED STATE HIGHWAY SAFETY PROGRAMS.—

(A) For carrying out the State and Community Highway Safety Program under section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, except for the incentive programs under subsections (l) and (m) of that section—

(i) $117,858,000 for fiscal year 1998;
(ii) $123,492,000 for fiscal year 1999;
(iii) $126,877,000 for fiscal year 2000;
(iv) $130,355,000 for fiscal year 2001;
(v) $133,759,000 for fiscal year 2002; and
(vi) $141,803,000 for fiscal year 2003.

(B) To carry out the alcohol-impaired driving countermeasures incentive grant provisions of section 402(l) of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $30,570,000 for fiscal year 1998;
(ii) $28,500,000 for fiscal year 1999;
(iii) $29,273,000 for fiscal year 2000;
(iv) $30,065,000 for fiscal year 2001;
(v) $38,743,000 for fiscal year 2002; and
(vi) $39,815,000 for fiscal year 2003.

Amounts made available to carry out section 402(l) of title 23, United States Code, are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under section 402(l) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(C) To carry out the occupant protection program incentive grant provisions of section 410 of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $13,950,000 for fiscal year 1998;
(ii) $14,618,000 for fiscal year 1999;
(iii) $15,012,000 for fiscal year 2000;
(iv) $15,418,000 for fiscal year 2001;
(v) $17,640,000 for fiscal year 2002; and
(vi) $17,706,000 for fiscal year 2003.

Amounts made available to carry out section 410 of title 23, United States Code, are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under section 410 of title 23, United States Code, to subsections (l) and (m) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(D) To carry out the State highway safety data improvements incentive grant provisions of section 402(m) of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $8,370,000 for fiscal year 1998;
(ii) $8,770,000 for fiscal year 1999;
(iii) $9,007,000 for fiscal year 2000; and
(iv) $9,250,000 for fiscal year 2001.

Amounts made available to carry out section 402(m) of title 23, United States Code, are authorized to remain available until expended.

(E) To carry out the drugged driving research and demonstration programs of section 403(b)(1) of title 23, United States Code, by the National Highway Traffic Safety Administration, $2,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

(2) SECTION 403 HIGHWAY SAFETY AND RESEARCH.—For carrying out the functions of the Secretary, by the National Highway Traffic Safety Administration, for highway safety under section 403 of title 23, United States Code, there are authorized to be appropriated $60,100,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, and $61,700,000 for fiscal year 2003.

(3) PUBLIC EDUCATION EFFORT.—Out of funds made available for carrying out programs under section 403 of title 23, United States Code, for each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003, the Secretary of Transportation shall obligate at least $500,000 to educate the motoring public on how to share the road safely with commercial motor vehicles.

(4) NATIONAL DRIVER REGISTER.—For carrying out chapter 303 (National Driver Register) of title 49, United States Code, by the National Highway Traffic Safety Administration—

(A) $1,605,000 for fiscal year 1998;
(B) $1,680,000 for fiscal year 1999;
(C) $1,726,000 for fiscal year 2000;
(D) $1,772,000 for fiscal year 2001;
(E) $1,817,000 for fiscal year 2002; and
(F) $1,872,000 for fiscal year 2003.

SEC. 3104. MOTOR VEHICLE PURSUIT PROGRAM.

(a) MOTOR VEHICLE PURSUIT PROGRAM.—

(1) TRAINING.—Section 403(b)(1) of title 23, United States Code, as amended by section 3101(h), is amended by adding at the end thereof the following:

''(D) Programs to train law enforcement officers on motor vehicle pursuits conducted by law enforcement officers.''.

(2) FUNDING.—Out of amounts appropriated to carry out section 403 of title 23, United States Code, the Secretary of Transportation may use such amounts as may be necessary to carry out the motor vehicle pursuit training program of section 403(b)(1)(D) of title 23, United States

Code, but not in excess of $1,000,000 for each of fiscal years 1999, 2000, 2001, 2002, and 2003.

(b) REPORT OF FEDERAL POLICIES AND PROCEDURES.—Not later than 180 days after the date of enactment of this Act, the Attorney General of the United States, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of the Treasury, the Chief of Capitol Police, and the Administrator of General Services shall each transmit to Congress a report containing—

(1) the policy of the department or agency headed by that individual concerning motor vehicle pursuits by law enforcement officers of that department or agency; and

(2) a description of the procedures that the department or agency uses to train law enforcement officers in the implementation of the policy referred to in paragraph (1).

SEC. 3105. ENFORCEMENT OF WINDOW GLAZING STANDARDS FOR LIGHT TRANSMISSION.

Section 402(a) of title 23, United States Code, is amended by striking ''post-accident procedures.'' and inserting ''post-accident procedures, including the enforcement of light transmission standards of glazing for passenger motor vehicles and light trucks as necessary to improve highway safety.''.

SEC. 3106. IMPROVING AIR BAG SAFETY.

(a) SUSPENSION OF UNBELTED BARRIER TESTING.—The provision in Federal Motor Vehicle Safety Standard No. 208, Occupant crash protection, 49 CFR 571.208, that requires air bag-equipped vehicles to be crashed into a barrier using unbelted 50th percentile adult male dummies is suspended until either the rule issued under subsection (b) goes into effect or, prior to the effective date of the rule, the Secretary of Transportation, after reporting to the Commerce Committee of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, determines by rule that restoring the test is necessary to accomplish the purposes of subsection (b).

(b) RULEMAKING TO IMPROVE AIR BAGS.—

(1) NOTICE OF PROPOSED RULEMAKING.—Not later than June 1, 1998, the Secretary of Transportation shall issue a notice of proposed rulemaking to improve the occupant protection for all occupants provided by Federal Motor Vehicle Safety Standard No. 208, while minimizing the risk to infants, children, and other occupants from injuries and deaths caused by air bags, by means that include advanced air bags.

(2) FINAL RULE.—The Secretary shall complete the rulemaking required by this subsection by issuing, not later than June 1, 1999, a final rule consistent with paragraph (1). If the Secretary determines that the final rule cannot be completed by that date to meet the purposes of paragraph (1), and advises the Congress of the reasons for this determination, the Secretary may extend the date for issuing the final rule by not more than one year. The Congress may, by joint resolution, grant a further extension of the date for issuing a final rule.

(3) METHODS TO ENSURE PROTECTION.—Notwithstanding subsection (a) of this section, the rule required by paragraph (2) may include such tests, including tests with dummies of different sizes, as the Secretary determines to be reasonable, practicable, and appropriate to meet the purposes of paragraph (1).

(4) EFFECTIVE DATE.—The final rule issued under this subsection shall become effective in phases as rapidly as practicable, beginning not earlier than September 1, 2001, and not later than September 1, 2002, and shall become effective not later than September 1, 2005, for all motor vehicles in which air bags are required to be installed. If the Secretary determines that the September 1, 2005, effective date is not practicable to meet the purposes of paragraph (1), the Secretary may extend the effective date for not more than one year. The Congress may, by joint resolution, grant a further extension of the effective date.

(c) REPORT ON AIR BAG IMPROVEMENTS.—Not later than 6 months after the enactment of this section, the Secretary of Transportation shall report to Congress on the development of technology to improve the protection given by air bags and reduce the risks from air bags. To the extent possible, the report shall describe the performance characteristics of advanced air bag devices, their estimated cost, their estimated benefits, and the time within which they could be installed in production vehicles.

SEC. 3107. ROADSIDE SAFETY TECHNOLOGIES.

(a) CRASH CUSHIONS.—

(1) GUIDANCE.—The Secretary shall initiate and issue a guidance regarding the benefits and safety performance of redirective and nonredirective crash cushions in different road applications, taking into consideration roadway conditions, operating speed limits, the location of the crash cushion in the right-of-way, and any other relevant factors. The guidance shall include recommendations on the most appropriate circumstances for utilization of redirective and nonredirective crash cushions.

(2) USE OF GUIDANCE.—States shall use the guidance issued under this subsection in evaluating the safety and cost-effectiveness of utilizing different crash cushion designs and determining whether redirective or nonredirective crash cushions or other safety appurtenances should be installed at specific highway locations.

Subtitle B—Hazardous Materials Transportation Reauthorization

SEC. 3201. FINDINGS AND PURPOSES; DEFINITIONS.

(a) FINDINGS AND PURPOSES.—Section 5101 is amended to read as follows:

''§ 5101. Findings and purposes

''(a) FINDINGS.—Congress finds with respect to hazardous materials transportation that—

''(1) approximately 4,000,000,000 tons of regulated hazardous materials are transported each year and that approximately 1,000,000 movements of hazardous materials occur each day, according to Department of Transportation estimates;

''(2) accidents involving the release of hazardous materials are a serious threat to public health and safety;

''(3) many States and localities have enacted laws and regulations that vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers that attempt to comply with multiple and conflicting registration, permitting, routings, notification, loading, unloading, incidental storage, and other regulatory requirements;

''(4) because of the potential risks to life, property and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials, including loading, unloading, and incidental storage, is necessary and desirable;

''(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable;

''(6) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of adequately trained State and local emergency response personnel is required;

''(7) the movement of hazardous materials in commerce is necessary and desirable to maintain economic vitality and meet consumer demands, and shall be conducted in a safe and efficient manner;

''(8) primary authority for the regulation of such transportation should be consolidated in the Department of Transportation to ensure the safe and efficient movement of hazardous materials in commerce; and

''(9) emergency response personnel have a continuing need for training on responses to releases of hazardous materials in transportation and small businesses have a continuing need for training on compliance with hazardous materials regulations.

''(b) PURPOSES.—The purposes of this chapter are—

''(1) to ensure the safe and efficient transportation of hazardous materials in intrastate, interstate, and foreign commerce, including the loading, unloading, and incidental storage of hazardous material;

''(2) to provide the Secretary with preemption authority to achieve uniform regulation of hazardous material transportation, to eliminate inconsistent rules that apply differently from Federal rules, to ensure efficient movement of hazardous materials in commerce, and to promote the national health, welfare, and safety; and

''(3) to provide adequate training for public sector emergency response teams to ensure safe responses to hazardous material transportation accidents and incidents.''.

(b) DEFINITIONS.—Section 5102 is amended by—

(1) by striking paragraph (1) and inserting the following:

''(1) 'commerce' means trade or transportation in the jurisdiction of the United States—

''(A) between a place in a State and a place outside of the State;

''(B) that affects trade or transportation between a place in a State and a place outside of the State; or

''(C) on a United States-registered aircraft.'';

(2) by striking paragraphs (3) and (4) and inserting the following:

''(3) 'hazmat employee' means an individual who—

''(A) is—

''(i) employed by a hazmat employer,

''(ii) self-employed, or

''(iii) an owner-operator of a motor vehicle; and

''(B) during the course of employment—

''(i) loads, unloads, or handles hazardous material;

''(ii) manufactures, reconditions, or tests containers, drums, or other packagings represented as qualified for use in transporting hazardous material;

''(iii) performs any function pertaining to the offering of hazardous material for transportation;

''(iv) is responsible for the safety of transporting hazardous material; or

''(v) operates a vehicle used to transport hazardous material.

''(4) 'hazmat employer' means a person who—

''(A) either—

''(i) is self-employed,

''(ii) is an owner-operator of a motor vehicle, or

''(iii) has at least 1 employee; and

''(B) performs a function, or uses at least 1 employee, in connection with—

''(i) transporting hazardous material in commerce;

''(ii) causing hazardous material to be transported in commerce, or

''(iii) manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material.'';

(3) by striking ''title.'' in paragraph (7) and inserting ''title, except that a freight forwarder is included only if performing a function related to highway transportation.'';

(4) by redesignating paragraphs (9) through (13) as paragraphs (12) through (16), respectively;

(5) by inserting after paragraph (8) the following:

''(9) 'out-of-service order' means a mandate that an aircraft, vessel, motor vehicle, train,

other vehicle, or a part of any of these, not be moved until specified conditions have been met.

''(10) 'package' or 'outside package' means a packaging plus its contents.

''(11) 'packaging' means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packaging requirements established by the Secretary of Transportation.''; and

(6) by striking ''or transporting hazardous material to further a commercial enterprise;'' in paragraph (12)(A), as redesignated by paragraph (4) of this subsection, and inserting '', and transporting hazardous material to further a commercial enterprise, or manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material''.

(c) CLERICAL AMENDMENT.—The chapter analysis of chapter 51 is amended by striking the item relating to section 5101 and inserting the following:

''5101. Findings and purposes.''.

SEC. 3202. HANDLING CRITERIA REPEAL.

Section 5106 is repealed and the chapter analysis of chapter 51 is amended by striking the item relating to that section.

SEC. 3203. HAZMAT EMPLOYEE TRAINING REQUIREMENTS.

Section 5107(f)(2) is amended by striking ''and section 5106, and subsections (a) through (g)(1) and (h) of section 5108(a), and 5109 of this title''.

SEC. 3204. REGISTRATION.

Section 5108 is amended by—

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

''(C) each State in which the person carries out any of the activities.'';

(2) by striking subsection (c) and inserting the following:

''(c) FILING SCHEDULE.—Each person required to file a registration statement under subsection (a) of this section shall file that statement annually in accordance with regulations issued by the Secretary.'';

(3) by striking ''552(f)'' in subsection (f) and inserting ''552(b)'';

(4) by striking ''may'' in subsection (g)(1) and inserting ''shall''; and

(5) by inserting ''or an Indian tribe,'' in subsection (i)(2)(B) after ''State,''.

SEC. 3205. SHIPPING PAPER RETENTION.

Section 5110(e) is amended by striking the first sentence and inserting ''After expiration of the requirement in subsection (c), the person who provided the shipping paper and the carrier required to maintain it under subsection (a) shall retain the paper or an electronic image thereof, for a period of 1 year after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business.''.

SEC. 3206. PUBLIC SECTOR TRAINING CURRICULUM.

Section 5115 is amended—

(1) in subsection (a), by striking ''DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in'' and inserting ''UPDATING.—In'';

(2) in the first sentence of subsection (a), by striking ''develop and'';

(3) in subsection (a), by striking the second sentence;

(4) in the first sentence of subsection (b), by striking ''developed'';

(5) in subparagraphs (A) and (B) of subsection (b)(1), by inserting ''or involving an alternative fuel vehicle'' after ''material''; and

(6) by striking subsection (d) and inserting the following:

''(d) DISTRIBUTION AND PUBLICATION.—With the national response team, the Secretary of Transportation may publish a list of programs that use a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous material.''.

SEC. 3207. PLANNING AND TRAINING GRANTS.

Section 5116 is amended by—

(1) by striking ''of'' in the second sentence of subsection (e) and inserting ''received by'';

(2) by striking subsection (f) and inserting the following:

''(f) MONITORING AND TECHNICAL ASSISTANCE.—The Secretary of Transportation shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the national response team for oil and hazardous substances and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee.''; and

(3) by adding at the end thereof the following:

''(l) SMALL BUSINESSES.—The Secretary may authorize a State or Indian tribe receiving a grant under this section to use up to 25 percent of the amount of the grant to assist small businesses in complying with regulations issued under this chapter.''.

SEC. 3208. SPECIAL PERMITS, PILOT PROGRAMS, AND EXCLUSIONS.

(a) Section 5117 is amended—

(1) by striking the section heading and inserting the following:

''§5117. Special permits, pilot programs, exemptions, and exclusions'';

(2) by striking ''2 years'' in subsection (a)(2) and inserting ''4 years'';

(3) by redesignating subsection (e) as subsection (f); and

(4) by inserting after subsection (d) the following:

''(e) AUTHORITY TO CARRY OUT PILOT PROGRAMS.—

''(1) IN GENERAL.—The Secretary is authorized to carry out pilot programs to examine innovative approaches or alternatives to regulations issued under this chapter for private motor carriage in intrastate transportation of an agricultural production material from—

''(A) a source of supply to a farm;

''(B) a farm to another farm;

''(C) a field to another field on a farm; or

''(D) a farm back to the source of supply.

''(2) LIMITATION.—The Secretary may not carry out a pilot program under paragraph (1) if the Secretary determines that the program would pose an undue risk to public health and safety.

''(3) SAFETY LEVELS.—In carrying out a pilot project under this subsection, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the standards prescribed under this chapter.

''(4) TERMINATION OF PROJECT.—The Secretary shall immediately terminate any project entered into under this subsection if the motor carrier or other entity to which it applies fails to comply with the terms and conditions of the pilot project or the Secretary determines that the project has resulted in a lower level of safety than was maintained before the project was initiated.

''(5) NONAPPLICATION.—This subsection does not apply to the application of regulations issued under this chapter to vessels or aircraft.''.

(b) Section 5119(c) is amended by adding at the end the following:

''(4) Pending promulgation of regulations under this subsection, States may participate in a program of uniform forms and procedures recommended by the working group under subsection (b).''.

(c) The chapter analysis for chapter 51 is amended by striking the item related to section 5117 and inserting the following:

''5117. Special permits, pilot programs, exemptions, and exclusions.''.

SEC. 3209. ADMINISTRATION.

(a) Section 5121 is amended by striking subsections (a), (b), and (c) and redesignating subsections (d) and (e) as subsections (a) and (b), respectively.

(b) Section 5122 is amended by redesignating subsections (a), (b), and (c) as subsections (d), (e), and (f), and by inserting before subsection (d), as redesignated, the following:

''(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may investigate, make reports, issue subpoenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. After notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed under this chapter.

''(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

''(1) maintain records, make reports, and provide information the Secretary by regulation or order requires; and

''(2) make the records, reports, and information available when the Secretary requests.

''(c) INSPECTION.—

''(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

''(A) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, testing, or distributing a packaging or a container for use by a person in transporting hazardous material in commerce; or

''(B) the transportation of hazardous material in commerce.

''(2) An officer, employee, or agent under this subsection shall display proper credentials when requested.''.

SEC. 3210. COOPERATIVE AGREEMENTS.

Section 5121, as amended by section 3209(a), is further amended by adding at the end thereof the following:

''(f) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the State Department), an educational institution, or other entity to further the objectives of this chapter. The objectives of this chapter include the conduct of research, development, demonstration, risk assessment, emergency response planning and training activities.''.

SEC. 3211. ENFORCEMENT.

Section 5122, as amended by section 3209(b), is further amended—

(1) in the first sentence of subsection (a), by inserting ''inspect,'' after ''may'';

(2) by striking the last sentence of subsection (a) and inserting: ''Except as provided in subsection (e) of this section, the Secretary shall provide notice and an opportunity for a hearing prior to issuing an order requiring compliance with this chapter or a regulation, order, special permit, or approval issued under this chapter.''; and

(3) by redesignating subsections (d), (e) and (f) as subsections (f), (g) and (h), and inserting after subsection (c) the following:

''(d) OTHER AUTHORITY.—

''(1) INSPECTION.—During inspections and investigations, officers, employees, or agents of the Secretary may—

''(A) open and examine the contents of a package offered for, or in, transportation when—

''(i) the package is marked, labeled, certified, placarded, or otherwise represented as containing a hazardous material, or

''(ii) there is an objectively reasonable and articulable belief that the package may contain a hazardous material;

''(B) take a sample, sufficient for analysis, of material marked or represented as a hazardous material or for which there is an objectively reasonable and articulable belief that the material may be a hazardous material, and analyze that material;

''(C) when there is an objectively reasonable and articulable belief that an imminent hazard may exist, prevent the further transportation of the material until the hazardous qualities of that material have been determined; and

''(D) when safety might otherwise be compromised, authorize properly qualified personnel to conduct the examination, sampling, or analysis of a material.

''(2) NOTIFICATION.—No package opened pursuant to this subsection shall continue its transportation until the officer, employee, or agent of the Secretary—

''(A) affixes a label to the package indicating that the package was inspected pursuant to this subsection; and

''(B) notifies the shipper that the package was opened for examination.

''(e) EMERGENCY ORDERS.—

''(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary decides that an unsafe condition or practice, or a combination of them, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary may immediately issue or impose restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, that may be necessary to abate the situation.

''(2) The Secretary's action under this subsection must be in a written order describing the condition or practice, or combination of them, that causes the emergency situation; stating the restrictions, prohibitions, recalls, or out-of-service orders being issued or imposed; and prescribing standards and procedures for obtaining relief from the order.

''(3) After taking action under this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5.

''(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.''.

SEC. 3212. PENALTIES.

(a) IN GENERAL.—Section 5123(a)(1) is amended by striking the first sentence and inserting the following: ''A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $27,500 for each violation.''.

(b) DEGREE OF CULPABILITY.—Section 5123(c)(2) is amended to read as follows:

''(2) with respect to the violator, the degree of culpability, any good-faith efforts to comply with the applicable requirements, any history of prior violations, any economic benefit resulting from the violation, the ability to pay, and any effect on the ability to continue to do business; and''.

(c) CRIMINAL PENALTY.—Section 5124 is amended to read as follows:

''§ 5124. Criminal penalty

''(a) IN GENERAL.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

''(b) AGGRAVATED VIOLATIONS.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of a hazardous material, shall be fined under title 18, imprisoned for not more than 20 years, or both.''.

SEC. 3213. PREEMPTION.

(a) REQUIREMENTS CONTRARY TO PURPOSES OF CHAPTER.—Section 5125(a)(2) is amended by inserting '', the purposes of this chapter,'' after ''this chapter'' the first place it appears.

(b) DEADWOOD.—Section 5125(b)(2) is amended by striking ''prescribes after November 16, 1990.'' and inserting ''prescribes.''.

(c) INDEPENDENT APPLICATION OF PREEMPTION STANDARDS.—Section 5125 is amended by adding at the end thereof the following:

''(h) INDEPENDENT APPLICATION OF EACH STANDARD.—Each preemption standard in subsections (a), (b)(1), (c), and (g) of this section and section 5119(c)(2) is independent in its application to a requirement of any State, political subdivision of a State, or Indian tribe.''.

SEC. 3214. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 51 is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

''§ 5127. Judicial review

''(a) FILING AND VENUE.—Except as provided in section 20114(c), a person disclosing a substantial interest in a final order issued, under the authority of section 5122 or 5123, by the Secretary of Transportation, the Administrators of the Research and Special Programs Administration, the Federal Aviation Administration, or the Federal Highway Administration, or the Commandant of the United States Coast Guard ('modal Administrator'), with respect to the duties and powers designated to be carried out by the Secretary under this chapter, may apply for review in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

''(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or the modal Administrator, as appropriate. The Secretary or the modal Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

''(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or the modal Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or the modal Administrator to conduct further proceedings. After reasonable notice to the Secretary or the modal Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or the modal Administrator, if supported by substantial evidence, are conclusive.

''(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final order under this section, the court may consider an objection to a final order of the Secretary or the modal Administrator only if the objection was made in the course of a proceeding or review conducted by the Secretary, the modal Administrator, or an administrative law judge, or if there was a reasonable ground for not making the objection in the proceeding.

''(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.''.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

''5127. Judicial review.
''5128. Authorization of appropriations.''.

SEC. 3215. HAZARDOUS MATERIAL TRANSPORTATION REAUTHORIZATION.

