needs. The bill still maintains the requirement that most housing assistance be targeted to very low-income households.

Eighth, the Public Housing Reform and Responsibility Act calls on PHA's to increase coordination with State and local welfare agencies to ensure that welfare recipients living in public housing will have the full opportunity to move from welfare to work.

Ninth, the bill provides residents with an active voice in developing the local PHA plans that will govern the operations and management of housing and for direct participation on housing authority boards of directors. It also authorizes funds for resident organizations to develop resident management and empowerment activities.

Finally, it merges the Section 8 voucher and certificate programs into a single, choice-based program designed to operate more effectively in the private marketplace. It repeals requirements that are administratively burdensome to landlords, such as take-one, take-all, endless lease and 90-day termination notice requirements. These reforms will make participation in the section 8 tenant-based program more attractive to private landlords and increase housing choices for lower income families.

The reforms contained in this legislation will significantly improve the nation's public housing and tenant-based rental assistance program and the lives of those who reside in Federally assisted housing. The funding flexibility, substantial deregulation of the day-to-day operations and policies of public authorities, encouragement of mixed-finance developments, policies to deal with distressed and troubled public housing, and rent reforms will change the face of public housing for PHA's, residents, and local communities.

Reform of the public housing system has been and should remain a bipartisan effort. I look forward to working with all of my colleagues toward early passage of this legislation.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

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

PUBLIC HOUSING REFORM AND RESPONSIBILITY ACT OF 1997 SUMMARY OF KEY PROVISIONS

FINDINGS

Recognizes the Federal government's limited capacity and expertise to manage and oversee 3,400 public housing agencies nationwide. Acknowledges the concentration of the very poor in very poor neighborhoods, disincentives for economic self-sufficiency, and lack of resident choice have been the unintended consequences resulting from Federal micromanagement of housing programs in the past.

PURPOSE

To reform the public housing system by consolidating programs, streamlining program requirements, and providing maximum flexibility and discretion to public housing authorities [PHAs] who perform well with strict accountability to residents and localities, and to address the problems of housing authorities with severe management deficiencies.

BASIC PROVISIONS

Program Consolidation. Consolidates public housing programs into two flexible block grants—one for operating expenses and one for capital needs. Requires HUD to establish new formulas through negotiated rulemaking. Funding for section 8 tenant-based program will continue to be funded as a separate program.

Elimination of Obsolete Regulations. Eliminates all current HUD rules, regulations, handbooks, and notices pertaining to public housing and section 8 tenant-based programs under the United States Housing Act of 1937 one year after enactment; requires HUD to propose new regulations necessary to carry out the revised Act within 9 months.

Public Housing Agency Plan [PHAP]. Refocuses the responsibility for administering public housing back to the PHA, the tenants and the local community. Requires each PHA to submit a comprehensive public housing agency plan to HUD, consistent with the local Comprehensive Housing Affordability Strategy [CHAS] and developed in conjunction with a resident advisory board.

The plan is intended to serve as an operating, management and planning tool for PHAs. Plan requirements, to be established through negotiated rulemaking, would include: a description of the PHA's uses for operating and capital funds; a description of the PHA's management policies; procedures relating to eligibility, selection, and admission; plans for capital improvements and demolition and disposition or properties; and policies regarding rents, security, and tenant empowerment activities. The plan would also include a statement of needs which would describe the needs of the low-income families in the community and on the waiting list and how the PHA intends to address those needs.

HUD review of the public housing agency plan would be limited to determine whether the contents of the plan: (1) set forth the information required to be contained in the plan; (2) are consistent with the information and data available to HUD; and (3) are not prohibited by or inconsistent with the requirements of this Act or any applicable law.

The bill allows HUD to require additional information from troubled PHAs, and a streamlined plan for high-performing PHAs and small PHAs with less than 250 units.

Vouchering Out of Public Housing. Allows PHAs to convert any public housing development to a tenant-based or ''voucher'' system, but requires the vouchering out of all severely ''distressed'' public housing. Requires each PHA, within 2 years, to assess all public housing for the purpose of vouchering out by performing a cost and market analysis and an impact analysis on the affected community; provides HUD with waiver authority for PHAs to conduct the assessment.

Choice and Opportunity for Residents. Provides public housing families with an active voice in developing a PHA plan that is responsive to their needs. Provides funds for resident organizations to develop resident management and empowerment activities.

Federal Preferences. Repeals Federal preferences and allows PHAs to operate according to locally established preferences consistent with local housing needs.

Income Targeting and Eligibility. Allows PHAs in any fiscal year to make units available for initial occupancy to families with incomes up to 80% of median income, except that at least 40% of the units must be reserved for families whose income does not exceed 30% of the area median and at least 75% of the units must be reserved for families whose income does not exceed 60% of area median; requires PHAs to include a plan in the public housing agency plan for achieving a diverse income mix among tenants in each project and among scattered-site public housing. Income targeting provisions for the section 8 tenant-based program are similar to public housing except 50% of vouchers must be reserved for families whose income does not exceed 30% of the area median.