(a) IN GENERAL.—Chapter 51, as amended by section 3214 of this Act, is amended by redesignating section 5128 as section 5129 and by inserting after section 5127 the following:

''§ 5128. High risk hazardous material and hazardous waste; motor carrier safety study

''(a) STUDY.—The Secretary of Transportation shall conduct a study—

''(1) to determine the safety benefits and administrative efficiency of implementing a Federal permit program for high risk hazardous material and hazardous waste carriers;

''(2) to identify and evaluate alternative regulatory methods and procedures that may improve the safety of high risk hazardous material and hazardous waste carriers and shippers, including evaluating whether an annual safety fitness determination that is linked to permit renewals for hazardous material and hazardous waste carriers is warranted;

''(3) to examine the safety benefits of increased monitoring of high risk hazardous material and hazardous waste carriers, and the costs, benefits, and procedures of existing State permit programs;

''(4) to make such recommendations as may be appropriate for the improvement of uniformity among existing State permit programs; and

''(5) to assess the potential of advanced technologies for improving the assessment of high risk hazardous material and hazardous waste carriers' compliance with motor carrier safety regulations.

''(b) TIMEFRAME.—The Secretary shall begin the study required by subsection (a) within 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1998 and complete it within 30 months after the date of enactment of that Act.

''(c) REPORT.—The Secretary shall report the findings of the study required by subsection (a), together with such recommendations as may be appropriate, within 36 months after the date of enactment of the Intermodal Transportation Safety Act of 1998.''.

(b) SECTION 5109 REGULATIONS TO REFLECT STUDY FINDINGS.—Section 5109(h) is amended by striking ''not later than November 16, 1991.'' and inserting ''based upon the findings of the study required by section 5128(a).''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 51, as amended by section 3214, is amended by striking the item relating to section 5128 and inserting the following:

''5128. High risk hazardous material and hazardous waste; motor carrier safety study.
''5129. Authorization of appropriations.''.

SEC. 3216. AUTHORIZATION OF APPROPRIATIONS.

Section 5129, as redesignated, is amended—

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

''(a) GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, and 5116) not more than—

''(1) $15,492,000 for fiscal year 1998;
''(2) $16,000,000 for fiscal year 1999;
''(3) $16,500,000 for fiscal year 2000;
''(4) $17,000,000 for fiscal year 2001;
''(5) $17,500,000 for fiscal year 2002; and
''(6) $18,000,000 for fiscal year 2003.''; and

(2) by striking subsections (c) and (d) and inserting the following:

''(c) TRAINING CURRICULUM.—Not more than $200,000 is available to the Secretary of Transportation from the account established under section 5116(i) for each of the fiscal years ending September 30, 1999–2003, to carry out section 5115.

''(d) PLANNING AND TRAINING.—

(1) Not more than $2,444,000 is available to the Secretary of Transportation from the account established under section 5116(i) for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(a).

''(2) Not more than $3,666,000 is available to the Secretary of Transportation from the account established under section 5116(i) for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(b).

''(3) Not more than $600,000 is available to the Secretary of Transportation from the account established under section 5116(i) for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999–2003, to carry out section 5116(f).''.

Subtitle C—Comprehensive One-Call Notification

SEC. 3301. FINDINGS.

Congress finds that—

(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power, and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

(3) protection of the public and the environment from the consequences of underground facility damage caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs.

SEC. 3302. ESTABLISHMENT OF ONE-CALL NOTIFICATION PROGRAMS.

(a) IN GENERAL.—Subtitle III is amended by adding at the end thereof the following:

''CHAPTER 61—ONE-CALL NOTIFICATION PROGRAMS

''§ 6101. Purposes

''The purposes of this chapter are—

''(1) to enhance public safety;

''(2) to protect the environment;

''(3) to minimize risks to excavators; and

''(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

''§ 6102. Definitions

''For purposes of this chapter:

''(1) ONE-CALL NOTIFICATION SYSTEM.—The term ''one-call notification system'' means a system operated by an organization that has as 1 of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

''(2) STATE ONE-CALL NOTIFICATION PROGRAM.—The term ''State one-call notification program'' means the State statutes, regulations, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

''(3) STATE.—The term 'State' means a State, the District of Columbia, and Puerto Rico.

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

''§ 6103. Minimum standards for State one-call notification programs

''(a) MINIMUM STANDARDS.—A State one-call notification program shall, at a minimum, provide for—

''(1) appropriate participation by all underground facility operators;

''(2) appropriate participation by all excavators; and

''(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

''(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with—

''(1) damage to types of underground facilities; and

''(2) activities of types of excavators.

''(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for—

''(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

''(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

''(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a de minimis risk to public safety or the environment.

''(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for—

''(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

''(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

''(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

''(4) equitable relief; and

''(5) citation of violations.

''§ 6104. Compliance with minimum standards

''(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall, within 2 years after the date of the enactment of the Intermodal Transportation Safety Act of 1998, submit to the Secretary a grant application under subsection (b).

''(b) APPLICATION.—

''(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for the implementation of the program and the record of compliance and enforcement under the program.

''(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

''(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

''(4) The Secretary shall prescribe the form of, and manner of filing, an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

''(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

''(c) ALTERNATIVE PROGRAM.—A State may maintain an alternative one-call notification program if that program provides protection for public safety, the environment, or excavators that is equivalent to, or greater than, protection under a program that meets the minimum standards set forth in section 6103.

''(d) REPORT.—Within 3 years after the date of the enactment of the Intermodal Transportation Safety Act of 1998, the Secretary shall begin to include the following information in reports submitted under section 60124 of this title—

''(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

''(2) an analysis by the Secretary of the overall effectiveness of the State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

''(3) the impact of the State's decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

''(4) areas where improvements are needed in one-call notification systems in operation in the State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

''§ 6105. Review of one-call system best practices

''(a) STUDY OF EXISTING ONE-CALL SYSTEMS.—Except as provided in subsection (d), the Secretary, in consultation with other appropriate Federal agencies, State agencies, one-call notification system operators, underground facility operators, excavators, and other interested parties, shall undertake a study of damage prevention practices associated with existing one-call notification systems.

''(b) PURPOSE OF STUDY OF DAMAGE PREVENTION PRACTICES.—The purpose of the study is to assemble information in order to determine which existing one-call notification systems practices appear to be the most effective in preventing damage to underground facilities and in protecting the public, the environment, excavators, and public service disruption. As part of the study, the Secretary shall at a minimum consider—

''(1) the methods used by one-call notification systems and others to encourage participation by excavators and owners of underground facilities;

''(2) the methods by which one-call notification systems promote awareness of their programs, including use of public service announcements and educational materials and programs;

''(3) the methods by which one-call notification systems receive and distribute information from excavators and underground facility owners;

''(4) the use of any performance and service standards to verify the effectiveness of a one-call notification system;

''(5) the effectiveness and accuracy of mapping used by one-call notification systems;

''(6) the relationship between one-call notification systems and preventing intentional damage to underground facilities;

''(7) how one-call notification systems address the need for rapid response to situations where the need to excavate is urgent;

''(8) the extent to which accidents occur due to errors in marking of underground facilities, untimely marking or errors in the excavation process after a one-call notification system has been notified of an excavation;

''(9) the extent to which personnel engaged in marking underground facilities may be endangered;

''(10) the characteristics of damage prevention programs the Secretary believes could be relevant to the effectiveness of State one-call notification programs; and

''(11) the effectiveness of penalties and enforcement activities under State one-call notification programs in obtaining compliance with program requirements.

''(c) REPORT.—Within 1 year after the date of the enactment of the Intermodal Transportation Safety Act of 1998, the Secretary shall publish a report identifying those practices of one-call notification systems that are the most and least successful in—

''(1) preventing damage to underground facilities; and

''(2) providing effective and efficient service to excavators and underground facility operators.

The Secretary shall encourage States and operators of one-call notification programs to adopt and implement the most successful practices identified in the report.

''(d) SECRETARIAL DISCRETION.—Prior to undertaking the study described in subsection (a), the Secretary shall determine whether timely information described in subsection (b) is readily available. If the Secretary determines that such information is readily available, the Secretary is not required to carry out the study.

''§ 6106. Grants to States

''(a) IN GENERAL.—The Secretary may make a grant of financial assistance to a State that qualifies under section 6104(b) to assist in improving—

''(1) the overall quality and effectiveness of one-call notification systems in the State;

''(2) communications systems linking one-call notification systems;

''(3) location capabilities, including training personnel and developing and using location technology;

''(4) record retention and recording capabilities for one-call notification systems;

''(5) public information and education;

''(6) participation in one-call notification systems; or

''(7) compliance and enforcement under the State one-call notification program.

''(b) STATE ACTION TAKEN INTO ACCOUNT.—In making grants under this section the Secretary shall take into consideration the commitment of each State to improving its State one-call notification program, including legislative and regulatory actions taken by the State after the date of enactment of the Intermodal Transportation Safety Act of 1998.

''(c) FUNDING FOR ONE-CALL NOTIFICATION SYSTEMS.—A State may provide funds received under this section directly to any one-call notification system in such State that substantially adopts the best practices identified under section 6105.

''§ 6107. Authorization of appropriations

''(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary in fiscal year 1999 no more than $1,000,000 and in fiscal year 2000 no more than $5,000,000, to be available until expended, to provide grants to States under section 6106.

''(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary during fiscal years 1998, 1999, and 2000 to carry out sections 6103, 6104, and 6105.

''(c) GENERAL REVENUE FUNDING.—Any sums appropriated under this section shall be derived from general revenues and may not be derived from amounts collected under section 60301 of this title.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of chapters for subtitle III is amended by adding at the end thereof the following:

''61. One-Call Notification Program ... 6101''.

(2) Chapter 601 is amended—

(A) by striking ''sections 60114 and'' in section 60105(a) of that chapter and inserting ''section'';

(B) by striking section 60114 and the item relating to that section in the table of sections for that chapter;

(C) by striking ''60114(c), 60118(a),'' in section 60122(a)(1) of that chapter and inserting ''60118(a),'';

(D) by striking ''60114(c) or'' in section 60123(a) of that chapter;

(E) by striking ''sections 60107 and 60114(b)'' in subsections (a) and (b) of section 60125 and inserting ''section 60107'' in each such subsection; and

(F) by striking subsection (d) of section 60125, and redesignating subsections (e) and (f) of that section as subsections (d) and (e), respectively.

Subtitle D—Motor Carrier Safety

SEC. 3401. STATEMENT OF PURPOSES.

Chapter 311 is amended—

(1) by inserting before section 31101 the following:

''§ 31100. Purpose

''The purposes of this subchapter are—

''(1) to improve commercial motor vehicle and driver safety;

''(2) to facilitate efforts by the Secretary, States, and other political jurisdictions, working in partnership, to focus their resources on strategic safety investments;

''(3) to increase administrative flexibility;

''(4) to improve enforcement activities;

''(5) to invest in activities related to areas of the greatest crash reduction;

''(6) to identify high risk carriers and drivers; and

''(7) to improve information and analysis systems.''; and

(2) by inserting before the item relating to section 31101 in the chapter analysis for chapter 311 the following:

''31100. Purposes.''.

SEC. 3402. GRANTS TO STATES.

(a) PERFORMANCE-BASED GRANTS.—Section 31102 is amended—

(1) in subsection (a), by inserting ''improving motor carrier safety and'' after ''programs for''; and

(2) in the first sentence of subsection (b)(1), by striking ''adopt and assume responsibility for enforcing'' and inserting ''assume responsibility for improving motor carrier safety and to adopt and enforce''.

(b) HAZARDOUS MATERIALS.—Section 31102 is amended—

(1) in subsection (a), by inserting a comma and ''hazardous materials transportation safety,'' after ''commercial motor vehicle safety''; and

(2) in the first sentence of subsection (b), by inserting '', hazardous materials transportation safety,'' after ''commercial motor vehicle safety''.

(c) CONTENTS OF STATE PLANS.—Section 31102(b)(1) is amended—

(1) by redesignating subparagraphs (A) through (Q) as subparagraphs (B) through (R), respectively;

(2) by inserting before subparagraph (B), as redesignated, the following:

''(A) implements performance-based activities by fiscal year 2000;''

(3) by inserting ''(1)'' in subparagraph (K), as redesignated, after ''(c)'';

(4) by striking subparagraphs (L), (M), and (N) as redesignated, and inserting the following:

''(L) ensures consistent, effective, and reasonable sanctions;

''(M) ensures that the State agency will coordinate the plan, data collection, and information systems with the State highway safety programs under title 23;

''(N) ensures participation in SAFETYNET by all jurisdictions receiving funding;'';

(5) in subparagraph (P), as redesignated, by striking ''activities—'' and inserting ''activities in support of national priorities and performance goals including—'';

(6) in clause (i) of subparagraph (P), as redesignated, by striking ''to remove'' and inserting ''activities aimed at removing''; and

(7) in clause (ii) of subparagraph (P), as redesignated, by striking ''to provide'' and inserting ''activities aimed at providing''.

SEC. 3403. FEDERAL SHARE.

Section 31103 is amended—

(1) by inserting before ''The Secretary of Transportation'' the following:

''(a) COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS AND ENFORCEMENT.—'';

(2) by inserting ''improve commercial motor vehicle safety and'' in the first sentence before ''enforce''; and

(3) by adding at the end the following:

''(b) OTHER ACTIVITIES.—The Secretary may reimburse State agencies, local governments, or other persons up to 100 percent for those activities identified in 31104(f)(2).''.

SEC. 3404. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 31104(a) is amended to read as follows:

''(a) IN GENERAL.—Subject to section 9503(c)(1) of the Internal Revenue Code of 1986, there are available from the Highway Trust Fund (except the Mass Transit Account) for the Secretary of Transportation to incur obligations to carry out section 31102 of this title, not more than—

''(1) $80,000,000 for the fiscal year ending September 30, 1998;

''(2) $100,000,000 for the fiscal year ending September 30, 1999;

''(3) $97,000,000 for the fiscal year ending September 30, 2000;

''(4) $94,000,000 for the fiscal year ending September 30, 2001;

''(5) $90,500,000 for the fiscal year ending September 30, 2002; and

''(6) $90,500,000 for the fiscal year ending September 30, 2003.''.

(b) AVAILABILITY AND REALLOCATION.—Section 31104(b)(2) is amended to read as follows:

''(2) Amounts made available under section 4002(e)(1) and (2) of the Intermodal Surface Transportation Efficiency Act of 1991 before October 1, 1996, that are not obligated on October 1, 1997, are available for obligation under paragraph (1).''.

(c) ALLOCATION CRITERIA.—Section 31104(f) is amended to read as follows:

''(f) ALLOCATION CRITERIA AND ELIGIBILITY.—

''(1) On October 1 of each fiscal year or as soon after that date as practicable, the Secretary, after making the deduction described in

subsection (e) of this section, shall allocate, under criteria the Secretary prescribes through regulation, the amounts available for that fiscal year among the States with plans approved under section 31102 of this title.

''(2) The Secretary may designate—

''(A) not less than 5 percent of such amounts for activities and projects of national priority for the improvement of commercial motor vehicle safety; and

''(B) not less than 5 percent of such amounts to reimburse States for border commercial motor vehicle safety programs and enforcement activities and projects.

The amounts referred to in subparagraph (B) shall be allocated by the Secretary to State agencies and local governments that use trained and qualified officers and employees in coordination with State motor vehicle safety agencies.''.

(d) OTHER AMENDMENTS.—

(1) Section 31104 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(2) Section 31104 is amended by striking subsection (i) and redesignating subsection (j) as subsection (h).

SEC. 3405. INFORMATION SYSTEMS AND STRATEGIC SAFETY INITIATIVES.

Section 31106 is amended to read as follows:

''§31106. Information systems and strategic safety initiatives

''(a) INFORMATION SYSTEMS.—

''(1) IN GENERAL.—The Secretary is authorized to establish motor carrier information systems and data analysis programs to support motor carrier regulatory and enforcement activities required under this title. In cooperation with the States, the information systems shall be coordinated into a network providing accurate identification of motor carriers and drivers, registration and licensing tracking, and motor carrier and driver safety performance. The Secretary shall develop and maintain data analysis capacity and programs to provide the means to develop strategies to address safety problems and to use data analysis to measure the effectiveness of these strategies and related programs; to determine the cost effectiveness of Federal and State safety compliance, enforcement programs, and other countermeasures; to evaluate the safety fitness of motor carriers and drivers; to identify and collect necessary data; and to adapt, improve, and incorporate other information and information systems as deemed appropriate by the Secretary.

''(2) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT.—

''(A) The Secretary shall include, as part of the motor carrier safety information network system of the Department of Transportation, an information system, to be called the Performance and Registration Information Systems Management, to serve as a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles and the safety system of the commercial motor vehicle registrants or the motor carriers operating the vehicles. The Secretary may include in the system information on the safety fitness of each of the motor carriers and registrants and other information the Secretary considers appropriate, including information on vehicle, driver, and motor carrier safety performance.

''(B) The Secretary shall prescribe technical and operational standards to ensure—

''(i) uniform, timely and accurate information collection and reporting by the States necessary to carry out this system;

''(ii) uniform Federal and State procedures and policies necessary to operate the Commercial Vehicle Information System; and

''(iii) the availability and reliability of the information to the States and the Secretary from the information system.

''(C) The system shall link the Federal motor carrier safety systems with State driver and commercial vehicle registration and licensing systems, and shall be designed—

''(i) to enable a State, when issuing license plates or throughout the registration period for a commercial motor vehicle, to determine, through the use of the information system, the safety fitness of the registrant or motor carrier;

''(ii) to allow a State to decide, in cooperation with the Secretary, the types of sanctions that may be imposed on the registrant or motor carrier, or the types of conditions or limitations that may be imposed on the operations of the registrant or motor carrier that will ensure the safety fitness of the registrant or motor carrier;

''(iii) to monitor the safety fitness of the registrant or motor carrier during the registration period; and

''(iv) to require the State, as a condition of participation in the system, to implement uniform policies, procedures, and standards, and to possess or seek authority to impose commercial motor vehicle registration sanctions on the basis of a Federal safety fitness determination.

''(D) Of the amounts available for expenditure under this section, up to 50 percent in each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 may be made available to carry out this paragraph. The Secretary may authorize the operation of the information system by contract, through an agreement with 1 or more States, or by designating, after consultation with the States, a third party that represents the interests of the States. Of the amounts made available to carry out this paragraph, the Secretary is encouraged to direct no less than 80 percent to States that have not previously received financial assistance to develop or implement the Performance and Registration Information Systems Management system.

''(b) COMMERCIAL MOTOR VEHICLE DRIVER SAFETY PROGRAM.—The Secretary is authorized to establish a program focusing on improving commercial motor vehicle driver safety. The objectives of the program shall include—

''(1) enhancing the exchange of driver licensing information among employers, the States, the Federal Government, and foreign countries;

''(2) providing information to the judicial system on the commercial motor vehicle driver licensing program; and

''(3) evaluating any aspect of driver performance and safety that the Secretary deems appropriate.

''(c) COOPERATIVE AGREEMENTS, GRANTS, AND CONTRACTS.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities, or by making grants to and entering into contracts and cooperative agreements with States, localities, associations, institutions, corporations (profit or nonprofit) or other persons.''.

SEC. 3406. IMPROVED FLOW OF DRIVER HISTORY PILOT PROGRAM.

The Secretary of Transportation shall carry out a pilot program in cooperation with 1 or more States to improve upon the timely exchange of pertinent driver performance and safety records data to motor carriers. The program shall—

(1) determine to what extent driver performance records data, including relevant fines, penalties, and failures to appear for a hearing or trial, should be included as part of any information systems under the Department of Transportation's oversight;

(2) assess the feasibility, costs, safety impact, pricing impact, and benefits of record exchanges; and

(3) assess methods for the efficient exchange of driver safety data available from existing State information systems and sources.

SEC. 3407. MOTOR CARRIER AND DRIVER SAFETY RESEARCH.

Of the funds made available to carry out programs established by the amendments made by title II of the Intermodal Surface Transportation Efficiency Act of 1998, no less than $10,000,000 shall be made available for each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 for activities designed to advance commercial motor vehicle and driver safety. Any obligation, contract, cooperative agreement, or support granted under this section in excess of $250,000 shall be awarded on a competitive basis. The Secretary shall submit annually a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the research activities carried out under this section, including the amount, purpose, recipient and nature of each contract, cooperative agreement or award and results of such research activities carried out under this section, including benefits to motor carrier safety.''.

SEC. 3408. AUTHORIZATION OF APPROPRIATIONS.

Section 31107 is amended to read as follows:

''§31107. Authorization of appropriations for information systems and strategic safety initiatives

''(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to incur obligations to carry out section 31106—

''(1) $10,000,000 for fiscal year 1998;

''(2) $9,620,000 for fiscal year 1999;

''(3) $9,620,000 for fiscal year 2000;

''(4) $9,620,000 for fiscal year 2001;

''(5) $9,320,000 for fiscal year 2002; and

''(6) $9,320,000 for fiscal year 2003.

''(b) AVAILABILITY.—The amounts made available under this subsection shall remain available until expended.''.

SEC. 3409. CONFORMING AMENDMENTS.

The chapter analysis for chapter 311 is amended—

(1) by striking the heading for subchapter I and inserting the following:

''SUBCHAPTER I—STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS'';

and

(2) by striking the items relating to sections 31106 and 31107 and inserting the following:

''31106. Information systems and strategic safety initiatives.

''31107. Authorization of appropriations for information systems and strategic safety initiatives.''.

SEC. 3410. AUTOMOBILE TRANSPORTER DEFINED.

Section 31111(a) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated, the following:

''(1) 'automobile transporter' means any vehicle combination designed and used specifically for the transport of assembled highway vehicles, including truck camper units.''.

SEC. 3411. REPEAL OF REVIEW PANEL; REVIEW PROCEDURE.

(a) REPEAL.—Subchapter III of chapter 311 is amended—

(1) by striking sections 31134 and 31140; and

(2) by striking the items relating to sections 31134 and 31140 in the chapter analysis for that chapter.

(b) REVIEW PROCEDURE.—

(1) IN GENERAL.—Section 31141 is amended—

(A) by striking subsection (b) and redesignating subsections (c), (d), (e), (f), (g), and (h) as subsections (b), (c), (d), (e), (f), and (g), respectively;

(B) by striking so much of subsection (b), as redesignated, as precedes paragraph (2) and inserting the following:

''(b) REVIEW AND DECISIONS BY THE SECRETARY.—

''(1) The Secretary shall review the laws and regulations on commercial motor vehicle safety in effect in each State, and decide—

''(A) whether the State law or regulation—

''(i) has the same effect as a regulation prescribed by the Secretary under section 31136 of this title;

''(ii) is less stringent than that regulation; or

''(iii) is additional to or more stringent than that regulation; and

''(B) for each State law or regulation which is additional to or more stringent than the regulation prescribed by the Secretary, whether—

''(i) the State law or regulation has no safety benefit;

''(ii) the State law or regulation is incompatible with the regulation prescribed by the Secretary under section 31136 of this title; or

''(iii) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.'';

(C) by striking paragraph (5) of subsection (b)(5), as redesignated, and inserting the following:

''(5) In deciding under paragraph (4) of this subsection whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of all similar laws and regulations of other States.'';

(D) by striking subsections (d) and (e), as redesignated, and inserting the following:

''(d) WRITTEN NOTICE OF DECISIONS.—The Secretary shall give written notice of the decision under subsection (b) of this section to the State concerned.''; and

(E) by redesignating subsections (f) and (g), as redesignated, as subsections (e) and (f), respectively.

(2) CONFORMING CHANGES.—

(A) The heading of section 31141 of such title is amended to read as follows:

''§31141. Preemption of State laws and regulations''.

(B) The chapter analysis of chapter 311 of such title is amended by striking the item relating to section 31141 and inserting the following:

''31141. Preemption of State laws and regulations.''.

(c) INSPECTION OF VEHICLES.—

(1) Section 31142 is amended—

(A) in subsection (a), by striking ''part 393 of title 49, Code of Federal Regulations'' and inserting ''regulations issued pursuant to section 31135 of this title''; and

(B) by striking subsection (c)(1)(C) and inserting the following:

''(C) prevent a State from participating in the activities of a voluntary group of States enforcing a program for inspection of commercial motor vehicles; or''.

(2) Subchapter IV of chapter 311 is amended—

(A) by striking sections 31161 and 31162; and

(B) by striking the items relating to sections 31161 and 31162 in the chapter analysis for that chapter.

(3) Section 31102(b)(1), as amended by section 3402(c)(1), is amended—

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

(B) by striking ''thereunder.'' in subparagraph (R) and inserting ''thereunder; and''; and

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

''(S) provides that the State will establish a program (i) to ensure the proper and timely correction of commercial motor vehicle safety violations noted during an inspection carried out with funds authorized under section 31104 of this title; and (ii) to ensure that information is exchanged among the States in a timely manner.''.

(d) SAFETY FITNESS OF OWNERS AND OPERATORS.—Section 31144 is amended to read as follows:

''§31144. Safety fitness of owners and operators

''(a) PROCEDURE.—The Secretary of Transportation shall maintain in regulation a procedure for determining the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under section 13902 of this title. The procedure shall include—

''(1) specific initial and continuing requirements to be met by the owners, operators, and other persons to demonstrate safety fitness;

''(2) a means of deciding whether the owners, operators, or other persons meet the safety requirements under paragraph (1); and

''(3) specific time deadlines for action by the Secretary in making fitness decisions.

''(b) PROHIBITED TRANSPORTATION.—Except as provided in sections 521(b)(5)(A) and 5113, a motor carrier that fails to meet the safety fitness requirements established under subsection (a) may not operate in interstate commerce beginning on the 61st day after the date of the determination by the Secretary that the motor carrier fails to meet the safety fitness requirements and until the motor carrier meets the safety fitness requirements. The Secretary may, for good cause shown, provide a carrier with up to an additional 60 days to meet the safety fitness requirements.

''(c) RATING REVIEW.—The Secretary shall review the factors that resulted in a motor carrier failing to meet the safety fitness requirements not later than 45 days after the motor carrier requests a review.

''(d) GOVERNMENT USE PROHIBITED.—A department, agency, or instrumentality of the United States Government may not use a motor carrier that does not meet the safety fitness requirements.

''(e) PUBLIC AVAILABILITY; UPDATING OF FITNESS DETERMINATIONS.—The Secretary shall amend the motor carrier safety regulations in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to update periodically, the final safety fitness determinations of motor carriers made by the Secretary.

''(f) PENALTIES.—The Secretary shall prescribe regulations setting penalties for violations of this section consistent with section 521 of this title.''.

(e) SAFETY FITNESS OF PASSENGER AND HAZARDOUS MATERIAL CARRIERS.—

(1) IN GENERAL.—Section 5113 is amended—

(A) by striking subsection (a) and inserting the following:

''(a) PROHIBITED TRANSPORTATION.—

''(1) A motor carrier that fails to meet the safety fitness requirements established under subsection 31144(a) of this title may not operate a commercial motor vehicle (as defined in section 31132 of this title)—

''(A) to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under this chapter; or

''(B) to transport more than 15 individuals.

''(2) The prohibition in paragraph (1) of this subsection applies beginning on the 46th day after the date on which the Secretary determines that a motor carrier fails to meet the safety fitness requirements and applies until the motor carrier meets the safety fitness requirements.'';

(B) by striking ''RATING'' in the heading of subsection (b) and inserting ''FITNESS'';

(C) by striking ''receiving an unsatisfactory rating'' in subsection (b) and inserting ''failing to meet the safety fitness requirements'';

(D) by striking ''has an unsatisfactory rating from the Secretary'' in subsection (c) and inserting ''failed to meet the safety fitness requirements''; and

(E) by striking ''RATINGS'' in the heading of subsection (d) and inserting ''FITNESS DETERMINATIONS'';

(F) by striking '', in consultation with the Interstate Commerce Commission,'' in subsection (d); and

(G) by striking ''ratings of motor carriers that have unsatisfactory ratings from'' in subsection (d) and inserting ''fitness determinations of motor carriers made by''.

(2) CONFORMING AMENDMENTS.—

(A) The heading of section 5113 of such chapter is amended to read as follows:

''§5113. Safety fitness of passenger and hazardous material carriers''.

(B) The chapter analysis for chapter 51 is amended by striking the item relating to section 5113 and inserting the following:

''5113. Safety fitness of passenger and hazardous material carriers.''.

(f) DEFINITIONS.—

(1) Section 31101(1) is amended—

(A) in subparagraph (A)—

(i) by inserting ''or gross vehicle weight, whichever is greater,'' after ''rating''; and

(ii) by striking ''10,000'' and inserting ''10,001'';

(B) in subparagraph (B), by striking ''driver; or'' and inserting ''driver, or a smaller number of passengers including the driver as determined under regulations implementing sections 31132(1)(B) or 31301(4)(B)'';

(C) in subparagraph (C), by inserting ''and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103'' after ''title''.

(2) Section 31132 is amended—

(A) in paragraph (1)(A), by inserting ''or gross vehicle weight, whichever is greater,'' after ''rating''; and

(B) by adding at the end of paragraph (3) the following:

''For purposes of this paragraph, the term 'business affecting interstate commerce' means a business predominantly engaged in employing commercial motor vehicles in interstate commerce and includes all operations of the business in intrastate commerce which use vehicles otherwise defined as commercial motor vehicles under paragraph (1) of this section.''.

(g) EMPLOYEE PROTECTIONS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary of Labor, shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the effectiveness of existing statutory employee protections provided for under section 31105 of title 49, United States Code. The report shall include recommendations to address any statutory changes as may be necessary to strengthen the enforcement of such employee protection provisions.

(h) INSPECTIONS AND REPORTS.—

(1) GENERAL POWERS OF THE SECRETARY.—Section 31133(a)(1) is amended by inserting ''and make contracts for'' after ''conduct''.

(2) REPORTS AND RECORDS.—Section 504(c) is amended by inserting ''(and, in the case of a motor carrier, a contractor)'' before the second comma.

SEC. 3412. COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) REPEAL OF OBSOLETE GRANT PROGRAMS.—Chapter 313 is amended—

(1) by striking sections 31312 and 31313; and

(2) by striking the items relating to sections 31312 and 31313 in the chapter analysis for that chapter.

(b) COMMERCIAL DRIVER'S LICENSE REQUIREMENT.—

(1) IN GENERAL.—Section 31302 is amended to read as follows:

''§31302. Commercial driver's license requirement

''No individual shall operate a commercial motor vehicle without a commercial driver's license issued according to section 31308 of this title.''.

(2) CONFORMING AMENDMENTS.—

(A) The chapter analysis for that chapter is amended by striking the item relating to section 31302 and inserting the following:

''31302. Commercial driver's license requirement.''.

(B) Section 31305(a) is amended by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively, and by inserting after paragraph (1) the following:

''(2) may establish performance-based testing and licensing standards that more accurately measure and reflect an individual's knowledge and skills as an operator;''.

(c) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.—Section 31309 is amended—

(1) in subsection (a), by striking ''make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section,'' and inserting ''maintain'';

(2) by striking subsections (b) and (c) and redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d), respectively;

(3) by striking ''Not later than December 31, 1990, the'' in paragraph (2) of subsection (b), as redesignated, and inserting ''The''; and

(4) in subsection (c), as redesignated—

(A) by inserting after the heading the following: ''Information about a driver in the information system may be made available under the following circumstances:''; and

(B) by starting a new paragraph with ''(1) On request'' and indenting the paragraph 2 ems from the lefthand margin.

(d) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311(a) is amended—

(1) by striking ''31310(b)-(e)'' in paragraph (15) and inserting ''31310 (b)-(e), and (g)(1)(A) and (2)'';

(2) by striking paragraph (17); and

(3) by redesignating paragraph (18) as paragraph (17).

(e) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—Section 31314 is amended—

(1) in subsection (a), by striking '', (2), (5), and (6)'' and inserting ''(3), and (5)'';

(2) in subsections (a) and (b), by striking ''1992'' each place it appears and inserting ''1995'';

(3) in subsection (c), by striking paragraph (1);

(4) in subsection (c)(2), by striking ''(2)'';

(5) by striking subsection (d); and

(6) by redesignating subsection (e) as subsection (d).

(f) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31301 is amended—

(1) in paragraph (4)(A), by inserting ''or gross vehicle weight, whichever is greater,'' after ''rating'' each place it appears; and

(2) in paragraph (4)(C)(ii), by inserting ''is'' before ''transporting'' each place it appears and before ''not otherwise''.

(g) SAFETY PERFORMANCE HISTORY OF NEW DRIVERS; LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Chapter 5 is amended by adding at the end the following:

''§ 508. Safety performance history of new drivers; limitation on liability

''(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against—

''(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

''(2) a person who has complied with such a request; or

''(3) the agents or insurers of a person described in paragraph (1) or (2).

''(b) RESTRICTIONS.—

''(1) Subsection (a) does not apply unless—

''(A) the motor carrier requesting the safety performance records at issue, the person complying with such a request, and their agents have taken all precautions reasonably necessary to ensure the accuracy of the records and have fully complied with the regulations issued by the Secretary in using and furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

''(B) the motor carrier requesting the safety performance records, the person complying with such a request, their agents, and their insurers, have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for their insurers, not directly involved in forwarding the records or deciding whether to hire that individual; and

''(C) the motor carrier requesting the safety performance records has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

''(2) Subsection (a) does not apply to persons who knowingly furnish false information.

''(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of an individual under consideration for employment with a motor carrier.''.

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 5 is amended by inserting after the item relating to section 507 the following:

''508. Safety performance history of new drivers; limitation on liability.''.

SEC. 3413. PENALTIES.

(a) NOTIFICATION OF VIOLATIONS AND ENFORCEMENT PROCEDURES.—Section 521(b)(1) is amended—

(1) by inserting: ''with the exception of reporting and recordkeeping violations,'' in the first sentence of subparagraph (A) after ''under any of those provisions,'';

(2) by striking ''fix a reasonable time for abatement of the violation,'' in the third sentence of subparagraph (A);

(3) by striking ''(A)'' in subparagraph (A); and

(4) by striking subparagraph (B).

(b) CIVIL PENALTIES.—Section 521(b)(2) is amended—

(1) by striking subparagraph (A) and inserting the following:

''(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act that is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31137 and 31138) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed under this section against an employee for a violation in an amount exceeding $2,500.'';

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

''(B) RECORDKEEPING AND REPORTING VIOLATIONS.—

''(i) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31137 and 31138) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, who—

''(I) does not make that report;

''(II) does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered; or

''(III) does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary,

shall be liable to the United States for a civil penalty in an amount not to exceed $500 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $5,000.

''(ii) Any such person, or an officer, agent, or employee of that person, who—

''(I) knowingly falsifies, destroys, mutilates, or changes a required report or record;

''(II) knowingly files a false report with the Secretary;

''(III) knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction; or

''(IV) knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary,

shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each violation, provided that any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.''.

SEC. 3414. INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Chapter 317 is amended—

(1) by striking sections 31702, 31703, and 31708; and

(2) by striking the items relating to sections 31702, 31703, and 31708 in the chapter analysis for that chapter.

SEC. 3415. STUDY OF ADEQUACY OF PARKING FACILITIES.

The Secretary shall conduct studies to determine the location and quantity of parking facilities at commercial truck stops and travel plazas and public rest areas that could be used by motor carriers to comply with Federal hours-of-service rules. Each study shall include an inventory of current facilities serving corridors of the National Highway System, analyze where specific shortages exist or are projected to exist, and propose a specific plan to reduce the shortages. The studies may be carried out in cooperation with research entities representing the motor carrier and travel plaza industry. The studies shall be completed not later than 36 months after the date of enactment of this Act.

SEC. 3416. APPLICATION OF REGULATIONS.

(a) APPLICATION OF REGULATIONS TO CERTAIN COMMERCIAL MOTOR VEHICLES.—Section 31135 as redesignated, is amended by adding at the end the following:

''(g) APPLICATION TO CERTAIN VEHICLES.—Effective 12 months after the date of enactment of the Intermodal Transportation Safety Act of 1998, regulations prescribed under this section shall apply to operators of commercial motor vehicles described in section 31132(1)(B) to the extent that those regulations did not apply to those operators before the day that is 12 months after such date of enactment, except to the extent that the Secretary determines, through a rulemaking proceeding, that it is appropriate to exempt such operations of commercial motor vehicles from the application of those regulations.''.

(b) DEFINITION.—Section 31301(4)(B) is amended to read as follows:

''(B) is designed or used to transport—

''(i) passengers for compensation, but does not include a vehicle providing taxicab service and

having a capacity of not more than 6 passengers and not operated on a regular route or between specified places; or

''(ii) more than 15 passengers, including the driver, and not used to transport passengers for compensation; or''.

(c) APPLICATION OF REGULATIONS TO CERTAIN OPERATORS.—

(1) Chapter 313 is amended by adding at the end the following:

''§ 31318. Application of regulations to certain operators

''Effective 12 months after the date of enactment of the Intermodal Transportation Safety Act of 1998, regulations prescribed under this chapter shall apply to operators of commercial motor vehicles described in section 31301(4)(B) to the extent that those regulations did not apply to those operators before the day that is 1 year after such date of enactment, except to the extent that the Secretary determines, after notice and opportunity for public comment, that it is appropriate to exempt such operators of commercial motor vehicles from the application of those regulations.''.

(2) The analysis for chapter 313 is amended by adding at the end the following:

''31318. Application of regulations to certain operators.''.

(d) DEADLINE FOR CERTAIN DEFINITIONAL REGULATIONS.—The Secretary shall issue regulations implementing the definition of commercial motor vehicles under section 31132(1)(B) and section 31301(4)(B) of title 49, United States Code, as amended by this Act within 12 months after the date of enactment of this Act.

SEC. 3417. AUTHORITY OVER CHARTER BUS TRANSPORTATION.

Section 14501(a) is amended—

(1) by striking ''route or relating'' and inserting ''route;''; and

(2) by striking ''required.'' and inserting ''required; or to the authority to provide intrastate or interstate charter bus transportation.''.

SEC. 3418. FEDERAL MOTOR CARRIER SAFETY INVESTIGATIONS.

The Department of Transportation shall maintain the level of Federal motor carrier safety investigators for international border commercial vehicle inspections as in effect on September 30, 1997, or provide for alternative resources and mechanisms to ensure an equivalent level of commercial motor vehicle safety inspections. Such funds as are necessary to carry out this section shall be made available within the limitation on general operating expenses of the Department of Transportation.

SEC. 3419. FOREIGN MOTOR CARRIER SAFETY FITNESS.

(a) IN GENERAL.—No later than 90 days after enactment of this Act, the Secretary of Transportation shall make a determination regarding the willingness and ability of any foreign motor carrier, the application for which has not been processed due to the moratorium on the granting of authority to foreign carriers to operate in the United States, to meet the safety fitness and other regulatory requirements under this title.

(b) REPORT.—Not later than 120 days after the date of enactment this Act, the Secretary of Transportation shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the application of section 13902(c)(9) of title 49, United States Code. The report shall include—

(1) any findings made by the Secretary under subsection (a);

(2) information on which carriers have applied to the Department of Transportation under that section; and

(3) a description of the process utilized to respond to such applications and to certify the safety fitness of those carriers.

SEC. 3420. COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation may establish a Commercial Motor Vehicle Safety Advisory Committee to provide advice and recommendations on a range of regulatory issues. The members of the advisory committee shall be appointed by the Secretary from among individuals affected by rulemakings under consideration by the Department of Transportation.

(b) FUNCTION.—The Advisory Committee established under subsection (a) shall provide advice to the Secretary on commercial motor vehicle safety regulations and safety review procedures and findings, and may assist the Secretary in timely completion of ongoing rulemakings by utilizing negotiated rulemaking procedures.

SEC. 3421. WAIVERS; EXEMPTIONS; PILOT PROGRAMS.

(a) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS FOR CHAPTERS 311 AND 315.—Section 31136(e) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (5) and (6), respectively; and

(2) by striking the subsection heading and paragraph (1) and inserting the following:

''(e) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.—

''(1) IN GENERAL.—The Secretary shall, by regulation promulgated after notice and an opportunity for public comment and within 180 days after the date of enactment of the Intermodal Transportation Safety Act of 1998, establish procedures by which waivers, exemptions, and pilot programs under this section may be initiated. The regulation shall provide—

''(A) a process for the issuance of waivers or exemptions from any part of a regulation prescribed under this subchapter or chapter 315; and

''(B) procedures for the conduct of pilot projects or demonstration programs to support the appropriateness of regulations, enforcement policies, waivers, or exemptions under this section.

''(2) WAIVERS.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this subchapter or chapter 315 if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver—

''(A) for a period not in excess of 3 months;

''(B) limited in scope and circumstances;

''(C) for nonemergency and unique events; and

''(D) subject to such conditions as the Secretary may impose.

''(3) EXEMPTIONS.—The Secretary may grant an exemption in whole or in part from a regulation issued under this subchapter or chapter 315 to a class of persons, vehicles, or circumstances if the Secretary determines, after notice and opportunity for public comment, that it is in the public interest to grant the exemption and that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption. An exemption granted under this paragraph shall be in effect for a period of not more than 2 years, but may be renewed by the Secretary after notice and opportunity for public comment if the Secretary determines, based on the safety impact and results of the first 2 years of an exemption, that the extension is in the public interest and that the extension of the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the extension.

''(4) PILOT PROGRAMS.—

''(A) IN GENERAL.—In carrying out this section, the Secretary is authorized to carry out pilot programs to examine innovative approaches or alternatives to regulations issued under this chapter or chapter 315.

''(B) REQUIREMENT FOR APPROVAL.—In carrying out a pilot project under this paragraph, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the standards prescribed under this subchapter or chapter 315.

''(C) EXEMPTIONS.—A pilot project under this paragraph—

''(i) may exempt a motor carrier under the project from any requirement (or portion thereof) imposed under this subchapter or chapter 315; and

''(ii) shall preempt any State or local regulation that conflicts with the pilot project during the time the pilot project is in effect.

''(D) REVOCATION OF EXEMPTION.—The Secretary shall revoke an exemption granted under subparagraph (C) if—

''(i) the motor carrier to which it applies fails to comply with the terms and conditions of the exemption; or

''(ii) the Secretary determines that the exemption has resulted in a lower level of safety than was maintained before the exemption was granted.''.

(b) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS FOR CHAPTER 313.—Section 31315 is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''After notice''; and

(2) by adding at the end the following:

''(b) WAIVERS, EXEMPTIONS, AND PILOT PROGRAMS.—

''(1) IN GENERAL.—The Secretary shall, by regulation promulgated after notice and an opportunity for public comment and within 180 days after the date of enactment of the Intermodal Transportation Safety Act of 1998, establish procedures by which waivers, exemptions, and pilot programs under this section may be initiated. The regulation shall provide—

''(A) a process for the issuance of waivers or exemptions from any part of a regulation prescribed under this chapter; and

''(B) procedures for the conduct of pilot projects or demonstration programs to support the appropriateness of regulations, enforcement policies, or exemptions under this section.

''(2) WAIVERS.—The Secretary may grant a waiver that relieves a person from compliance in whole or in part with a regulation issued under this chapter if the Secretary determines that it is in the public interest to grant the waiver and that the waiver is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver—

''(A) for a period not in excess of 3 months;

''(B) limited in scope and circumstances;

''(C) for nonemergency and unique events; and

''(D) subject to such conditions as the Secretary may impose.

''(3) EXEMPTIONS.—The Secretary may grant an exemption in whole or in part from a regulation issued under this chapter to a class of persons, vehicles, or circumstances if the Secretary determines, after notice and opportunity for public comment, that it is in the public interest to grant the exemption and that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption. An exemption granted under this paragraph shall be in effect for a period of not more than 2 years, but may be renewed by the Secretary after notice and opportunity for public comment if the Secretary determines, based on the safety impact and results of the first 2 years of an exemption, that the extension is in the public interest and that the extension of the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the extension.

''(4) PILOT PROGRAMS.—

''(A) IN GENERAL.—In carrying out this section, the Secretary is authorized to carry out

pilot programs to examine innovative approaches or alternatives to regulations issued under this chapter.

''(B) REQUIREMENT FOR APPROVAL.—In carrying out a pilot project under this paragraph, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the standards prescribed under this chapter.

''(C) EXEMPTIONS.—A pilot project under this paragraph—

''(i) may exempt a motor carrier under the project from any requirement (or portion thereof) imposed under this chapter; and

''(ii) shall preempt any State or local regulation that conflicts with the pilot project during the time the pilot project is in effect.

''(D) REVOCATION OF EXEMPTION.—The Secretary shall revoke an exemption granted under subparagraph (C) if—

''(i) the motor carrier to which it applies fails to comply with the terms and conditions of the exemption; or

''(ii) the Secretary determines that the exemption has resulted in a lower level of safety than was maintained before the exemption was granted.''.

SEC. 3422. COMMERCIAL MOTOR VEHICLE SAFETY STUDIES.

(a) IN GENERAL.—The Secretary shall conduct a study of the impact on safety and infrastructure of tandem axle commercial motor vehicle operations in States that permit the operation of such vehicles in excess of the weight limits established by section 127 of title 23, United States Code.

(b) COOPERATIVE AGREEMENTS WITH STATES.—The Secretary shall enter into cooperative agreements with States described in subsection (a) under which the States participate in the collection of weight-in-motion data necessary to achieve the purpose of the study. If the Secretary determines that additional weight-in-motion sites, on or off the Dwight D. Eisenhower System of Interstate and Defense Highways, are necessary to carry out the study, and requests assistance from the States in choosing appropriate locations, the States shall identify the industries or transportation companies operating within their borders that regularly utilize the 35,000-pound tandem axle.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study, together with any related legislative or administrative recommendations. Until the Secretary transmits the report to Congress, the Secretary may not withhold funds under section 104 of title 23, United States Code, from any State for violation of the grandfathered tandem axle weight limits under section 127 of that title.

SEC. 3423. INCREASED MCSAP PARTICIPATION IMPACT STUDY.

(a) IN GENERAL.—If a State that did not receive its full allocation of funding under the Motor Carrier Safety Assistance Program during fiscal years 1996 and 1997 agrees to enter into a cooperative agreement with the Secretary to evaluate the safety impact, costs, and benefits of allowing such State to continue to participate fully in the Motor Carrier Safety Assistance Program, then the Secretary of Transportation shall allocate to that State the full amount of funds to which it would otherwise be entitled for fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. The Secretary may not add conditions to the cooperative agreement other than those directly relating to the accurate and timely collection of inspection and crash data sufficient to ascertain the safety and effectiveness of such State's program.

(b) REQUIREMENTS.—

(1) REPORT.—The State shall submit to the Secretary each year the results of such safety evaluations.

(2) TERMINATION BY SECRETARY.—If the Secretary finds such an agreement not in the public interest based on the results of such evaluations after 2 years of full participation, the Secretary may terminate the agreement entered into under this section.

(c) PROHIBITION OF ADOPTION OF LESSER STANDARDS.—No State may enact or implement motor carrier safety regulations that are determined by the Secretary to be less strict than those in effect as of September 30, 1997.

SEC. 3424. EXEMPTION FROM CERTAIN REGULATIONS FOR UTILITY SERVICE COMMERCIAL MOTOR VEHICLE DRIVERS.

(a) IN GENERAL.—Section 31502 is amended by adding at the end the following new subsection:

''(e) EXCEPTION.—

''(1) IN GENERAL.—Notwithstanding any other provision of law, regulations promulgated under this section or section 31136 regarding—

''(A) maximum driving and on-duty times applicable to operators of commercial motor vehicles;

''(B) physical testing, reporting, or record-keeping; and

''(C) the installation of automatic recording devices associated with establishing the maximum driving and on-duty times referred to in subparagraph (A),

shall not apply to any driver of a utility service vehicle during an emergency period of not more than 30 days declared by an elected State or local government official under paragraph (2) in the area covered by the declaration.

''(2) DECLARATION OF EMERGENCY.—The regulations described in subparagraphs (A), (B), and (C) of paragraph (1) do not apply to the driver of a utility service vehicle operated—

''(A) in the area covered by an emergency declaration under this paragraph; and

''(B) for a period of not more than 30 days designated in that declaration,

issued by an elected State or local government official (or jointly by elected officials of more than one State or local government), after notice to the Regional Director of the Federal Highway Administration with jurisdiction over the area covered by the declaration.

''(3) INCIDENT REPORT.—Within 30 days after the end of the declared emergency period the official who issued the emergency declaration shall file with the Regional Director a report of each safety-related incident or accident that occurred during the emergency period involving—

''(A) a utility service vehicle driver to which the declaration applied; or

''(B) a utility service vehicle to the driver of which the declaration applied.

''(4) DEFINITIONS.—For purposes of this subsection—

''(A) DRIVER OF A UTILITY SERVICE VEHICLE.—The term 'driver of a utility service vehicle' means any driver who is considered to be a driver of a utility service vehicle for purposes of section 345(a)(4) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note).

''(B) UTILITY SERVICE VEHICLE.—The term 'utility service vehicle' has the meaning given that term in section 345(e)(6) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note).''.

(b) CONTINUED APPLICATION OF SAFETY AND MAINTENANCE REQUIREMENTS.—

(1) IN GENERAL.—The amendment made by subsection (a) may not be construed—

(A) to exempt any utility service vehicle from compliance with any applicable provision of law relating to vehicle mechanical safety, maintenance requirements, or inspections; or

(B) to exempt any driver of a utility service vehicle from any applicable provision of law (including any regulation) established for the issuance, maintenance, or periodic renewal of a commercial driver's license for that driver.

(2) DEFINITIONS.—For purposes of this subsection—

(A) COMMERCIAL DRIVER'S LICENSE.—The term ''commercial driver's license'' has the meaning given that term in section 31301(3) of title 49, United States Code.

(B) DRIVER OF A UTILITY SERVICE VEHICLE.—The term ''driver of a utility service vehicle'' has the meaning given that term in section 31502(e)(2)(A) of title 49, United States Code, as added by subsection (a).

(C) REGULATION.—The term ''regulation'' has the meaning given that term in section 31132(6) of title 49, United States Code.

(D) UTILITY SERVICE VEHICLE.—The term ''utility service vehicle'' has the meaning given that term in section 345(e)(6) of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note).

SEC. 3425. SCHOOL TRANSPORTATION SAFETY.

(a) STUDY.—Not later than 3 months after the date of enactment of this Act, the Secretary shall offer to enter into an agreement with the Transportation Research Board of the National Academy of Sciences to conduct, subject to the availability of appropriations, a study of the safety issues attendant to the transportation of school children to and from school and school-related activities by various transportation modes.

(b) TERMS OF AGREEMENT.—The agreement under subsection (a) shall provide that—

(1) the Transportation Research Board, in conducting the study, shall consider—

(A) in consultation with the National Transportation Safety Board, the Bureau of Transportation Statistics, and other relevant entities, available crash injury data;

(B) vehicle design and driver training requirements, routing, and operational factors that affect safety; and

(C) other factors that the Secretary considers to be appropriate;

(2) if the data referred to in paragraph (1)(A) is unavailable or insufficient, the Transportation Research Board shall recommend a new data collection regimen and implementation guidelines; and

(3) a panel shall conduct the study and shall include—

(A) representatives of—

(i) highway safety organizations;

(ii) school transportation; and

(iii) mass transportation operators;

(B) academic and policy analysts; and

(C) other interested parties.

(c) REPORT.—Not later than 12 months after the Secretary enters into an agreement under subsection (a), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that contains the results of the study.

(d) AUTHORIZATION.—There are authorized to be appropriated to the Department of Transportation to carry out this section—

(1) $200,000 for fiscal year 1999; and

(2) $200,000 for fiscal year 2000.

Subtitle E—Rail and Mass Transportation Anti-Terrorism; Safety

SEC. 3501. PURPOSE.

The purpose of this subtitle is to protect the passengers and employees of railroad carriers and mass transportation systems and the movement of freight by railroad from terrorist attacks.

SEC. 3502. AMENDMENTS TO THE "WRECKING TRAINS" STATUTE.

(a) Section 1992 of title 18, United States Code, is amended to read as follows:

"§1992. Terrorist attacks against railroads

''(a) GENERAL PROHIBITIONS.—Whoever willfully—

''(1) wrecks, derails, sets fire to, or disables any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

''(2) brings, carries, possesses, places or causes to be placed any destructive substance, or destructive device in, upon, or near any train, locomotive, motor unit, or freight or passenger car

used, operated, or employed by a railroad carrier, without previously obtaining the permission of the carrier, and with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

''(3) sets fire to, or places any destructive substance, or destructive device in, upon or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, knowing or having reason to know such activity would likely derail, disable, or wreck a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

''(4) removes appurtenances from, damages, or otherwise impairs the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal on a railroad line used, operated, or employed by a railroad carrier;

''(5) interferes with, disables, or incapacitates any locomotive engineer, conductor, or other person while they are operating or maintaining a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

''(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of a railroad carrier while on the property of the carrier;

''(7) causes the release of a hazardous material being transported by a rail freight car, with the intent to endanger the safety of any person, or with a reckless disregard for the safety of human life;

''(8) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act that would be a crime prohibited by this subsection; or

''(9) attempts, threatens, or conspires to do any of the aforesaid acts,

shall be fined under this title or imprisoned not more than 20 years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts; except that whoever is convicted of any crime prohibited by this subsection shall be—

''(A) imprisoned for not less than 30 years or for life if the railroad train involved carried high-level radioactive waste or spent nuclear fuel at the time of the offense;

''(B) imprisoned for life if the railroad train involved was carrying passengers at the time of the offense; and

''(C) imprisoned for life or sentenced to death if the offense has resulted in the death of any person.

''(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

''(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a passenger train of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a passenger train or in a passenger terminal facility of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a passenger train or a passenger terminal facility of a railroad carrier involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113.

''(4) Paragraph (1) shall not apply to—

''(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

''(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

''(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law;

''(D) the possession of a firearm or other dangerous weapon by a railroad police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State, whether on or off duty; or

''(E) an individual transporting a firearm on board a railroad passenger train (except a loaded firearm) in baggage not accessible to any passenger on board the train, if the railroad carrier was informed of the presence of the weapon prior to the firearm being placed on board the train.

''(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any locomotive or car of a train, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than 20 years if the offense has resulted in the death of any person.

''(d) DEFINITIONS.—In this section—

''(1) 'dangerous device' has the meaning given that term in section 921(a)(4) of this title;

''(2) 'dangerous weapon'' has the meaning given that term in section 930 of this title;

''(3) 'destructive substance'' has the meaning given that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

''(4) 'firearm' has the meaning given that term in section 921 of this title;

''(5) 'hazardous material' has the meaning given that term in section 5102(2) of title 49, United States Code;

''(6) 'high-level radioactive waste' has the meaning given that term in section 10101(12) of title 42, United States Code;

''(7) 'railroad' has the meaning given that term in section 20102(1) of title 49, United States Code;

''(8) 'railroad carrier' has the meaning given that term in section 20102(2) of title 49, United States Code;

''(9) 'serious bodily injury' has the meaning given that term in section 1365 of this title;

''(10) 'spent nuclear fuel' has the meaning given that term in section 10101(23) of title 42, United States Code; and

''(11) 'State' has the meaning given that term in section 2266 of this title.''.

(b) In the analysis of chapter 97 of title 18, United States Code, item ''1992'' is amended to read as follows:

''1992. Terrorist attacks against railroads.''.

SEC. 3503. TERRORIST ATTACKS AGAINST MASS TRANSPORTATION.

(a) Chapter 97 of title 18, United States Code, is amended by adding at the end thereof the following new section:

''§ 1994. Terrorist attacks against mass transportation

''(a) GENERAL PROHIBITIONS.—Whoever willfully—

''(1) wrecks, derails, sets fire to, or disables a mass transportation vehicle or vessel;

''(2) places or causes to be placed any destructive substance in, upon, or near a mass transportation vehicle or vessel, without previously obtaining the permission of the mass transportation provider, and with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

''(3) sets fire to, or places any destructive substance in, upon, or near any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, knowing or having reason to know such activity would likely derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider;

''(4) removes appurtenances from, damages, or otherwise impairs the operation of a mass transportation signal system, including a train control system, centralized dispatching system, or rail grade crossing warning signal;

''(5) interferes with, disables, or incapacitates any driver or person while that driver or person is employed in operating or maintaining a mass transportation vehicle or vessel, with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

''(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of a mass transportation provider on the property of a mass transportation provider;

''(7) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

''(8) attempts, threatens, or conspires to do any of the aforesaid acts, shall be fined under this title or imprisoned not more than 20 years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be

committed, within the United States on, against, or affecting a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of a crime prohibited by this section shall also be subject to imprisonment for life if the mass transportation vehicle or vessel was carrying a passenger at the time of the offense, and imprisonment for life or sentenced to death if the offense has resulted in the death of any person.

''(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

''(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a mass transportation vehicle or vessel, or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a mass transportation vehicle or vessel, or in a mass transportation passenger terminal facility, or attempts to do so, shall be fined under this title, or imprisoned not more than 5 years, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

''(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a mass transportation vehicle or vessel, or a mass transportation passenger terminal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

''(4) Paragraph (1) shall not apply to—

''(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

''(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

''(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law;

''(D) the possession of a firearm or other dangerous weapon by a railroad police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State, whether on or off duty; or

''(E) an individual transporting a firearm on board a mass transportation vehicle or vessel (except a loaded firearm) in baggage not accessible to any passenger on board the vehicle or vessel, if the mass transportation provider was informed of the presence of the weapon prior to the firearm being placed on board the vehicle or vessel.

''(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any mass transportation vehicle or vessel, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a mass transportation provider engaged in or substantially affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than 20 years if the offense has resulted in the death of any person.

''(d) DEFINITIONS.—In this section—

''(1) 'dangerous device' has the meaning given that term in section 921(a)(4) of this title;

''(2) 'dangerous weapon' has the meaning given that term in section 930 of this title;

''(3) 'destructive substance' has the meaning given that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

''(4) 'firearm' has the meaning given that term in section 921 of this title;

''(5) 'mass transportation' has the meaning given that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;

''(6) 'serious bodily injury' has the meaning given that term in section 1365 of this title; and

''(7) 'State' has the meaning given that term in section 2266 of this title.''.

(b) The analysis of chapter 97 of title 18, United States Code, is amended by adding at the end thereof:

''1994. Terrorist attacks against mass transportation.''.

SEC. 3504. INVESTIGATIVE JURISDICTION.

The Federal Bureau of Investigation shall lead the investigation of all offenses under sections 1192 and 1994 of title 18, United States Code. The Federal Bureau of Investigation shall cooperate with the National Transportation Safety Board and with the Department of Transportation in safety investigations by these agencies, and with the Treasury Department's Bureau of Alcohol, Tobacco and Firearms concerning an investigation regarding the possession of firearms and explosives.

SEC. 3505. SAFETY CONSIDERATIONS IN GRANTS OR LOANS TO COMMUTER RAILROADS.

Section 5329 is amended by adding at the end the following:

''(c) COMMUTER RAILROAD SAFETY CONSIDERATIONS.—In making a grant or loan under this chapter that concerns a railroad subject to the Secretary's railroad safety jurisdiction under section 20102 of this title, the Federal Transit Administrator shall consult with the Federal Railroad Administrator concerning relevant safety issues. The Secretary may use appropriate authority under this chapter, including the authority to prescribe particular terms or covenants under section 5334 of this title, to address any safety issues identified in the project supported by the loan or grant.''.

SEC. 3506. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

''(a) GENERAL REQUIREMENTS.—On a periodic basis, not more frequently than monthly, as specified by the Secretary of Transportation, a railroad carrier shall file a report with the Secretary on all accidents and incidents resulting in injury or death to an individual, or damage to equipment or a roadbed arising from the carrier's operations during that period. The report shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.''.

SEC. 3507. MASS TRANSPORTATION BUSES.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991, as amended (23 U.S.C. 127 note), is amended by striking ''the date on which'' and all that follows through ''1995'' and inserting ''January 1, 2003''.

Subtitle F—Sportfishing and Boating Safety

SEC. 3601. AMENDMENT OF 1950 ACT.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of the 1950 Act, 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 (16 U.S.C. 777 et seq.).

SEC. 3602. OUTREACH AND COMMUNICATIONS PROGRAMS.

(a) DEFINITIONS.—Section 2 of the 1950 Act (16 U.S.C. 777a) is amended—

(1) by indenting the left margin of so much of the text as precedes ''(a)'' by 2 ems;

(2) by inserting ''For purposes of this Act—'' after the section heading;

(3) by striking ''For the purpose of this Act the'' in the first paragraph and inserting ''(1) the'';

(4) by indenting the left margin of so much of the text as follows ''include—'' by 4 ems;

(5) by striking ''(a)'', ''(b)'', ''(c)'', and ''(d)'' and inserting ''(A)'', ''(B)'', ''(C)'', and ''(D)'', respectively;

(6) by striking ''department.'' and inserting ''department;''; and

(7) by adding at the end the following:

''(2) the term 'outreach and communications program' means a program to improve communications with anglers, boaters, and the general public regarding angling and boating opportunities, to reduce barriers to participation in these activities, to advance adoption of sound fishing and boating practices, to promote conservation and the responsible use of the Nation's aquatic resources, and to further safety in fishing and boating; and

''(3) the term 'aquatic resource education program' means a program designed to enhance the public's understanding of aquatic resources and sportfishing, and to promote the development of responsible attitudes and ethics toward the aquatic environment.''.

(b) FUNDING FOR OUTREACH AND COMMUNICATIONS PROGRAM.—Section 4 of the 1950 Act (16 U.S.C. 777c) is amended—

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

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

''(c) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—Of the balance of each such annual appropriation remaining after making the distribution under subsections (a) and (b), respectively, an amount equal to—

''(1) $5,000,000 for fiscal year 1999;

''(2) $6,000,000 for fiscal year 2000;

''(3) $7,000,000 for fiscal year 2001;

''(4) $8,000,000 for fiscal year 2002; and

''(5) $10,000,000 for fiscal year 2003;

shall be used for the National Outreach and Communications Program under section 8(d). Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary of the Interior for

that program may be expended by the Secretary under subsection (e).'';

(3) in subsection (d), as redesignated, by inserting '', for an outreach and communications program'' after ''Act'';

(4) in subsection (d), as redesignated, by striking ''subsections (a) and (b),'' and inserting ''subsections (a), (b), and (c),'';

(5) by adding at the end of subsection (d), as redesignated, the following: ''Of the sum available to the Secretary of the Interior under this subsection for any fiscal year, up to $2,500,000 may be used for the National Outreach and Communications Program under section 8(d) in addition to the amount available for that program under subsection (c). No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this Act. The Secretary shall publish a detailed accounting of the projects, programs, and activities funded under this subsection annually in the Federal Register.''; and

(6) in subsection (e), as redesignated, by striking ''subsections (a), (b), and (c),'' and inserting ''subsections (a), (b), (c), and (d),''.

(c) INCREASE IN STATE ALLOCATION.—Section 8 of the 1950 Act (16 U.S.C. 777g) is amended—

(1) by striking ''12 1/2 percentum'' each place it appears in subsection (b) and inserting ''15 percent'';

(2) by striking ''10 percentum'' in subsection (c) and inserting ''15 percent'';

(3) by inserting ''and communications'' in subsection (c) after ''outreach''; and

(4) by redesignating subsection (d) as subsection (f); and by inserting after subsection (c) the following:

''(d) NATIONAL OUTREACH AND COMMUNICATIONS PROGRAM.—

''(1) IMPLEMENTATION.—Within 1 year after the date of enactment of the Intermodal Transportation Safety Act of 1998, the Secretary of the Interior shall develop and implement, in cooperation and consultation with the Sport Fishing and Boating Partnership Council, a national plan for outreach and communications.

''(2) CONTENT.—The plan shall provide—

''(A) guidance, including guidance on the development of an administrative process and funding priorities, for outreach and communications programs; and

''(B) for the establishment of a national program.

''(3) SECRETARY MAY MATCH OR FUND PROGRAMS.—Under the plan, the Secretary may obligate amounts available under subsection (c) or (d) of section 4 of this Act—

''(A) to make grants to any State or private entity to pay all or any portion of the cost of carrying out any outreach or communications program under the plan; or

''(B) to fund contracts with States or private entities to carry out such a program.

''(4) REVIEW.—The plan shall be reviewed periodically, but not less frequently than once every 3 years.

''(e) STATE OUTREACH AND COMMUNICATIONS PROGRAM.—Within 12 months after the completion of the national plan under subsection (d)(1), a State shall develop a plan for an outreach and communications program and submit it to the Secretary. In developing the plan, a State shall—

''(1) review the national plan developed under subsection (d);

''(2) consult with anglers, boaters, the sportfishing and boating industries, and the general public; and

''(3) establish priorities for the State outreach and communications program proposed for implementation.''.

SEC. 3603. CLEAN VESSEL ACT FUNDING.

Section 4(b) of the 1950 Act (16 U.S.C. 777c(b)) is amended to read as follows:

''(b) USE OF BALANCE AFTER DISTRIBUTION.—

''(1) FISCAL YEAR 1998.—In fiscal year 1998, an amount equal to $20,000,000 of the balance remaining after the distribution under subsection (a) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

''(2) FISCAL YEARS 1999–2003.—For each of fiscal years 1999 through 2003, the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $84,000,000, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

''(A) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note);

''(B) $10,000,000 shall be available for each fiscal year to the Secretary of the Interior for 3 years for obligation for qualified projects under section 3604(d) of the Intermodal Transportation Safety Act of 1998; and

''(C) the balance shall be transferred for each such fiscal year to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.

''(3) TRANSFER OF CERTAIN FUNDS.—Amounts available under subparagraphs (A) and (B) of paragraphs (1) and (2) that are unobligated by the Secretary of the Interior after 3 years shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.''.

SEC. 3604. BOATING INFRASTRUCTURE.

(a) PURPOSE.—The purpose of this section is to provide funds to States for the development and maintenance of public facilities for transient nontrailerable recreational vessels.

(b) SURVEY.—Section 8 of the 1950 Act (16 U.S.C. 777g), as amended by section 3602, is amended by adding at the end thereof the following:

''(g) SURVEYS.—

''(1) NATIONAL FRAMEWORK.—Within 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1998, the Secretary, in consultation with the States, shall adopt a national framework for a public boat access needs assessment which may be used by States to conduct surveys to determine the adequacy, number, location, and quality of facilities providing access to recreational waters for all sizes of recreational boats.

''(2) STATE SURVEYS.—Within 18 months after such date of enactment, each State that agrees to conduct a public boat access needs survey following the recommended national framework shall report its findings to the Secretary for use in the development of a comprehensive national assessment of recreational boat access needs and facilities.

''(3) EXCEPTION.—Paragraph (2) does not apply to a State if, within 18 months after such date of enactment, the Secretary certifies that the State has developed and is implementing a plan that ensures there are and will be public boat access adequate to meet the needs of recreational boaters on its waters.

''(4) FUNDING.—A State that conducts a public boat access needs survey under paragraph (2) may fund the costs of conducting that assessment out of amounts allocated to it as funding dedicated to motorboat access to recreational waters under subsection (b)(1) of this section.''.

(c) PLAN.—Within 6 months after submitting a survey to the Secretary under section 8(g) 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 (16 U.S.C. 777g(g)), as added by subsection (b) of this section, a State may develop and submit to the Secretary a plan for the construction, renovation, and maintenance of public facilities, and access to those facilities, for transient nontrailerable recreational vessels to meet the needs of nontrailerable recreational vessels operating on navigable waters in the State.

(d) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior shall obligate amounts made available under section 4(b)(2)(B) 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 (16 U.S.C. 777c(b)(2)(B)) to make grants to any State to pay not more than 75 percent of the cost to a State of constructing, renovating, or maintaining public facilities for transient nontrailerable recreational vessels.

(2) PRIORITIES.—In awarding grants under paragraph (1), the Secretary shall give priority to projects that—

(A) consist of the construction, renovation, or maintenance of public facilities for transient nontrailerable recreational vessels in accordance with a plan submitted by a State under subsection (c);

(B) provide for public/private partnership efforts to develop, maintain, and operate facilities for transient nontrailerable recreational vessels; and

(C) propose innovative ways to increase the availability of facilities for transient nontrailerable recreational vessels.

(e) DEFINITIONS.—For purposes of this section, the term—

(1) ''nontrailerable recreational vessel'' means a recreational vessel 26 feet in length or longer—

(A) operated primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure;

(2) ''public facilities for transient nontrailerable recreational vessels'' includes mooring buoys, day-docks, navigational aids, seasonal slips, or similar structures located on navigable waters, that are available to the general public and designed for temporary use by nontrailerable recreational vessels; and

(3) ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 3605. BOAT SAFETY FUNDS.

(a) AVAILABILITY OF ALLOCATIONS.—Section 13104(a) of title 46, United States Code, is amended—

(1) in paragraph (1), by striking ''3 years'' and inserting ''2 years''; and

(2) in paragraph (2), by striking ''3-year'' and inserting ''2-year''.

(b) EXPENDITURES.—Section 13106 of title 46, United States Code, is amended—

(1) by striking the first sentence of subsection (a)(1) and inserting the following: ''Subject to paragraph (2) and subsection (c), the Secretary shall expend in each fiscal year for State recreational boating safety programs, under contracts with States under this chapter, an amount equal to the sum of (A) the amount appropriated from the Boat Safety Account for that fiscal year and (B) the amount transferred to the Secretary under section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b)).''; and

(2) by striking subsection (c) and inserting the following:

''(c) Of the amount transferred for each fiscal year to the Secretary of Transportation under section 4(b)(2) of the Act of August 9, 1950 (16 U.S.C. 777c(b)), $5,000,000 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program

under this title. No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this section. Amounts made available by this subsection shall remain available until expended. The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.''.

(c) CONFORMING AMENDMENTS.—

(1) The heading for section 13106 of title 46, United States Code, is amended to read as follows:

''§ 13106. Authorization of appropriations''.

(2) The chapter analysis for chapter 131 of title 46, United States Code, is amended by striking the item relating to section 13106 and inserting the following:

''13106. Authorization of appropriations.''.

Subtitle G—Miscellaneous

SEC. 3701. LIGHT DENSITY RAIL LINE PILOT PROJECTS.

(a) IN GENERAL.—Part B of subtitle V is amended by adding at the end the following new chapter:

''CHAPTER 223—LIGHT DENSITY RAIL LINE PILOT PROJECTS

''Sec.
''22301. Light density rail line pilot projects.

''§ 22301. Light density rail line pilot projects

''(a) GRANTS.—The Secretary of Transportation may make grants to States that have State rail plans described in section 22102 (1) and (2) to fund pilot projects that demonstrate the relationship of light density railroad services to the statutory responsibilities of the Secretary, including those under title 23.

''(b) LIMITATIONS.—Grants under this section may be made only for pilot projects for making capital improvements to, and rehabilitating, publicly and privately owned rail line structures, and may not be used for providing operating assistance.

''(c) PRIVATE OWNER CONTRIBUTIONS.—Grants made under this section for projects on privately owned rail line structures shall include contributions by the owner of the rail line structures, based on the benefit to those structures, as determined by the Secretary.

''(d) STUDY.—The Secretary shall conduct a study of the pilot projects carried out with grant assistance under this section to determine the public interest benefits associated with the light density railroad networks in the States and their contribution to a multimodal transportation system. Not later than March 31, 2003, the Secretary shall report to Congress any recommendations the Secretary considers appropriate regarding the eligibility of light density rail networks for Federal infrastructure financing.

''(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. Such funds shall remain available until expended.''.

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle V is amended by inserting after the item relating to chapter 221 the following new item:

''223. Light Density Rail Line Pilot Projects ..... 22301.''.

SEC. 3702. SECTION 1407.

(a) Strike section 1407 of the bill.

(b) In the table of sections for the bill, strike the item relating to section 1407.

SEC. 3703. DESIGNATION OF NEW MEXICO COMMERCIAL ZONE.

(a) COMMERCIAL ZONE DEFINED.—Notwithstanding the provisions of section 13902(c)(4)(A) of title 49, United States Code, in this section, for the transportation of property only, the term ''commercial zone'' means a zone containing lands adjacent to, and commercially a part of, one or more municipalities with respect to which the exception described in section 13506(b)(1) of title 49, United States Code, applies.

(b) DESIGNATION OF ZONE.—

(1) IN GENERAL.—The area described in paragraph (2) is designated as a commercial zone, to be known as the ''New Mexico Commercial Zone''.

(2) DESCRIPTION OF AREA.—The area described in this paragraph is the area that is comprised of Dona Ana County and Luna County in New Mexico.

(c) SAVINGS PROVISION.—Nothing in this section shall affect any action commenced or pending before the Secretary of Transportation or Surface Transportation Board before the date of enactment of this Act.

TITLE IV—OZONE AND PARTICULATE MATTER STANDARDS

SEC. 4101. FINDINGS AND PURPOSE.

(a) The Congress finds that—

(1) there is a lack of air quality monitoring data for fine particle levels, measured as $PM_{2.5}$, in the United States and the States should receive full funding for the monitoring efforts;

(2) such data would provide a basis for designating areas as attainment or nonattainment for any $PM_{2.5}$ national ambient air quality standards pursuant to the standards promulgated in July 1997;

(3) the President of the United States directed the Administrator in a memorandum dated July 16, 1997, to complete the next periodic review of the particulate matter national ambient air quality standards by July 2002 in order to determine ''whether to revise or maintain the standards'';

(4) the Administrator has stated that 3 years of air quality monitoring data for fine particle levels, measured as $PM_{2.5}$ and performed in accordance with any applicable Federal reference methods, is appropriate for designating areas as attainment or nonattainment pursuant to the July 1997 promulgated standards; and

(5) the Administrator has acknowledged that in drawing boundaries for attainment and nonattainment areas for the July 1997 ozone national air quality standards, Governors would benefit from considering implementation guidance from EPA on drawing area boundaries.

(b) The purposes of this title are—

(1) to ensure that 3 years of air quality monitoring data regarding fine particle levels are gathered for use in the determination of area attainment or nonattainment designations respecting any $PM_{2.5}$ national ambient air quality standards;

(2) to ensure that the Governors have adequate time to consider implementation guidance from EPA on drawing area boundaries prior to submitting area designations respecting the July 1997 ozone national ambient air quality standards;

(3) to ensure that implementation of the July 1997 revisions of the ambient air quality standards are consistent with the purposes of the President's Implementation Memorandum dated July 16, 1997.

SEC. 4102. PARTICULATE MATTER MONITORING PROGRAM.

(a) Through grants under section 103 of the Clean Air Act the Administrator of the Environmental Protection Agency shall use appropriated funds no later than fiscal year 2000 to fund 100 percent of the cost of the establishment, purchase, operation and maintenance of a $PM_{2.5}$ monitoring network necessary to implement the national ambient air quality standards for $PM_{2.5}$ under section 109 of the Clean Air Act. This implementation shall not result in a diversion or reprogramming of funds from other Federal, State or local Clean Air Act activities. Any funds previously diverted or reprogrammed from section 105 Clean Air Act grants for $PM_{2.5}$ monitors must be restored to State or local air programs in fiscal year 1999.

(b) EPA and the States shall ensure that the national network (designated in subsection (a)) which consists of the $PM_{2.5}$ monitors necessary to implement the national ambient air quality standards is established by December 31, 1999.

(c) The Governors shall be required to submit designations for each area following promulgation of the July 1997 $PM_{2.5}$ national ambient air quality standard within 1 year after receipt of 3 years of air quality monitoring data performed in accordance with any applicable Federal reference methods for the relevant areas. Only data from the monitoring network designated in subsection (a) and other Federal reference method $PM_{2.5}$ monitors shall be considered for such designations. In reviewing the State Implementation Plans the Administrator shall consider all relevant monitoring data regarding transport of $PM_{2.5}$.

(d) The Administrator shall promulgate designations of nonattainment areas no later than 1 year after the initial designations required under subsection (c) are required to be submitted. Notwithstanding the previous sentence, the Administrator shall promulgate such designations not later than December 31, 2005.

(e) The Administrator shall 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 micrograms in diameter. This study shall be completed and provided to Congress no later than 2 years from the date of enactment of this legislation.

SEC. 4103. OZONE DESIGNATION REQUIREMENTS.

(a) The Governors shall be required to submit designations of nonattainment areas within 2 years following the promulgation of the July 1997 ozone national ambient air quality standards.

(b) The Administrator shall promulgate final designations no later than 1 year after the designations required under subsection (a) are required to be submitted.

SEC. 4104. ADDITIONAL PROVISIONS.

Nothing in sections 4101–4103 shall be construed by the Administrator of Environmental Protection Agency or any court, State, or person to affect any pending litigation or to be a ratification of the ozone or $PM_{2.5}$ standards.

TITLE V—MASS TRANSIT

SEC. 5001. SHORT TITLE.

This title may be cited as the ''Federal Transit Act of 1998''.

SEC. 5002. AUTHORIZATIONS.

(a) IN GENERAL.—Section 5338 of title 49, United States Code, is amended to read as follows:

''§ 5338. Authorizations

''(a) SECTIONS 5303–5308, 5310, 5311, 5313, 5314, 5317, 5320, 5320a, 5327, AND 5334 (a) AND (c).—

''(1) MASS TRANSIT ACCOUNT AMOUNTS.—Not more than the following amounts are available to the Secretary from the Account to carry out sections 5303 through 5308, 5310, 5311, 5313, 5314, 5317, 5320, 5320a, 5327, and subsections (a) and (c) of section 5334:

''(A) $2,698,790,000 for fiscal year 1998.
''(B) $2,773,934,000 for fiscal year 1999.
''(C) $2,849,079,000 for fiscal year 2000.
''(D) $2,925,965,000 for fiscal year 2001.
''(E) $3,004,667,000 for fiscal year 2002.
''(F) $3,085,725,000 for fiscal year 2003.

''(2) OTHER AMOUNTS.—In addition to amounts made available under paragraph (1), not more than the following amounts may be appropriated to the Secretary to carry out section 5303 through 5308, 5310, 5311, 5313, 5314, 5317, 5320, 5320a, 5327, and subsections (a) and (c) of section 5334:

''(A) $738,000,000 for fiscal year 1998.
''(B) $756,000,000 for fiscal year 1999.
''(C) $774,000,000 for fiscal year 2000.
''(D) $793,000,000 for fiscal year 2001.
''(E) $812,000,000 for fiscal year 2002.
''(F) $832,000,000 for fiscal year 2003.

''(b) SECTION 5309.—Not more than the following amounts are available to the Secretary from the Account to carry out section 5309:

''(1) $2,221,210,000 for fiscal year 1998.
''(2) $2,278,770,000 for fiscal year 1999.
''(3) $2,340,501,000 for fiscal year 2000.
''(4) $2,403,661,000 for fiscal year 2001.
''(5) $2,468,315,000 for fiscal year 2002.
''(6) $2,534,904,000 for fiscal year 2003.

''(c) SECTION 5315.—

''(1) IN GENERAL.—The Secretary shall make available in equal amounts from amounts provided under paragraphs (3) and (4) of subsection (g) of this section, not more than $4,000,000 for each of fiscal years 1998 through 2003, to carry out section 5315.

''(2) WORKPLACE SAFETY.—Not more than $1,000,000 shall be appropriated to the Secretary for each of fiscal years 1998 through 2003, to carry out section 5315(a)(15).

''(d) SECTION 5316.—Not more than the following amounts may be appropriated to the Secretary from the Fund (other than from the Account) for each of fiscal years 1998 through 2003:

''(1) $250,000 to carry out section 5316(a).
''(2) $3,000,000 to carry out section 5316(b).
''(3) $1,000,000 to carry out section 5316(c).
''(4) $1,000,000 to carry out section 5316(d).
''(5) $1,000,000 to carry out section 5316(e).

''(e) SECTION 5317.—Not more than $6,000,000 is available to the Secretary from the Fund (other than from the Account) for each of fiscal years 1998 through 2003, to carry out section 5317.

''(f) SECTION 5307.—Amounts remaining available for each fiscal year under subsection (a) of this section, after allocation under subsections (g), (h), and (i)(2) of this section, are available to carry out section 5307.

''(g) PLANNING, PROGRAMMING, AND RESEARCH.—In each fiscal year, before apportioning amounts made available or appropriated under subsection (a) of this section, an amount equal to 3 percent of amounts made available or appropriated under subsections (a) and (b), less the amounts authorized for purposes of section 5320a, of this section is available as follows:

''(1) 45 percent for metropolitan planning activities under section 5303(g).
''(2) 5 percent to carry out section 5311(b)(2).
''(3) 20 percent to carry out State programs under section 5313.
''(4) 30 percent to carry out the national program under section 5314.

''(h) OTHER SET-ASIDES.—In each fiscal year, before apportioning amounts made available or appropriated under subsection (a) of this section, of amounts made available or appropriated under subsections (a) and (b), less the amounts authorized for purposes of section 5320a, of this section—

''(1) not more than 0.96 percent is available for administrative expenses to carry out subsections (a) and (c) through (f) of section 5334;
''(2) not more than 1.34 percent is available for transportation services to elderly individuals and individuals with disabilities under the formula under section 5310(a); and
''(3) $6,000,000 is available to carry out section 5317 for each of fiscal years 1998 through 2003.

''(i) LIMITATIONS.—Of amounts made available—

''(1) under subsection (a)(2), less the amounts authorized for purposes of section 5320a, of this section—

''(A) 3.5 percent may be used to finance programs and activities, including administrative costs, under section 5310;

''(B) to finance research, development, and demonstration projects under section 5312(a), 1.5 percent may be used to increase the information and technology available to provide improved mass transportation service and facilities planned and designed to meet the special needs of elderly individuals and individuals with disabilities; and

''(C) not more than 12.5 percent may be used for grants to any 1 State under section 5312(c)(2);

''(2) under subsection (a) of this section, less the amounts authorized for purposes of section 5320a, 5.5 percent of the amount remaining available each year, after allocation under subsections (g) and (h) of this section, is available under the formula under section 5311; and

''(3) under section 5309(m)(1)(C), the lesser of $3,000,000 or an amount that the Secretary determines is necessary for each fiscal year is available to carry out section 5318 for each of fiscal years 1998 through 2003.

''(j) GRANTS AS CONTRACTUAL OBLIGATIONS.—

''(1) FEDERAL OBLIGATIONS.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (a)(1), (b), (c), (d), or (e) of this section, is a contractual obligation of the United States Government to pay the Government's share of the cost of the project.

''(2) APPROPRIATIONS LIMITATION.—A grant or contract approved by the Secretary that is financed with amounts made available under subsection (a)(2) of this section, is a contractual obligation of the United States Government to pay the Government's share of the cost of the project, only to the extent that amounts are provided in advance in an appropriations Act.

''(k) EARLY APPROPRIATIONS AND AVAILABILITY OF AMOUNTS.—

''(1) EARLY APPROPRIATION.—Amounts appropriated under subsection (a)(2) of this section to carry out section 5311 may be appropriated in the fiscal year before the fiscal year in which the appropriation is available for obligation.

''(2) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under subsections (a), (b), and (g), paragraphs (1) and (2) of subsection (h), and subsection (i)(2) of this section shall remain available until expended.

''(l) SECTION 5308.—In each fiscal year, before apportioning or allocating amounts made available or appropriated under subsections (a) and (b), of amounts made available or appropriated under subsections (a) or (b) of this section, not more than $200,000,000 is available to carry out section 5308, with $100,000,000 made available from amounts made available from amounts provided under subsection (a)(2) of this section and $100,000,000 made available from amounts provided under subsection (b) of this section.

''(m) SECTION 5320a.—In each fiscal year, before apportioning amounts made available or appropriated under subsection (a), of amounts appropriated under subsection (a)(2) of this section, not more than $250,000,000 is available to carry out section 5320a.

''(n) TRANSIT EQUITY PROGRAM.—

''(1) IN GENERAL.—The purpose of this subsection is to further the national interest by providing proportional increases in funding for national mass transit programs, commensurate with increases in national highway programs, in order to ensure balanced improvement in the national intermodal transportation system.

''(2) FUNDING.—There are authorized to be appropriated to carry out this subsection, from the General Fund of the Treasury of the United States, the following amounts:

''(A) $1,000,000,000 for fiscal year 1999.
''(B) $1,000,000,000 for fiscal year 2000.
''(C) $1,000,000,000 for fiscal year 2001.
''(D) $1,000,000,000 for fiscal year 2002.
''(E) $1,000,000,000 for fiscal year 2003.

''(3) ELIGIBLE USES.—Amounts made available to carry out this subsection shall be available for capital projects eligible under sections 5307, 5309, 5310, and 5311, including meeting obligations of the United States associated with multiyear funding commitments, full funding grant agreements under section 5309, and innovative financing activities.

''(4) CONTINGENT COMMITMENT AUTHORITY.—Notwithstanding subsection (g)(4) of section 5309, the total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent and full financing grant agreements may be greater than the amounts authorized under subsection (b) of this section by an amount equal to not more than the amount authorized to be appropriated under paragraph (6) of this subsection as of the end of fiscal year 2003.

''(5) FIXED GUIDEWAY MODERNIZATION.—In addition to amounts authorized in section 5338(b), the following amounts are authorized to be appropriated to the Secretary, to be added to amounts allocated under section 5309(m)(1)(A) for fixed guideway modernization:

''(A) $100,000,000 for fiscal year 1999.
''(B) $100,000,000 for fiscal year 2000.
''(C) $100,000,000 for fiscal year 2001.
''(D) $100,000,000 for fiscal year 2002.
''(E) $100,000,000 for fiscal year 2003.

''(6) CAPITAL PROJECTS FOR FIXED GUIDEWAY SYSTEMS.—

''(A) IN GENERAL.—In addition to amounts authorized in under subsection (b) of this section, the following amounts are authorized to be appropriated to the Secretary, to be added to amounts allocated under section 5309(m)(1)(B) for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems:

''(i) $470,000,000 for fiscal year 1999.
''(ii) $470,000,000 for fiscal year 2000.
''(iii) $470,000,000 for fiscal year 2001.
''(iv) $470,000,000 for fiscal year 2002.
''(v) $470,000,000 for fiscal year 2003.

''(B) FERRY BOAT SYSTEMS.—Not less than 2.8 percent of the amount made available under subparagraph (A) in any fiscal year shall be available for capital projects for existing and new fixed guideway systems that are ferry boats, ferry terminal facilities, that are approaches to ferry terminal facilities in the noncontiguous States.

''(7) BUSES AND RELATED EQUIPMENT.—In addition to amounts authorized in section 5338(b), the following amounts are authorized to be appropriated to the Secretary, to be added to amounts allocated under section 5309(m)(1)(C) to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities:

''(A) $80,000,000 for fiscal year 1999.
''(B) $80,000,000 for fiscal year 2000.
''(C) $80,000,000 for fiscal year 2001.
''(D) $80,000,000 for fiscal year 2002.
''(E) $80,000,000 for fiscal year 2003.

''(8) URBANIZED AREAS; ELDERLY INDIVIDUALS AND DISABLED INDIVIDUALS.—

''(A) IN GENERAL.—In addition to amounts authorized in section 5338(a) for activities under sections 5307 and 5310, the following amounts are authorized to be appropriated to the Secretary, to be added to amounts made available for activities under section 5307 for urbanized areas and for activities under section 5310 for elderly individuals and individuals with disabilities:

''(i) $250,000,000 for fiscal year 1999.
''(ii) $250,000,000 for fiscal year 2000.
''(iii) $250,000,000 for fiscal year 2001.
''(iv) $250,000,000 for fiscal year 2002.
''(v) $250,000,000 for fiscal year 2003.

''(B) ALLOCATION.—Of the amount appropriated under this paragraph for each fiscal year—

''(i) 97 percent is available for activities under section 5307; and

''(ii) 3 percent is available for activities under section 5310.

''(9) OTHER THAN URBANIZED AREAS.—In addition to amounts authorized in section 5338(a) for areas other than urbanized areas, the following amounts are authorized to be appropriated to the Secretary, to be added to amounts made available for assistance for areas other than urbanized areas under section 5311:

''(A) $100,000,000 for fiscal year 1999.
''(B) $100,000,000 for fiscal year 2000.
''(C) $100,000,000 for fiscal year 2001.
''(D) $100,000,000 for fiscal year 2002.
''(E) $100,000,000 for fiscal year 2003.

''(o) DEFINITIONS.—In this section—

''(1) the term 'Account' means the Mass Transit Account of the Highway Trust Fund;

''(2) the term 'Fund' means the Highway Trust Fund established under section 9503 of the Internal Revenue Code of 1986; and

''(3) the term 'Secretary' means the Secretary of Transportation.''.

(b) WORK AGREEMENTS AS OBLIGATIONS.—Section 5309(g)(3)(B) of title 49, United States Code, is amended by adding at the end the following: ''The work agreement shall state that the work agreement is not an obligation of the Government.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Chapter 53 of title 49, United States Code, is amended—

(1) in section 5318(d), by striking ''5338(j)(5)'' and inserting ''5338(i)(3)''; and

(2) in section 5333(b)(1), by striking ''5338(j)(5)'' each place that term appears and inserting ''5338(i)(3)''.

SEC. 5003. CAPITAL PROJECTS AND SMALL AREA FLEXIBILITY.

(a) IN GENERAL.—Section 5302 of title 49, United States Code, is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by inserting ''intelligent transportation systems,'' after ''rights agreements,'';

(B) in subparagraph (C), by striking ''or'' at the end;

(C) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

''(E) preventive maintenance;

''(F) the leasing of equipment and facilities for use in mass transportation;

''(G) the introduction of new technology, through innovative and improved products, into mass transportation; or

''(H) a mass transportation improvement that enhances economic development or incorporates private investment, including commercial and residential development, pedestrian and bicycle access to a mass transportation facility, and the renovation and improvement of historic transportation facilities, because the improvement—

''(i) enhances the effectiveness of a mass transportation project and is related physically or functionally to that mass transportation project or establishes new or enhanced coordination between mass transportation and other transportation;

''(ii) provides a fair share of revenue for mass transportation that will be used for mass transportation; and

''(iii) provides nonfixed route paratransit transportation services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143);''; and

(2) by adding at the end the following:

''(c) ELIGIBLE COSTS OF PROJECTS THAT ENHANCE URBAN ECONOMIC DEVELOPMENT OR INCORPORATE PRIVATE INVESTMENT.—Eligible costs for a capital project described in subsection (a)(1)(H)—

''(1) include property acquisition, demolition of existing structures, site preparation, utilities, building foundations, walkways, open space, safety elements (such as lighting, surveillance, and community police and security services) that protect a transit project eligible under this chapter, and a capital project for, and improving, equipment or a facility for an intermodal transfer facility or transportation mall; and

''(2) do not include construction of a commercial revenue-producing facility or a part of a public facility not related to mass transportation, except that, if such facilities incorporate community services such as daycare, health care, and public safety, the portion of the facilities related to such community services are eligible costs under this chapter.''.

(b) SMALL AREA FLEXIBILITY.—Section 5307(b)(1) of title 49, United States Code, is amended by adding at the end the following: ''The Secretary may also make grants under this section to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of less than 200,000.''.

(c) DISCRETIONARY GRANTS AND LOANS.—Section 5309 of title 49, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking subparagraphs (D) and (E); and

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

(2) in subsection (f)—

(A) by striking ''(f)'' and all that follows through ''(1) Each'' and inserting the following: ''(f) REQUIRED PAYMENTS.—Each''; and

(B) by striking paragraph (2).

SEC. 5004. METROPOLITAN PLANNING.

(a) IN GENERAL.—Section 5303 of title 49, United States Code, is amended—

(1) by striking subsections (a) and (b) and inserting the following:

''(a) DEVELOPMENT REQUIREMENTS.—

''(1) IN GENERAL.—To carry out section 5301(a), metropolitan planning organizations designated under subsection (c) of this section, in cooperation with the States and mass transportation operators, shall develop transportation plans and programs for urbanized areas of the State.

''(2) PLAN CONTENTS.—The plans and programs developed under paragraph (1) for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

''(3) DEVELOPMENT PROCESS.—The development process for 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.

''(b) SCOPE OF PLANNING PROCESS.—

''(1) IN GENERAL.—The metropolitan transportation planning process for a metropolitan area under this section and sections 5304 through 5306 shall provide for consideration of—

''(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

''(B) increasing the safety and security of the transportation system for motorized and nonmotorized users;

''(C) increasing the accessibility and mobility options available to people and for freight;

''(D) protecting and enhancing the environment, promoting energy conservation and improved quality of life, and coordinating land-use and transportation plans and programs;

''(E) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight;

''(F) promoting efficient system management and operation; and

''(G) emphasizing the preservation of the existing transportation system.

''(2) GOALS.—In cooperation with the State and mass transportation operators, and with opportunity for public review and comment, the metropolitan planning organization shall establish goals that relate to the factors described in paragraph (1), and propose projects, programs, and strategies to achieve those goals.'';

(2) in subsection (c)—

(A) in paragraph (1), by striking subparagraph (A) and inserting the following:

''(A) by agreement between the chief executive officer of the State and units of general purpose local government that together represent not less than 60 percent of the affected population (including the central city, as defined by the Bureau of the Census) and 60 percent of such units of government; or'';

(B) in paragraph (2)—

(i) by striking ''In a metropolitan area'' and all that follows through ''shall include'' and inserting ''Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area when designated or redesignated under this subsection shall consist of''; and

(ii) by striking ''officials of authorities'' and inserting ''officials of public agencies'';

(C) in paragraph (3), by striking ''in an urbanized area'' and all that follows through ''officer decides'' and inserting ''within an existing metropolitan planning area only if the chief executive officer of the State and the existing metropolitan organization determine''; and

(D) in paragraph (5)—

(i) in subparagraph (A)—

(I) by striking ''75'' and inserting ''60''; and

(II) by striking ''as defined by the Secretary of Commerce)'' and inserting ''or cities, as defined by the Bureau of the Census) and 60 percent of such units of government''; and

(ii) by adding at the end the following:

''(D) Designations of metropolitan planning organizations, whether made under this section or under any other provision of law, shall remain in effect until redesignation under this paragraph.'';

(3) in subsection (d)—

(A) by inserting ''(1)'' before ''To carry out this section'';

(B) by striking ''Secretary of Commerce'' and inserting ''Bureau of the Census'';

(C) by inserting ''in existence as of the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998'' after ''at least the boundaries of the nonattainment area'';

(D) by inserting '', in the manner described in subsection (c)(5)'' before the period at the end; and

(E) by adding at the end the following:

''(2) In the case of an urbanized area classified as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1998—

''(A) the boundaries of the metropolitan planning area shall be established by agreement between the appropriate units of general purpose local government (including the central city) and the chief executive officer of the State; and

''(B) the area shall include at least the urbanized area and the contiguous area expected to become urbanized within the 20-year forecast period, and may include the Metropolitan Statistical Area or Consolidated Metropolitan Statistical Area, as determined by the Bureau of the Census, and any area identified as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).'';

(4) in subsection (e)—

(A) in paragraph (2)—

(i) by inserting ''or compact'' after ''agreement'' the first place that term appears''; and

(ii) by striking ''making the agreement effective'' and inserting ''making the agreements and compacts effective''; and

(B) by adding at the end the following:

''(4) To the maximum extent practicable, each metropolitan planning organization shall coordinate with governmental agencies and nonprofit organizations operating within an existing metropolitan planning area that receive assistance from governmental sources (other than the Department of Transportation) to provide nonemergency transportation services. Such governmental agencies and nonprofit organizations shall participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services. The purpose of such coordination is to maximize the efficient use of resources and to integrate all such services to ensure accessibility and mobility.''; and

(5) in subsection (f)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''United States and regional functions'' and inserting ''national, regional, and metropolitan transportation functions'';

(ii) in subparagraph (B), by striking clause (iii) and inserting the following:

''(iii) recommends any additional financing strategies for needed projects and programs;''; and

(iii) by striking subparagraph (C) and inserting the following:

''(C) identify transportation strategies necessary—

''(i) to ensure preservation, including requirements for management, operation, modernization, and rehabilitation, of the existing and future transportation system; and

''(ii) to use existing transportation facilities most efficiently to relieve congestion, to efficiciently serve the mobility needs of people and goods, and to enhance access within the metropolitan planning area; and'';

(B) in paragraph (2), by striking ''as they are related to a 20-year forecast period'' and inserting ''and any State or local goals developed within the cooperative metropolitan planning process as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process. In developing long-range plans, the metropolitan planning organization shall take into account the impact of all transportation projects and development plans that will affect the transportation system in the metropolitan area, without regard to whether such projects are financed with Federal funds'';

(C) in paragraph (4), by inserting ''freight shippers,'' after ''employees,''; and

(D) in paragraph (5)(A), by inserting ''published or otherwise'' before ''made readily available''.

(b) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—Section 5304 of title 49, United States Code, is amended—

(1) in subsection (a), in the second sentence, by striking ''the organization'' and inserting ''the metropolitan planning organization, in cooperation with the chief executive officer of the State and any affected mass transportation operator,'';

(2) in subsection (b)(2), by striking subparagraph (C) and inserting the following:

''(C) identifies innovative financing techniques to finance projects, programs, and strategies.''; and

(3) in subsection (c)—

(A) in paragraph (1), by inserting ''and the designated recipient under this chapter'' after ''metropolitan planning organization''; and

(B) by adding at the end the following:

''(3) Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project of higher priority in the program, except where the project is relevant to conformity with the Clean Air Act (42 U.S.C. 7401 et seq.).

''(4) A transportation improvement program and the annual selection of projects involving Government participation shall be published or otherwise made readily available for public review, identifying federally funded projects, and the estimated costs and locations of those projects.

''(5) Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program. All other projects funded under chapter 2 of title 23 shall be grouped in 1 line item or identified individually in the transportation improvement program.''.

(c) TRANSPORTATION MANAGEMENT AREAS.—Section 5305 of title 49, United States Code, is amended—

(1) in subsection (a), by striking paragraph (2) and inserting the following:

''(2) any other area, if requested by the chief executive officer and the metropolitan planning organization designated for the area.'';

(2) in subsection (b), by inserting ''affected'' before ''mass transportation operators'';

(3) in subsection (c), by striking ''The Secretary'' and all that follows through the final period;

(4) in subsection (d)(1)(A)—

(A) by inserting ''and any affected mass transportation operator'' after ''the State''; and

(B) by striking ''or under the Bridge and Interstate Maintenance programs'';

(5) in subsection (d)(1)(B), by striking ''or under the Bridge and Interstate Maintenance programs''; and

(6) in subsection (e), by striking paragraph (2) and inserting the following:

''(2)(A) If a metropolitan planning process is not certified or is certified conditionally, the Secretary may withhold not more than 20 percent of the apportioned funds attributable to the transportation management area under this chapter and title 23, or may establish such other conditions as the Secretary determines to be appropriate.

''(B) Any apportionments withheld under subparagraph (A) shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.''.

(d) STATEWIDE PLANNING.—

(1) IN GENERAL.—Chapter 53 of title 49, United States Code, is amended by inserting after section 5305 the following:

''§ 5305a. Statewide planning

''(a) DEVELOPMENT REQUIREMENTS.—

''(1) IN GENERAL.—To carry out sections 5303 through 5305 of this chapter and section 134 of title 23, each State shall develop transportation plans and programs for all areas of the State, which shall provide for the development and integrated management and operation of transportation systems (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal State transportation system and an integral part of the intermodal transportation system of the United States.

''(2) SPECIFIC REQUIREMENTS.—The development of the plans and programs under paragraph (1) shall—

''(A) provide for consideration of all modes of transportation; and

''(B) be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

''(b) SCOPE OF PLANNING PROCESS.—

''(1) IN GENERAL.—Each State shall carry out a transportation planning process under this section, which shall provide for consideration of—

''(A) supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;

''(B) increasing the safety and security of the transportation system for motorized and nonmotorized users;

''(C) increasing the accessibility and mobility options available to people and for freight;

''(D) protecting and enhancing the environment, promoting energy conservation and improved quality of life, and coordinating land-use and transportation plans and programs;

''(E) enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight;

''(F) promoting efficient system management and operation; and

''(G) emphasizing the preservation of the existing transportation system.

''(2) GOALS.—In cooperation with the metropolitan planning organization and mass transportation operators, and with opportunity for public review and comment, the State shall establish goals that relate to the factors described in paragraph (1), and propose projects, programs, and strategies to achieve those goals.

''(c) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—

''(1) IN GENERAL.—In carrying out the planning under this section, a State shall—

''(A) coordinate the planning with the transportation planning activities carried out under sections 5303 through 5305 of this chapter and section 134 of title 23, for metropolitan areas of the State;

''(B) carry out the responsibilities of the State for the development of the transportation portion of the State air quality implementation plan, to the extent required by the Clean Air Act (42 U.S.C. 7401 et seq.); and

''(C) to the maximum extent practicable, coordinate with all other governmental agencies and nonprofit organizations operating within the State planning area that receive assistance from governmental sources (other than the Department of Transportation) to provide nonemergency transportation services.

''(2) PARTICIPATION.—The governmental agencies and nonprofit organizations described in paragraph (1)(C) shall participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services.

''(3) PURPOSE OF COORDINATION.—The purpose of coordination under this subsection is to maximize the efficient use of resources and to integrate all such services to ensure accessibility and mobility.

''(d) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum, consider—

''(1) with respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;

''(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

''(3) coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.

''(e) LONG-RANGE TRANSPORTATION PLAN.—

''(1) IN GENERAL.—Each State shall develop a long-range transportation 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) COOPERATION.—With respect to each metropolitan area in the State, the long-range transportation plan referred to in paragraph (1) shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303 and section 134 of title 23. With respect to each nonmetropolitan area, the long-range transportation plan shall be developed in consultation with local elected officials representing units of general purpose local government. With respect to each area of the State under the jurisdiction of an Indian tribal government, the long-range transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

''(3) OPPORTUNITY FOR COMMENT.—In developing the long-range transportation plan under this subsection, the State shall provide citizens, affected public agencies, representatives of transportation authority employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan.

''(4) TRANSPORTATION STRATEGIES.—The long-range transportation plan developed under this subsection shall identify transportation strategies necessary to efficiently serve the mobility needs of individuals.

''(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.—

''(1) IN GENERAL.—The State shall develop a transportation improvement program for all areas of the State.

''(2) COOPERATION.—With respect to each metropolitan area in the State, the transportation

improvement program under this subsection shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303 and section 134 of title 23. With respect to each nonmetropolitan area, the program shall be developed in consultation with local elected officials representing units of general purpose local government. 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) OPPORTUNITY FOR COMMENT.—In developing the transportation improvement program under this subsection, the State shall provide citizens, affected public agencies, representatives of transportation authority employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

''(4) REQUIRED INFORMATION.—A transportation improvement program developed for a State under this subsection shall include federally supported surface transportation expenditures within the boundaries of the State. Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually. All other projects funded under chapter 2 of title 23 shall be grouped in 1 line item or identified individually in the transportation improvement program.

''(5) SPECIFIC REQUIREMENTS.—Each project shall—

''(A) be consistent with the long-range transportation plan developed under this section for the State;

''(B) be identical to the project described in an approved metropolitan transportation improvement program; and

''(C) be 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.

''(6) PROJECTS.—The transportation improvement program developed under this subsection shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

''(7) PRIORITIES.—The transportation improvement program developed under this subsection shall reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this chapter.

''(8) SMALL AREAS.—Projects carried out in areas with populations of less than 50,000—

''(A) excluding projects carried out on the National Highway System, shall be selected from the approved statewide transportation improvement program by the State in cooperation with the affected local officials; and

''(B) on the National Highway System, shall be selected from the approved statewide transportation improvement program by the State, in consultation with the affected local officials.

''(9) REVIEW.—A transportation improvement program developed under this subsection shall be reviewed and, on a finding that the planning process through which the program was developed is consistent with this section and section 5303, approved not less frequently than biennially by the Secretary. Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide transportation improvement program in place of another project of higher priority in the program, except where the project is relevant to conformity with the Clean Air Act (42 U.S.C. 7401 et seq.).

''(g) AVAILABLE FUNDS.—Amounts set aside under section 5313(b) of this chapter and section 505 of title 23 shall be available to carry out this section.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 53 of title 49, United States Code, is amended by inserting after the item relating to section 5305 the following:

''5305a. Statewide planning.''.

SEC. 5005. METROPOLITAN PLANNING ORGANIZATIONS.

Section 5303(c)(2) of title 49, United States Code, is amended by striking ''and appropriate State officials'' and inserting ''appropriate State officials, and a representative of the users of public transit''.

SEC. 5006. FARE BOX REVENUES.

(a) BLOCK GRANTS.—Section 5307(e) of title 49, United States Code, is amended—

(1) in the first sentence, by striking ''A grant of'' and inserting the following:

''(1) IN GENERAL.—A grant of'';

(2) in the fourth sentence, by striking ''or revenues from'' and all that follows through ''1985)'';

(3) in the last sentence, by inserting ''proceeds from a local issuance of debt,'' after ''cash fund or reserve,''; and

(4) by adding at the end the following:

''(2) MAINTENANCE OF EFFORT.—The credit given for the use of proceeds from a local issuance of debt in meeting the non-Federal share under paragraph (1) shall not reduce or replace State monies required to match Federal funds for any program pursuant to this chapter. In receiving a credit for non-Federal capital expenditures under this section, a State shall enter into such agreements as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding 3 fiscal years.''.

(b) DISCRETIONARY GRANTS AND LOANS.—Section 5309(h) of title 49, United States Code, is amended in the fourth sentence, by inserting ''proceeds from a local issuance of debt,'' after ''cash fund or reserve.''.

SEC. 5007. CLEAN FUELS FORMULA GRANT PROGRAM.

(a) IN GENERAL.—Section 5308 of title 49, United States Code, is amended to read as follows:

''§ 5308. Clean fuels formula grant program

''(a) DEFINITIONS.—In this section—

''(1) the term 'designated recipient' has the same meaning as in section 5307(a);

''(2) the term 'eligible project'—

''(A) means a project for the—

''(i) purchase or lease of clean fuel vehicles or hybrid transit vehicles, including clean fuel vehicles that employ a lightweight composite primary structure;

''(ii) construction or leasing of clean fuel vehicle fueling or electrical recharging facilities and related equipment;

''(iii) improvement of existing transit facilities to accommodate clean fuel vehicles; or

''(iv) incremental costs of biodiesel fuel; and

''(B) in the discretion of the Secretary, may include projects relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology vehicles that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies; and

''(3) the term 'Secretary' means the Secretary of Transportation.

''(b) AUTHORITY.—The Secretary shall make grants in accordance with this section to designated recipients to finance eligible projects.

''(c) APPLICATION.—Not later than January 1 of each year, any designated recipient seeking to apply for a grant under this section for an eligible project shall submit an application to the Secretary, in such form and in accordance with such requirements as the Secretary shall establish by regulation.

''(d) APPORTIONMENT OF FUNDS.—

''(1) FORMULA.—Not later than February 1 of each year, the Secretary shall apportion amounts made available under this section to designated recipients submitting applications under subsection (c) in accordance with the following:

''(A) Two-thirds of the amount made available under this section shall be apportioned to designated recipients with eligible projects in urban areas with a population of not less than 1,000,000 as follows:

''(i) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

''(I) the number of vehicles in the bus fleet of the eligible project of the designated recipient, weighted by severity of nonattainment for the area in which the eligible project is located, as provided in paragraph (2); and

''(II) the total number of vehicles in the bus fleets of all eligible projects in areas with a population of not less than 1,000,000 funded under this section, weighted by severity of nonattainment for all areas in which those eligible projects are located, as provided in paragraph (2).

''(ii) 50 percent of the amount made available under this section shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

''(I) the number of bus passenger miles (as that term is defined in section 5336(c)) of the eligible project of the designated recipient, weighted by severity of nonattainment of the area in which the eligible project is located, as provided in paragraph (2); and

''(II) the total number of bus passenger miles of all eligible projects in areas with a population of not less than 1,000,000 funded under this section, weighted by severity of nonattainment of all areas in which those eligible projects are located, as provided in paragraph (2).

''(B) One-third of the amount made available under this section shall be apportioned to designated recipients with eligible projects in urban areas with a population of less than 1,000,000 as follows:

''(i) 50 percent shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

''(I) the number of vehicles in the bus fleet of the eligible project of the designated recipient, weighted by severity of nonattainment for the area in which the eligible project is located, as provided in paragraph (2); and

''(II) the total number of vehicles in the bus fleets of all eligible projects in areas with a population of less than 1,000,000 funded under this section, weighted by severity of nonattainment for all areas in which those eligible projects are located, as provided in paragraph (2).

''(ii) 50 percent of the amount made available under this section shall be apportioned, such that each such designated recipient receives a grant in an amount equal to the ratio between—

''(I) the number of bus passenger miles (as that term is defined in section 5336(c)) of the eligible project of the designated recipient, weighted by severity of nonattainment of the area in which the eligible project is located, as provided in paragraph (2); and

''(II) the total number of bus passenger miles of all eligible projects in areas with a population of less than 1,000,000 funded under this section, weighted by severity of nonattainment of all areas in which those eligible projects are located, as provided in paragraph (2).

''(2) WEIGHTING OF SEVERITY OF NONATTAINMENT.—

''(A) IN GENERAL.—For purposes of paragraph (1), subject to subparagraph (B) of this paragraph, the number of clean fuel vehicles in the fleet, or the number of passenger miles, shall be multiplied by a factor of—

''(i) 1.0 if, at the time of the apportionment, the area is a maintenance area (as that term is defined in section 101 of title 23) for ozone or carbon monoxide;

''(ii) 1.1 if, at the time of the apportionment, the area is classified as—

''(I) a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

''(II) a marginal carbon monoxide nonattainment area under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.);

''(iii) 1.2 if, at the time of the apportionment, the area is classified as—

''(I) a moderate ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

''(II) a moderate carbon monoxide nonattainment area under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.);

''(iv) 1.3 if, at the time of the apportionment, the area is classified as—

''(I) a serious ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

''(II) a serious carbon monoxide nonattainment area under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.);

''(v) 1.4 if, at the time of the apportionment, the area is classified as—

''(I) a severe ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

''(II) a severe carbon monoxide nonattainment area under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.); or

''(vi) 1.5 if, at the time of the apportionment, the area is classified as—

''(I) an extreme ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.); or

''(II) an extreme carbon monoxide nonattainment area under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.).

''(B) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being classified as a nonattainment or maintenance area (as that term is defined in section 101 of title 23) for ozone under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.), the area was also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area for carbon monoxide, the weighted nonattainment or maintenance area fleet and passenger miles for the eligible project, as calculated under subparagraph (A), shall be further multiplied by a factor of 1.2.

''(3) MAXIMUM GRANT AMOUNT.—

''(A) IN GENERAL.—The amount of a grant made to a designated recipient under this section shall not exceed the lesser of—

''(i) for an eligible project in an area—

''(I) with a population of less than 1,000,000, $15,000,000; and

''(II) with a population of not less than 1,000,000, $25,000,000; or

''(ii) 80 percent of the total cost of the eligible project.

''(B) REAPPORTIONMENT.—Any amounts that would otherwise be apportioned to a designated recipient under this subsection that exceed the amount described in subparagraph (A) shall be reapportioned among other designated recipients in accordance with paragraph (1).

''(e) AUTHORIZATION.—

''(1) IN GENERAL.—Subject to paragraph (2), in each fiscal year, $200,000,000 shall be made available or appropriated under subsections (a) and (b) of section 5338 to carry out this section.

''(2) ADDITIONAL REQUIREMENT.—Notwithstanding any other provision of this section, not less than 5 percent of the amount apportioned under this section in each fiscal year shall be apportioned to fund any eligible projects, for which an application is received from a designated recipient in accordance with subsection (a), for—

''(A) the purchase or construction of hybrid electric or battery-powered buses; or

''(B) facilities specifically designed to service those buses.

''(f) AVAILABILITY OF FUNDS.—Any amount made available or appropriated under this section—

''(1) shall remain available for 1 year after the fiscal year for which the amount is made available or appropriated; and

''(2) that remains unobligated at the end of the period described in paragraph (1), shall be added to the amount made available in the following fiscal year.''.

(b) DEFINITION OF CLEAN FUEL VEHICLE.—Section 5302(a) of title 49, United States Code, is amended—

(1) in each of paragraphs (2) through (12), by striking the period at the end and inserting a semicolon;

(2) in paragraph (13), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(14) 'clean fuel vehicle' means a vehicle powered by compressed natural gas, liquefied natural gas, biodiesel fuels, batteries, alcohol-based fuels, or hybrid electric, fuel cell, or other zero emissions technology.''.

(c) CLERICAL AMENDMENT.—The analysis for chapter 53 of title 49, United States Code, is amended by striking the item relating to section 5308 and inserting the following:

''5308. Clean fuels formula grant program.''.

SEC. 5008. CAPITAL INVESTMENT GRANTS AND LOANS.

(a) IN GENERAL.—Section 5309 of title 49, United States Code, is amended in the section heading, by striking ''**Discretionary**'' and inserting ''**Capital investment**''.

(b) ALLOCATING AMOUNTS.—Section 5309(m)(1) of title 49, United States Code, is amended by striking ''Of the amounts available for grants and loans under this section for each of the fiscal years ending September 30, 1993–1997'' and inserting ''After apportioning amounts for the purposes of section 5308, of the amounts available for grants and loans under this section for each of fiscal years 1993 through 2003''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 53 of title 49, United States Code, is amended in the item relating to section 5309, by striking ''Discretionary'' and inserting ''Capital investment''.

SEC. 5009. TRANSIT SUPPORTIVE LAND USE.

Section 5309(e)(3)(B) of title 49, United States Code, is amended by inserting '', and recognize reductions in local infrastructure costs achieved through compact land use development'' before the semicolon.

SEC. 5010. NEW STARTS.

Section 5309(m) of title 49, United States Code, is amended by adding at the end the following:

''(5) Not more than 8 percent of the amount made available under paragraph (1)(B) in any fiscal year shall be available for activities other than final design and construction.''.

SEC. 5011. JOINT PARTNERSHIP FOR DEPLOYMENT OF INNOVATION.

Section 5312 of title 49, United States Code, is amended by adding at the end the following:

''(d) JOINT PARTNERSHIP PROGRAM FOR DEPLOYMENT OF INNOVATION.—

''(1) DEFINITION OF CONSORTIUM.—In this subsection, the term 'consortium'—

''(A) means—

''(i) 1 or more public or private organizations located in the United States, that provides mass transportation service to the public; and

''(ii) 1 or more businesses, including small- and medium-sized businesses, incorporated in a State, offering goods or services or willing to offer goods and services to mass transportation operators; and

''(B) may include, as additional members, public or private research organizations located in the United States, or State or local governmental authorities.

''(2) GENERAL AUTHORITY.—The Secretary may, under terms and conditions that the Secretary prescribes, enter into grants, contracts, cooperative agreements, and other agreements with consortia selected in accordance with paragraph (4), to promote the early deployment of innovation in mass transportation technology, services, management, or operational practices. This paragraph shall be carried out in consultation with the transit industry by competitively selected public/private partnerships that will share costs, risks, and rewards of early deployment of innovation with broad applicability.

''(3) CONSORTIUM CONTRIBUTION.—A consortium assisted under this subsection shall provide not less than 50 percent of the costs of any joint partnership project. Any business, organization, person, or governmental body may contribute funds to a joint partnership project.

''(4) NOTICE REQUIREMENT.—The Secretary shall periodically give public notice of the technical areas for which joint partnerships are solicited, required qualifications of consortia desiring to participate, the method of selection and evaluation criteria to be used in selecting participating consortia and projects, and the process by which innovation projects described in paragraph (1) will be awarded.

''(5) USE OF REVENUES.—The Secretary shall, to the maximum extent practicable, accept a portion of the revenues resulting from sales of an innovation project funded under this section, to be credited to the Mass Transit Account of the Highway Trust Fund and used for joint partnership projects in accordance with this subsection.''.

SEC. 5012. WORKPLACE SAFETY.

Section 5315(a) of title 49, United States Code, is amended—

(1) in paragraph (13), by striking ''and'' at the end;

(2) in paragraph (14), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(15) workplace safety.''.

SEC. 5013. UNIVERSITY TRANSPORTATION CENTERS.

(a) IN GENERAL.—Subchapter IV of chapter 52 of title 49, United States Code (as added by section 2003(a) of this Act), is repealed effective 1 day after the date of enactment of this Act.

(b) REPEAL.—

(1) IN GENERAL.—Section 2003(b) of this Act, and the amendments made by that section, are repealed effective 1 day after the date of enactment of this Act.

(2) APPLICABILITY.—Effective 1 day after the date of enactment of this Act, sections 5316 and 5317 of title 49, United States Code, and the items relating to sections 5316 and 5317 in the analysis for chapter 53 of title 49, United States Code, shall be applied and administered as if section 2003(b) of this Act had not been enacted.

(c) ESTABLISHMENT OF CENTER.—Section 5317(b) of title 49, United States Code, is amended by adding the following new paragraph:

''(6) The Secretary shall make grants to the University of Alabama Transportation Research Center to establish a university Transportation Center.''.

SEC. 5014. JOB ACCESS AND REVERSE COMMUTE GRANTS.

(a) FINDINGS.—Congress finds that—

(1) two-thirds of all new jobs are in the suburbs, whereas three-quarters of welfare recipients live in rural areas or central cities;

(2) even in metropolitan areas with excellent public transit systems, less than half of the jobs are accessible by transit;

(3) in 1991, the median price of a new car was equivalent to 25 weeks of salary for the average worker, and considerably more for the low-income worker;

(4) not fewer than 9,000,000 households and 10,000,000 Americans of driving age, most of whom are low-income workers, do not own cars;

(5) 94 percent of welfare recipients do not own cars;

(6) nearly 40 percent of workers with annual incomes below $10,000 do not commute by car;

(7) many of the 2,000,000 Americans who will have their Temporary Assistance to Needy Families grants (under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) terminated by the year 2002 will be unable to get to jobs they could otherwise hold;

(8) increasing the transit options for low-income workers, especially those who are receiving or who have recently received welfare benefits, will increase the likelihood of those workers getting and keeping jobs; and

(9) many residents of cities and rural areas would like to take advantage of mass transit to gain access to suburban employment opportunities.

(b) GRANT AUTHORITY.—

(1) IN GENERAL.—Chapter 53 of title 49, United States Code, is amended by inserting after section 5320 the following:

''§ 5320a. Access to jobs

''(a) DEFINITIONS.—In this section:

''(1) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term 'eligible low-income individual' means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

''(2) ELIGIBLE PROJECT AND RELATED TERMS.—

''(A) IN GENERAL.—The term 'eligible project' means an access to jobs project or a reverse commute project.

''(B) ACCESS TO JOBS PROJECT.—The term 'access to jobs project' means a project relating to the development of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including—

''(i) capital projects and to finance operating costs of equipment, facilities, and associated capital maintenance items related to providing access to jobs under this section;

''(ii) promoting the use of transit by workers with nontraditional work schedules;

''(iii) promoting the use by appropriate agencies of transit vouchers for welfare recipients and eligible low-income individuals under specific terms and conditions developed by the Secretary; and

''(iv) promoting the use of employer-provided transportation including the transit pass benefit program under subsections (a) and (f) of section 132 of title 26.

''(C) REVERSE COMMUTE PROJECT.—The term 'reverse commute project' means a project related to the development of transportation services designed to transport residents of urban areas, urbanized areas, and areas other than urbanized areas to suburban employment opportunities, including any project to—

''(i) subsidize the costs associated with adding reverse commute bus, train, or van routes, or service from urban areas, urbanized areas, and areas other than urbanized areas, to suburban workplaces;

''(ii) subsidize the purchase or lease by a private employer, nonprofit organization, or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace;

''(iii) otherwise facilitate the provision of mass transportation services to suburban employment opportunities to residents of urban areas, urbanized areas, and areas other than urbanized areas.

''(3) EXISTING TRANSPORTATION SERVICE PROVIDERS.—The term 'existing transportation service providers' means mass transportation operators and governmental agencies and nonprofit organizations that receive assistance from Federal, State, or local sources for nonemergency transportation services.

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

''(5) QUALIFIED ENTITY.—The term 'qualified entity' means—

''(A) with respect to any proposed eligible project in an urbanized area with a population of not less than 200,000, the entity or entities selected by the appropriate metropolitan planning organization, in coordination with affected transit grant recipients (as provided in subsection (g)(2)), from among local governmental authorities and nonprofit organizations; and

''(B) with respect to any proposed eligible project in an urbanized area with a population of less than 200,000, or an area other than an urbanized area, the entity or entities selected by the chief executive officer of the State in which the area is located, in coordination with affected transit grant recipients (as provided in subsection (g)(2)), from among local governmental authorities and nonprofit organizations.

''(6) WELFARE RECIPIENT.—The term 'welfare recipient' means an individual who receives or received aid or assistance under a State program funded under part A of title IV of the Social Security Act (whether in effect before or after the effective date of the amendments made by title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2110)) at any time during the 3-year period before the date on which the applicant applies for a grant under this section.

''(b) GENERAL AUTHORITY.—

''(1) IN GENERAL.—The Secretary may make access to jobs grants and reverse commute grants under this section to assist qualified entities in financing eligible projects.

''(2) COORDINATION.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.

''(c) APPLICATIONS.—Each qualified entity seeking to receive a grant under this section for an eligible project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish by regulation.

''(d) PROHIBITION.—Grants awarded under this section may not be used for planning or coordination activities.

''(e) FACTORS FOR CONSIDERATION.—In awarding grants under this section to applicants under subsection (c), the Secretary shall consider—

''(1) the percentage of the population in the area to be served by the applicant that are welfare recipients;

''(2) in the case of an applicant seeking assistance to finance an access to jobs project, the need for additional services in the area to be served by the applicant to transport welfare recipients and eligible low-income individuals to and from specified jobs, training, and other employment support services, and the extent to which the proposed services will address those needs;

''(3) the extent to which the applicant demonstrates coordination with, and the financial commitment of, existing transportation service providers;

''(4) the extent to which the applicant demonstrates maximum utilization of existing transportation service providers and expands transit networks or hours of service, or both;

''(5) the extent to which the applicant demonstrates an innovative approach that is responsive to identified service needs;

''(6) the extent to which the applicant—

''(A) in the case of an applicant seeking assistance to finance an access to jobs project, presents a regional transportation plan for addressing the transportation needs of welfare recipients and eligible low-income individuals; and

''(B) identifies long-term financing strategies to support the services under this section;

''(7) the extent to which the applicant demonstrates that the community to be served has been consulted in the planning process; and

''(8) in the case of an applicant seeking assistance to finance a reverse commute project, the need for additional services identified in a regional transportation plan to transport individuals to suburban employment opportunities, and the extent to which the proposed services will address those needs.

''(f) FEDERAL SHARE OF COSTS.—

''(1) MAXIMUM AMOUNT.—The amount of a grant under this section may not exceed 50 percent of the total project cost.

''(2) NONGOVERNMENTAL SHARE.—The portion of the total cost of an eligible project that is not funded under this section—

''(A) shall be provided in cash from sources other than revenues from providing mass transportation; and

''(B) may be derived from amounts made available to a department or agency of the Federal Government (other than the Department of Transportation) that are eligible to be expended for transportation.

''(g) PLANNING REQUIREMENTS.—

''(1) IN GENERAL.—The requirements of sections 5303 through 5306 apply to any grant made under this section.

''(2) COORDINATION.—Each application for a grant under this section shall reflect coordination with and the approval of affected transit grant recipients. The eligible access to jobs projects financed must be part of a coordinated public transit-human services transportation planning process.

''(h) GRANT REQUIREMENTS.—A grant under this section shall be subject to—

''(1) all of the terms and conditions to which a grant made under section 5307 is subject; and

''(2) such other terms and conditions as determined by the Secretary.

''(i) PROGRAM EVALUATION.—

''(1) COMPTROLLER GENERAL.—Beginning 6 months after the date of enactment of this section, and every 6 months thereafter, the Comptroller General of the United States shall—

''(A) conduct a study to evaluate the grant program authorized under this section; and

''(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of each study under subparagraph (A).

''(2) DEPARTMENT OF TRANSPORTATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall—

''(A) conduct a study to evaluate the access to jobs grant program authorized under this section; and

''(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).

''(j) FUNDING; ALLOCATION.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, to remain available until expended, $250,000,000 for each of fiscal years 1998 through 2003, of which—

''(A) $150,000,000 in each fiscal year shall be used for grants for access to jobs projects; and

''(B) $100,000,000 in each fiscal year shall be used for grants for reverse commute projects.

''(2) ALLOCATION.—The amount made available to carry out this section in each fiscal year shall be allocated as follows:

''(A) 60 percent shall be allocated for eligible projects in urbanized areas with populations of not less than 200,000.

''(B) 20 percent shall be allocated for eligible projects in urbanized areas with populations of less than 200,000.

''(C) 20 percent shall be allocated for eligible projects in areas other than urbanized areas.''.

(2) CONFORMING AMENDMENT.—The analysis for chapter 53 of title 49, United States Code, is amended by inserting after the item relating to section 5320 the following:

''5320a. Access to jobs.''.

SEC. 5015. GRANT REQUIREMENTS.

Section 5323 of title 49, United States Code, is amended by adding at the end the following:

''(m) GRANT REQUIREMENTS.—The grant requirements under sections 5307 and 5309 apply to any project under this chapter that receives any assistance from an infrastructure bank or through other financing under subtitle C of title I of the Intermodal Surface Transportation Efficiency Act of 1998.''.

SEC. 5016. HHS AND PUBLIC TRANSIT SERVICE.

Section 5323 of title 49, United States Code, is amended by adding at the end the following:

''(n) PARTICIPATION OF GOVERNMENTAL AGENCIES IN DESIGN AND DELIVERY OF TRANSPORTATION SERVICES.—To the extent feasible, governmental agencies and nonprofit organizations that receive assistance from Government sources (other than the Department of Transportation) for nonemergency transportation services—

''(1) shall participate and coordinate with recipients of assistance under this chapter in the design and delivery of transportation services; and

''(2) shall be included in the planning for those services.''.

SEC. 5017. PROCEEDS FROM THE SALE OF TRANSIT ASSETS.

Section 5334(g) of title 49, United States Code, is amended by adding at the end the following:

''(4) Notwithstanding any other provision of law, if a recipient of assistance under this chapter determines that an asset (including real property) acquired with such assistance is no longer needed for the purpose for which it was acquired, the recipient may sell that asset with no further obligation to the Government, if the proceeds of the sale are used for the provision of mass transportation services in accordance with this chapter.''.

SEC. 5018. OPERATING ASSISTANCE FOR SMALL TRANSIT AUTHORITIES IN LARGE URBANIZED AREAS.

Section 5336(d) of title 49, United States Code, is amended by adding at the end the following:

''(3) In distributing operating assistance under this subsection to urbanized areas with a population of 1,000,000 or more under the most recent census, the Secretary shall direct each such area to give priority consideration to the impact of reductions on operating assistance on smaller transit authorities operating within the area and to consider the needs and resources of such transit authorities.''.

SEC. 5019. APPORTIONMENT OF APPROPRIATIONS FOR FIXED GUIDEWAY MODERNIZATION.

(a) DISTRIBUTION.—Section 5337(a) of title 49, United States Code, is amended to read as follows:

''(a) DISTRIBUTION.—The Secretary of Transportation shall apportion amounts made available for fixed guideway modernization under section 5309 for each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 as follows:

''(1) The first $497,700,000 shall be apportioned in the following urbanized areas as follows:

''(A) Baltimore, $8,372,000.

''(B) Boston, $38,948,000.

''(C) Chicago/Northwestern Indiana, $78,169,000.

''(D) Cleveland, $9,509,500.

''(E) New Orleans, $1,730,588.

''(F) New York, $176,034,461.

''(G) Northeastern New Jersey, $50,604,653.

''(H) Philadelphia/Southern New Jersey, $58,924,764.

''(I) Pittsburgh, $13,662,463.

''(J) San Francisco, $33,989,571.

''(K) Southwestern Connecticut, $27,755,000.

''(2) The next $70,000,000 shall be apportioned as follows:

''(A) 50 percent in the urbanized areas listed in paragraph (1), as provided in section 5336(b)(2)(A).

''(B) 50 percent in other urbanized areas eligible for assistance under section 5336(b)(2)(A) to which amounts were apportioned under this section for fiscal year 1997, as provided in section 5336(b)(2)(A) and subsection (e) of this section.

''(3) The next $5,700,000 shall be apportioned in the following urbanized areas as follows:

''(A) Pittsburgh, 61.76 percent.

''(B) Cleveland, 10.73 percent.

''(C) New Orleans, 5.79 percent.

''(D) 21.72 percent in urbanized areas to which paragraph (2)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e) of this section.

''(4) The next $186,600,000 shall be apportioned in each urbanized area to which paragraph (1) applies and in each urbanized area to which paragraph (2)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e) of this section.

''(5) Remaining amounts shall be apportioned as follows:

''(A) 50 percent in the urbanized areas listed in paragraph (1) as provided in section 5336(b)(2)(A) and subsection (e) of this section.

''(B) 50 percent to urbanized areas to which paragraph (5)(B) applies, as provided in section 5336(b)(2)(A) and subsection (e) of this section.''.

(b) ROUTE SEGMENTS TO BE INCLUDED IN APPORTIONMENT FORMULAS.—Section 5337 of title 49, United States Code, is amended by adding at the end the following:

''(e) ROUTE SEGMENTS TO BE INCLUDED IN APPORTIONMENT FORMULAS.—

''(1) Amounts apportioned under paragraphs (2)(B), (3), and (4) of subsection (a) shall have attributable to each urbanized area only the number of fixed guideway revenue miles of service and number of fixed guideway route miles for segments of fixed guideway systems used to determine apportionments for fiscal year 1997.

''(2) Amounts apportioned under paragraphs (5) through (7) of subsection (a) shall have attributable to each urbanized area only the number of fixed guideway revenue miles of service and number of fixed guideway route-miles for segments of fixed guideway systems placed in revenue service not less than 7 years before the fiscal year in which amounts are made available.''.

SEC. 5020. URBANIZED AREA FORMULA STUDY.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine whether the formula for apportioning funds to urbanized areas under section 5336 of title 49, United States Code accurately reflects the transit needs of the urbanized areas and, if not, whether any changes should be made either to the formula or through some other mechanism to reflect the fact that some urbanized areas with a population between 50,000 and 200,000 have transit systems that carry more passengers per mile or hour than the average of those transit systems in urbanized areas with a population over 200,000.

(b) REPORT.—Not later than December 31, 1999, the Secretary of Transportation shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the results of the study conducted under this section, together with any proposed changes to the method for apportioning funds to urbanized areas with a population over 50,000.

SEC. 5021. INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND.

Section 5323 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(o) INTERCITY RAIL INFRASTRUCTURE INVESTMENT.—Any assistance provided to a State that does not have Amtrak service as of the date of enactment of this subsection from the Mass Transit Account of the Highway Trust Fund may be used for capital improvements to, and operating support for, intercity passenger rail service.''.

SEC. 5022. NEW START RATING AND EVALUATION.

(a) CRITERIA FOR GRANTS AND LOANS FOR FIXED GUIDEWAY SYSTEMS.—Section 5309(e) of title 49, United States Code, is amended to read as follows:

''(e) CRITERIA FOR GRANTS AND LOANS FOR FIXED GUIDEWAY SYSTEMS.—

''(1) The Secretary of Transportation may approve a grant or loan under this section for a capital project for a new fixed guideway system or extension of an existing fixed guideway system only if the Secretary decides that the proposed project is—

''(A) based on the results of an alternatives analysis and preliminary engineering;

''(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies; and

''(C) supported by an acceptable degree of local financial commitment, including evidence of stable and dependable financing sources to construct, maintain, and operate the system or extension.

''(2) In evaluating a project under paragraph (1)(A), the Secretary shall analyze and consider the results of the alternatives analysis and preliminary engineering for the project.

''(3) In evaluating a project under paragraph (1)(B), the Secretary shall—

''(A) consider the direct and indirect costs of relevant alternatives;

''(B) account for costs and benefits related to factors such as congestion relief, improved mobility, air pollution, noise pollution, congestion, energy consumption, and all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;

''(C) identify and consider mass transportation supportive existing land use policies and future patterns, and the cost of urban sprawl;

''(D) consider the degree to which the project increases the mobility of the mass transportation dependent population or promotes economic development;

''(E) consider population density, and current transit ridership in the corridor;

''(F) consider the technical capability of the grant recipient to construct the project;

''(G) adjust the project justification to reflect differences in local land, construction, and operating costs; and

''(H) consider other factors the Secretary considers appropriate to carry out this chapter.

''(3)(A) The Secretary of Transportation shall issue guidelines on the manner in which the Secretary will evaluate results of alternatives analysis, project justification, and the degree of local financial commitment.

''(B) The project justification under paragraph (1)(B) shall be adjusted to reflect differences in local land, construction, and operating costs.

''(4)(A) In evaluating a project under paragraph (1)(C), the Secretary shall require that—

''(i) the proposed project plan provides for the availability of contingency amounts the Secretary of Transportation determines to be reasonable to cover unanticipated cost overruns;

''(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and

''(iii) local resources are available to operate the overall proposed mass transportation system (including essential feeder bus and other services necessary to achieve the projected ridership levels) without requiring a reduction in existing mass transportation services to operate the proposed project.

''(B) In assessing the stability, reliability, and availability of proposed sources of local financing, the Secretary of Transportation shall consider—

''(i) existing grant commitments;

''(ii) the degree to which financing sources are dedicated to the purposes proposed;

''(iii) any debt obligation that exists or is proposed by the recipient for the proposed project or other mass transportation purpose; and

''(iv) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.

''(5)(A) Not later than 120 days after the date of enactment of the Federal Transit Act of 1998, the Secretary of Transportation shall issue guidelines on the manner in which the Secretary will evaluate and rate the projects based on the results of alternatives analysis, project justification, and the degree of local financial commitment.

''(B) The project justification under paragraph (1)(B) shall be adjusted to reflect differences in local land, construction, and operating costs as required under this subsection.

''(6)(A) A proposed project may advance from alternatives analysis to preliminary engineering, and may advance from preliminary engineering to final design and construction, only if the Secretary of Transportation finds that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet the requirements.

''(B) In making any findings under subparagraph (A), the Secretary shall evaluate and rate the project as either highly recommended, recommended, or not recommended, based on the results of alternatives analysis, the project justification criteria, and the degree of local financial commitment as required under this subsection.

''(C) In rating each project, the Secretary shall provide, in addition to the overall project rating, individual ratings for each criteria established under the guidelines issued under paragraph (5).

''(7)(A) Each project financed under this subsection shall be carried out through a full funding grant agreement.

''(B) The Secretary shall enter a full funding grant agreement based on evaluations and ratings required under this subsection.

''(C) The Secretary shall not enter into a full funding grant agreement for a project unless that project is authorized for final design and construction.

''(8)(A) A project for a fixed guideway system or extension of an existing fixed guideway system is not subject to the requirements of this subsection, and the simultaneous evaluation of similar projects in at least 2 corridors in a metropolitan area may not be limited, if the assistance provided under this section with respect to the project is less than $25,000,000.

''(B) The simultaneous evaluation of projects in at least 2 corridors in a metropolitan area may not be limited and the Secretary of Transportation shall make decisions under this subsection with expedited procedures that will promote carrying out an approved State Implementation Plan in a timely way if a project is—

''(i) located in a nonattainment area;

''(ii) a transportation control measure (as that term is defined in the Clean Air Act (42 U.S.C. 7401 et seq.)); and

''(iii) required to carry out the State Implementation Plan.

''(C) This subsection does not apply to a part of a project financed completely with amounts made available from the Highway Trust Fund (other than the Mass Transit Account).

''(D) This subsection does 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 Transit Act of 1998.''.

(b) LETTERS OF INTENT, FULL FINANCING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—Section 5309(g) of title 49, United States Code, is amended—

(1) in the subsection heading, by striking ''FINANCING'' and inserting ''FUNDING'';

(2) by striking ''full financing'' each place it appears and inserting ''full funding''; and

(3) in paragraph (1)(B)—

(A) by striking ''30 days'' and inserting ''60 days'';

(B) by inserting ''or entering into a full funding grant agreement'' after ''this paragraph''; and

(C) by striking ''issuance of the letter'' and inserting ''letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as evaluations and ratings for the project''.

(c) REPORTS.—Section 5309 of title 49, United States Code, is amended by adding at the end the following:

''(p) REPORTS.—

''(1) FUNDING LEVELS AND ALLOCATIONS OF FUNDS FOR FIXED GUIDEWAY SYSTEMS.—

''(A) ANNUAL REPORT.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that includes a proposal on the allocation of amounts to be made available to finance grants and loans for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems among applicants for those amounts.

''(B) RECOMMENDATIONS ON FUNDING.—Each report submitted under this paragraph shall include—

''(i) evaluations and ratings, as required under subsection (e), for each project that is authorized or has received funds under this section since the date of enactment of the Federal Transit Act of 1998 or October 1 of the preceding fiscal year, whichever date is earlier; and

''(ii) recommendations of projects for funding, based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10 fiscal years, based on information available to the Secretary.

''(2) SUPPLEMENTAL REPORT ON NEW STARTS.—On August 30 of each year, the Secretary shall submit a report to Congress that describes the Secretary's evaluation and rating of each project that has completed alternatives analysis or preliminary engineering since the date of the last report. The report shall include all relevant information that supports the evaluation and rating of each project, including a summary of each project's financial plan.

''(3) ANNUAL GAO REVIEW.—The Comptroller General of the United States shall—

''(A) conduct an annual review of—

''(i) the processes and procedures for evaluating and rating projects and recommending projects; and

''(ii) the Secretary's implementation of such processes and procedures; and

''(B) report to Congress on the results of such review not later than April 30 of each year.''.

TITLE VI—REVENUE

SEC. 6001. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the ''Intermodal Surface Transportation Revenue Act of 1998''.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 6002. EXTENSION AND MODIFICATION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) EXTENSION OF TAXES AND EXEMPTIONS.—

(1) The following provisions are each amended by striking ''1999'' each place it appears and inserting ''2005'':

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels), as amended by section 907(a)(1) of the Taxpayer Relief Act of 1997.

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels), as amended by section 907(b) of the Taxpayer Relief Act of 1997.

(D) Section 4051(c) (relating to termination).

(E) Section 4071(d) (relating to termination).

(F) Section 4081(d)(1) (relating to termination).

(G) Section 4221(a) (relating to certain tax-free sales).

(H) Section 4481(e) (relating to period tax in effect).

(I) Section 4482(c)(4) (relating to taxable period).

(J) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(K) Section 4483(g) (relating to termination of exemptions).

(L) Section 6156(e)(2) (relating to section inapplicable to certain liabilities).

(M) Section 6412(a) (relating to floor stocks refunds).

(2) The following provisions are each amended by striking ''2000'' each place it appears and inserting ''2007'':

(A) Section 4041(b)(2)(C) (relating to termination).

(B) Section 4041(k)(3) (relating to termination).

(C) Section 4081(c)(8) (relating to termination).

(D) Section 4091(c)(5) (relating to termination).

(3) Section 6412(a) (relating to floor stocks refunds) is amended by striking ''2000'' each place it appears and inserting ''2006''.

(4) Section 6427(f)(4) (relating to termination) is amended by striking ''1999'' and inserting ''2007''.

(5) Section 40(e)(1) (relating to termination) is amended—

(A) by striking ''December 31, 2000'' and inserting ''December 31, 2007'', and

(B) by striking subparagraph (B) and inserting the following:

''(B) of any fuel for any period before January 1, 2008, during which the rate of tax under section 4081(a)(2)(A) is 4.3 cents per gallon.''.

(6) Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are amended in the effective period column by striking ''10/1/2000'' each place it appears and inserting ''10/1/2007''.

(b) EXTENSION AND MODIFICATION OF HIGHWAY TRUST FUND.—

(1) EXTENSION.—Section 9503 (relating to Highway Trust Fund) is amended—

(A) in subsection (b)—

(i) in paragraph (1), as amended by section 1032(e)(13) of the Taxpayer Relief Act of 1997—

(I) by striking ''1999'' and inserting ''2005'',

(II) by striking subparagraph (C),

(III) in subparagraph (D), by striking ''and tread rubber'', and

(IV) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively,

(ii) in paragraph (2), by striking ''1999'' each place it appears and inserting ''2005'' and by striking ''2000'' and inserting ''2006'',

(iii) in the heading of paragraph (2), by striking ''OCTOBER 1, 1999'' and inserting ''OCTOBER 1, 2005'', and

(iv) in subparagraphs (E) and (F) of paragraph (4), as amended by section 901(a) of the Taxpayer Relief Act of 1997, by striking ''1999'' and inserting ''2005'', and

(B) in subsection (c), as amended by section 9(a)(1) of the Surface Transportation Extension Act of 1997—

(i) in paragraph (1)—

(I) by striking ''1998'' and inserting ''2003'',

(II) in subparagraph (C), by striking ''or'' at the end,

(III) in subparagraph (D), by striking ''1991.'' and inserting ''1991, or'',

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

''(E) authorized to be paid out of the Highway Trust Fund under the Intermodal Surface Transportation Efficiency Act of 1998.'', and

(V) by striking the last sentence and inserting the following:

''In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1998.'',

(ii) in paragraph (2)(A)(i)—

(I) by striking ''2000'' and inserting ''2006'',

(II) in subclause (II), by adding ''and'' at the end,

(III) in subclause (IV), by striking ''1999'' and inserting ''2005'', and

(IV) by striking subclause (III) and redesignating subclause (IV) as subclause (III),

(iii) in paragraph (2)(A), by striking clause (ii) and inserting the following:

''(ii) the credits allowed under section 34 (relating to credit for certain uses of fuel) with respect to fuel used before October 1, 2005.'',

(iv) in paragraph (3)—

(I) by striking ''July 1, 2000'' and inserting ''July 1, 2006'', and

(II) by striking the heading and inserting ''FLOOR STOCKS REFUNDS'',

(v) in paragraph (4)(A)—

(I) in clause (i), by striking ''1998'' and inserting ''2003'', and

(II) in clause (ii), by adding at the end the following new flush sentence:

''In making the determination under subclause (II) for any fiscal year, the Secretary shall not take into account any amount appropriated from the Boat Safety Account in any preceding fiscal year but not distributed.'', and

(vi) in paragraph (5)(A), by striking ''1998'' and inserting ''2003''.

(2) LIMITATION ON EXPENDITURES.—

(A) IN GENERAL.—Section 9503(c) (relating to expenditures from Highway Trust Fund), as amended by subsection (d)(2)(A), is amended by inserting after paragraph (5) the following:

''(6) LIMITATION ON EXPENDITURES FROM HIGHWAY TRUST FUND.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), no expenditure shall be made from the Highway Trust Fund unless such expenditure is permitted under a provision of this title. The determination of whether an expenditure is so permitted shall be made without regard to—

''(i) any provision of law which is not contained or referenced in this title and which is not contained or referenced in a revenue Act, and

''(ii) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

''(B) EXCEPTION FOR PRIOR OBLIGATIONS.—Subparagraph (A) shall not apply to any expenditure to liquidate any contract entered into, or for any amount otherwise obligated, in accordance with the provisions of this section before October 1, 2003.''.

(B) TRANSFER OF TAXES TO TRUST FUND TERMINATED IF EXPENDITURE LIMITATION VIOLATED.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund), as amended by subsection (b)(1)(A)(iv), is amended—

(i) in subparagraph (E), by striking ''or'' at the end,

(ii) in subparagraph (F), by striking the period at the end and inserting '', or'', and

(iii) by adding at the end the following:

''(G) any provision described in paragraph (1) on and after the date of any expenditure not permitted by subsection (c)(6).''.

(c) MODIFICATION OF SUBSIDIES FOR ALCOHOL FUELS.—

(1) IN GENERAL.—Subsection (h) of section 40 (relating to alcohol used as fuel) is amended to read as follows:

''(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—

''(1) IN GENERAL.—In the case of any alcohol mixture credit or alcohol credit with respect to any sale or use of alcohol which is ethanol during calendar years 2001 through 2007—

''(A) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting 'the blender amount' for '60 cents',

''(B) subsection (b)(3) shall be applied by substituting 'the low-proof blender amount' for '45 cents' and 'the blender amount' for '60 cents', and

''(C) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting 'the blender amount' for '60 cents' and 'the low-proof blender amount' for '45 cents'.

''(2) AMOUNTS.—For purposes of paragraph (1), the blender amount and the low-proof blender amount shall be determined in accordance with the following table:

In the case of any sale or use during calendar year:	*The blender amount is:*	*The low-proof blender amount is:*
2001 or 2002	*53 cents*	*39.26 cents*
2003 or 2004	*52 cents*	*38.52 cents*
2005, 2006, or 2007	*51 cents*	*37.78 cents.''.*

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(b)(2) is amended—

(i) in subparagraph (A)(i), by striking ''5.4 cents'' and inserting ''the applicable blender rate'', and

(ii) by redesignating subparagraph (C), as amended by subsection (a)(2)(A), as subparagraph (D) and by inserting after subparagraph (B) the following:

''(C) APPLICABLE BLENDER RATE.—For purposes of subparagraph (A)(i), the applicable blender rate is—

''(i) except as provided in clause (ii), 5.4 cents, and

''(ii) for sales or uses during calendar years 2001 through 2007, 1/10 of the blender amount applicable under section 40(h)(2) for the calendar year in which the sale or use occurs.''.

(B) Subparagraph (A) of section 4081(c)(4) is amended to read as follows:

''(A) GENERAL RULES.—

''(i) MIXTURES CONTAINING ETHANOL.—Except as provided in clause (ii), in the case of a qualified alcohol mixture which contains gasoline, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

''(I) in the case of 10 percent gasohol, the applicable blender rate (as defined in section 4041(b)(2)(A)) per gallon,

''(II) in the case of 7.7 percent gasohol, the number of cents per gallon equal to 77 percent of such applicable blender rate, and

''(III) in the case of 5.7 percent gasohol, the number of cents per gallon equal to 57 percent of such applicable blender rate.

''(ii) MIXTURES NOT CONTAINING ETHANOL.—In the case of a qualified alcohol mixture which contains gasoline and none of the alcohol in which consists of ethanol, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

''(I) in the case of 10 percent gasohol, 6 cents per gallon,

''(II) in the case of 7.7 percent gasohol, 4.62 cents per gallon, and

''(III) in the case of 5.7 percent gasohol, 3.42 cents per gallon.''.

(C) Section 4081(c)(5) is amended by striking ''5.4 cents'' and inserting ''the applicable blender rate (as defined in section 4041(b)(2)(C))''.

(D) Section 4091(c)(1) is amended by striking ''13.4 cents'' each place it appears and inserting ''the applicable blender amount'' and by adding at the end the following: ''For purposes of this paragraph, the term 'applicable blender amount' means 13.3 cents in the case of any sale or use during 2001 or 2002, 13.2 cents in the case of any sale or use during 2003 or 2004, 13.1 cents in the case of any sale or use during 2005, 2006, or 2007, and 13.4 cents in the case of any sale or use during 2008 or thereafter.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2001.

(d) ELIMINATION OF NATIONAL RECREATIONAL TRAILS TRUST FUND.—

(1) IN GENERAL.—Section 9511 (relating to National Recreational Trails Trust Fund) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(c) is amended by striking paragraph (6).

(B) The table of sections for subchapter A of chapter 98 is amended by striking the item relating to section 9511.

(e) AQUATIC RESOURCES TRUST FUND.—

(1) EXTENSION.—Section 9504(c) (relating to expenditures from Boat Safety Account), as amended by section 9(b) of the Surface Transportation Extension Act of 1997, is amended—

(A) by striking ''1998'' and inserting ''2004'', and

(B) by striking ''1988'' and inserting ''the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1998''.

(2) LIMITATION ON EXPENDITURES.—Section 9504 (relating to Aquatic Resources Trust Fund) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

''(d) LIMITATION ON EXPENDITURES FROM TRUST FUND.—

''(1) IN GENERAL.—Except as provided in paragraph (2), no expenditure shall be made from the Aquatics Resources Trust Fund unless such expenditure is permitted under a provision of this title. The determination of whether an expenditure is so permitted shall be made without regard to—

''(A) any provision of law which is not contained or referenced in this title and which is not contained or referenced in a revenue Act, and

''(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

''(2) EXCEPTION FOR PRIOR OBLIGATIONS FROM THE BOAT SAFETY ACCOUNT.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into, or for any amount otherwise obligated, in accordance with the provisions of subsection (c) before April 1, 2004.

''(3) TRANSFER OF TAXES TO TRUST FUND TERMINATED IF EXPENDITURE LIMITATION VIOLATED.—For purposes of the second sentence of subsection (a)(2), there shall not be taken into account any amount described in subsection (b)(1), section 9503(c)(4), or section 9503(c)(5)(A) on and after the date of any expenditure not permitted by paragraph (1).''.

(3) CONFORMING AMENDMENTS.—Section 9504(b)(2) is amended—

(A) in subparagraph (A), by striking ''October 1, 1988'' and inserting ''the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1998'', and

(B) in subparagraph (B), by striking ''November 29, 1990'' and inserting ''the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1998''.

SEC. 6003. MASS TRANSIT ACCOUNT.

(a) IN GENERAL.—Section 9503(e)(3) (relating to expenditures from Account), as amended by section 9(a)(2) of the Surface Transportation Extension Act of 1997, is amended—

(1) by striking ''1998'' and inserting ''2003'',

(2) in subparagraph (A), by striking ''or'' at the end,

(3) in subparagraph (B), by adding ''or'' at the end, and

(4) by striking all that follows subparagraph (B) and inserting:

''(C) the Intermodal Surface Transportation Efficiency Act of 1998,

as such sections and Acts are in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1998.''.

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 9503(e) is amended to read as follows:

''(4) LIMITATION.—Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account.''.

(c) TECHNICAL CORRECTION.—

(1) IN GENERAL.—Section 9503(e)(2) is amended by striking the last sentence and inserting the following: ''For purposes of the preceding sentence, the term 'mass transit portion' means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and otherwise deposited into the Highway Trust Fund, the amount determined at the rate of—

''(A) except as otherwise provided in this sentence, 2.86 cents per gallon,

''(B) 1.43 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,

''(C) 1.86 cents per gallon in the case of liquefied natural gas,

''(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and

''(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendment made by section 901(b) of the Taxpayer Relief Act of 1997.

SEC. 6004. TAX-EXEMPT FINANCING OF QUALIFIED HIGHWAY INFRASTRUCTURE CONSTRUCTION.

(a) TREATMENT AS EXEMPT FACILITY BOND.—A bond described in subsection (b) shall be treated as described in section 141(e)(1)(A) of the Internal Revenue Code of 1986, except that—

(1) section 146 of such Code shall not apply to such bond, and

(2) section 147(c)(1) of such Code shall be applied by substituting ''any portion of'' for ''25 percent or more''.

(b) BOND DESCRIBED.—

(1) IN GENERAL.—A bond is described in this subsection if such bond is issued after the date of the enactment of this Act as part of an issue—

(A) 95 percent or more of the net proceeds of which are to be used to provide a qualified highway infrastructure project, and

(B) to which there has been allocated a portion of the allocation to the project under paragraph (2)(C)(ii) which is equal to the aggregate face amount of bonds to be issued as part of such issue.

(2) QUALIFIED HIGHWAY INFRASTRUCTURE PROJECTS.—

(A) IN GENERAL.—For purposes of paragraph (1), the term ''qualified highway infrastructure project'' means a project—

(i) for the construction or reconstruction of a highway, and

(ii) designated under subparagraph (B) as an eligible pilot project.

(B) ELIGIBLE PILOT PROJECT.—

(i) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall select not more than 15 highway infrastructure projects to be pilot projects eligible for tax-exempt financing.

(ii) ELIGIBILITY CRITERIA.—In determining the criteria necessary for the eligibility of pilot projects, the Secretary of Transportation shall include the following:

(I) The project must serve the general public.

(II) The project is necessary to evaluate the potential of the private sector's participation in the provision of the highway infrastructure of the United States.

(III) The project must be located on publicly-owned rights-of-way.

(IV) The project must be publicly owned or the ownership of the highway constructed or reconstructed under the project must revert to the public.

(V) The project must be consistent with a transportation plan developed pursuant to section 134(g) or 135(e) of title 23, United States Code.

(C) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.—

(i) IN GENERAL.—The aggregate face amount of bonds issued pursuant to this section shall not exceed $15,000,000,000, determined without regard to any bond the proceeds of which are used exclusively to refund (other than to advance refund) a bond issued pursuant to this section (or a bond which is a part of a series of refundings of a bond so issued) if the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

(ii) ALLOCATION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall allocate the amount described in clause (i) among the eligible pilot projects designated under subparagraph (B).

(iii) REALLOCATION.—If any portion of an allocation under clause (ii) is unused on the date which is 3 years after such allocation, the Secretary of Transportation, in consultation with the Secretary of the Treasury, may reallocate such portion among the remaining eligible pilot projects.

(c) REPORT.—

(1) IN GENERAL.—Not later than the earlier of—

(A) 1 year after either ½ of the projects authorized under this section have been identified or ½ of the total bonds allowable for the projects under this section have been issued, or

(B) 7 years after the date of the enactment of this Act,

the Secretary of Transportation, in consultation with the Secretary of the Treasury, shall submit the report described in paragraph (2) to the Committees on Finance and on Environment and Public Works of the Senate and the Committees on Ways and Means and on Transportation and Infrastructure of the House of Representatives.

(2) CONTENTS.—The report under paragraph (1) shall evaluate the overall success of the program conducted pursuant to this section, including—

(A) a description of each project under the program,

(B) the extent to which the projects used new technologies, construction techniques, or innovative cost controls that resulted in savings in building the project, and

(C) the use and efficiency of the Federal tax subsidy provided by the bond financing.

SEC. 6005. REPEAL OF 1.25 CENT TAX RATE ON RAIL DIESEL FUEL.

(a) IN GENERAL.—Section 4041(a)(1)(C)(ii) (relating to rate of tax on trains) is amended—

(1) in subclause (II), by striking ''October 1, 1999'' and inserting ''March 1, 1999'', and

(2) in subclause (III), by striking ''September 30, 1999'' and inserting ''February 28, 1999''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6421(f)(3)(B) is amended—

(A) in clause (ii), by striking ''October 1, 1999'' and inserting ''March 1, 1999'', and

(B) in clause (iii), by striking ''September 30, 1999'' and inserting ''February 28, 1999''.

(2) Section 6427(l)(3)(B) is amended—

(A) in clause (ii), by striking ''October 1, 1999'' and inserting ''March 1, 1999'', and

(B) in clause (iii), by striking ''September 30, 1999'' and inserting ''February 28, 1999''.

SEC. 6006. ELECTION TO RECEIVE TAXABLE CASH COMPENSATION IN LIEU OF NONTAXABLE QUALIFIED TRANSPORTATION FRINGE BENEFITS.

(a) NO CONSTRUCTIVE RECEIPT.—

(1) IN GENERAL.— Paragraph (4) of section 132(f) (relating to qualified transportation fringe) is amended to read as follows:

''(4) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of an employee solely because the employee may choose between any qualified transportation fringe and compensation which would otherwise be includible in gross income of such employee.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1997.

(b) INCREASE IN MAXIMUM EXCLUSION FOR EMPLOYER-PROVIDED TRANSIT PASSES.—

(1) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking ''$60'' and inserting ''$100''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2001.

(c) NO INFLATION ADJUSTMENT FOR 1999.—

(1) IN GENERAL.—Paragraph (6) of section 132(f) (relating to qualified transportation fringe) is amended to read as follows:

''(6) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1999, the dollar amounts contained in subparagraphs (A) and (B) of paragraph (2) shall be increased by an amount equal to—

''(A) such dollar amount, multiplied by

''(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1998' for 'calendar year 1992'.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.''.

(2) CONFORMING AMENDMENT.—Section 132(f)(2)(B) is amended by striking ''$155'' and inserting ''$175''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1998.

(d) CONFORMING INFLATION ADJUSTMENT.—

(1) IN GENERAL.—Paragraph (6) of section 132(f) (relating to qualified transportation fringe) is amended to read as follows:

''(6) INFLATION ADJUSTMENT.—

''(A) ADJUSTMENT TO QUALIFIED PARKING LIMITATION.—In the case of any taxable year beginning in a calendar year after 1999, the dollar amount contained in paragraph (2)(B) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 1998' for 'calendar year 1992'.

''(B) ADJUSTMENT TO OTHER QUALIFIED TRANSPORTATION FRINGES LIMITATION.—In the case of any taxable year beginning in a calendar year after 2002, the dollar amount contained in paragraph (2)(A) shall be increased by an amount equal to—

''(i) such dollar amount, multiplied by

''(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2001' for 'calendar year 1992'.

''(c) ROUNDING.—If any increase determined under subparagraph (A) or (B) is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 2002.

SEC. 6007. TAX TREATMENT OF CERTAIN FEDERAL PARTICIPATION PAYMENTS.

For purposes of the Internal Revenue Code of 1986, with respect to any Federal participation payment to a taxpayer in any taxable year made under section 149(e) of title 23, United States Code, as added by section 1502, to the extent such payment is not subject to tax under such Code for the taxable year—

(1) no credit or deduction (other than a deduction with respect to any interest on a loan) shall be allowed to the taxpayer with respect to any property placed in service or other expenditure that is directly or indirectly attributable to the payment, and

(2) the basis of any such property shall be reduced by the portion of the cost of the property that is attributable to the payment.

SEC. 6008. DELAY IN EFFECTIVE DATE OF NEW REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.

Subsection (f) of section 1032 of the Taxpayer Relief Act of 1997 is amended to read as follows:

''(f) EFFECTIVE DATES.—

''(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on July 1, 1998.

''(2) The amendment made by subsection (d) shall take effect on July 1, 2000.''.

SEC. 6009. REPEAL OF CERTAIN LIMITATION ON EXPENDITURES.

(a) IN GENERAL.—Section 9503(c) of the Internal Revenue Code of 1986 (relating to expenditures from Highway Trust Fund) is amended by striking paragraph (7).

(b) EFFECTIVE DATE.—The amendment made by this section takes effect as if included in the enactment of section 901 of the Taxpayer Relief Act of 1997.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, in consultation with the Democratic leader, pursuant to Public Law 102–246, appoints John W. Kluge, of New York, as a member of the Library of Congress Trust Fund Board, for a term of 5 years.

ORDERS FOR TUESDAY, MARCH 17, 1998

Mr. ROTH. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10 a.m. on Tuesday, March 17, and immediately following the prayer, the routine requests through the morning hour be granted, and the Senate begin a period for the transaction of morning business until the hour of 12:15 p.m., with the first hour under the control of Senator DASCHLE, or his designee, and the second hour under the control of Senator COVERDELL.

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

Mr. ROTH. Mr. President, I also ask unanimous consent that following the previously ordered 12:15 p.m. cloture vote on the motion to proceed to the A+ education bill, the Senate recess until 2:15 p.m. for the weekly policy luncheons to meet.

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

Mr. ROTH. I further ask unanimous consent that at 2:15 p.m., the Senate proceed to executive session and an immediate vote on the confirmation of the nomination of Executive Calendar No. 530, Susan Graber to be a U.S. circuit judge.

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

PROGRAM

Mr. ROTH. Mr. President, in conjunction with the previous unanimous consent agreements, Tuesday morning the Senate will debate the cloture motion relative to the motion to proceed to H.R. 2646, the education A+ bill from 10 a.m. to 12:15 p.m. As previously ordered, at 12:15 p.m., the Senate will conduct a cloture vote on the motion to proceed to the A+ education bill. Following that vote, the Senate will recess for the party caucuses to meet until 2:15 p.m. When the Senate reconvenes, there will be an immediate vote on the confirmation of Susan Graber to be U.S. circuit judge in Oregon.

In addition, if cloture is invoked on the previously mentioned motion to proceed to H.R. 2646, the Senate will begin 30 hours of debate on the motion to proceed. The Senate may also consider S. 414, the international shipping bill, S. 270, the Texas low-level radioactive waste bill, and any other legislative or executive business cleared for Senate action. Therefore, Members can anticipate rollcall votes throughout Tuesday's session of the Senate.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. ROTH. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:20 p.m., adjourned until Tuesday, March 17, 1998, at 10 a.m.

CONFIRMATION

Executive Nomination Confirmed by the Senate March 16, 1998:

THE JUDICIARY

JEREMY D. FOGEL, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF CALIFORNIA.

WITHDRAWAL

Executive message transmitted by the President to the Senate on March 16, 1998, withdrawing from further Senate consideration the following nomination:

THE JUDICIARY

FREDERICA MASSIAH-JACKSON, OF PENNSYLVANIA, TO BE U.S. DISTRICT COURT JUDGE FOR THE EASTERN DISTRICT OF PENNSYLVANIA VICE THOMAS N. O'NEILL, JR., RETIRED, WHICH WAS SENT TO THE SENATE ON JULY 31, 1997.