Rent Flexibility. Allows PHAs to set rents at a level not to exceed 30% of a tenant's adjusted income. Encourages PHAs to develop rental policies that reward employment and upward mobility.

Ceiling Rents. Allows PHAs to set ceiling rents that reflect the reasonable rental value of units in order to remove the disincentive for residents to work or seek higher paying jobs where rents are based on a percentage of income.

Minimum Rents. Allows PHAs to set a minimum rent for both Section 8 and public housing units, not to exceed $25 per month.

Income Adjustments. Allows a PHA to disregard certain income in calculating rents to take away the disincentive for tenants to work and earn higher incomes.

Troubled PHAs. Requires HUD to take over or appoint a receiver for PHAs that are in substantial default within one year of enactment. Expands HUD's powers for dealing with troubled PHAs by allowing it to break up troubled agencies into one or more agencies, abrogate contracts that impede correction of the agency's default, and demolish and dispose of a PHA's assets. Allows HUD to provide technical assistance to assist near-troubled PHAs from becoming troubled.

Demolition and Disposition. Repeals the one-for-one replacement requirement and streamlines and makes flexible the demolition and disposition process to permit PHAs to demolish and dispose of vacant or obsolete housing. Authorizes HUD to disapprove any demolition or disposition that is clearly inconsistent with the information and data available to HUD.

No Net Increase in Public Housing Units. Prohibits PHAs from using capital or operating funds to increase the overall number of public housing units they own and/or operate.

Substance, Alcohol Abuse, Criminal Activity. Retains provisions enacted as part of last year's Housing Opportunity Program Extension Act that: (1) require PHAs to prohibit occupancy by, or terminate tenancy of, any person a PHA determines is illegally using a controlled substance or has reasonable cause to believe his/her drug use or alcohol abuse could/does interfere with the health, safety, or right to peaceful enjoyment of other tenants; (2) strengthen the ability of PHAs to evict residents for drug-related criminal activity; (3) deny housing assistance to residents evicted for drug-related activities for up to three years; and (4)

provide PHAs with greater access to the criminal conviction records of adult applicants and residents.

Consortia and Joint Ventures. Allows PHAs to form a consortium with other PHAs, form and operate wholly-owned or controlled subsidiaries, or enter into joint ventures, partnerships or other business arrangements to administer housing programs; requires any income to be used for low-income housing or to benefit the tenants of the PHA.

Designated Housing for the Elderly and Disabled. Retains provisions enacted as part of last year's Housing Opportunity Program Extension Act that: (1) permits PHAs, in their own discretion, to designate public housing projects (or portions thereof) as elderly-only, disabled only, or elderly and disabled housing under their Public Housing Agency Plans; (2) permits PHAs, for purposes of elderly-only housing, to provide a secondary preference for occupancy for near elderly families; and (3) prohibits the eviction of existing tenants as a result of the designation of a public housing project (or portion).

Community Work Requirements. Requires residents to perform at least 8 hours of community work per month with the exception for the elderly, disabled and those working full-time, those in school or receiving vocational training, and single parents or the spouse of an otherwise exempt individual who is the primary caretaker of young children.

Coordination with Welfare Agencies. Calls on PHAs, to the maximum extent possible, to enter into cooperation agreements with State and local welfare agencies to share information regarding rents, income, and benefits to assist such entities in carrying out their appropriate functions.

Public Housing Homeownership Opportunities. Authorizes PHAs to sell public housing units to the low-income tenants of the PHA or to any organization that serves as a conduit for sales to such persons. Allows PHAs to assist residents to purchase a principal residence not located in a public housing project.

Mixed-Finance Projects. Allows PHAs to own, operate, assist, or otherwise participate in one or more mixed-finance projects. Permits consistency with the rent requirements of the low-income housing tax credit. Provides broad flexibility for the development of mixed-finance projects, while maintaining the requirements of the public housing program for units which receive assistance as public housing units.

Public Housing Mortgages and Security Interests. Authorizes HUD to develop requirements, subject to certain criteria, for PHAs to mortgage or otherwise grant a security interest in any public housing project. Prohibits any action taken under this section to result in any liability to the Federal government.

Revitalization of Severely Distressed Public Housing. Revises current severely distressed public housing program and sunsets it on October 1, 1999. Permits competitive grants for: demolition of obsolete public housing; site revitalization; and providing replacement housing, including tenant-based assistance.

Section 8 Tenant Based Assistance. Merges the voucher and certificate program into a single voucher program that emphasizes lease requirements similar to the market place. Repeals requirements that are administratively burdensome to landlords, such as ''take one take all'', endless lease, Federal preferences, and ninety-day termination notice requirements.

Program Repeals. Repeals several programs, demonstrations, and studies that are either merged into the new block grants, expired, inactive, or already completed including: the Public Housing One-Stop Perinatal Services Demonstration, Public Housing Childhood Development Program, Indian Housing Childhood Development Program, Public Housing Mincs Demonstration, Public Housing Energy Efficiency Demonstration, Public and Assisted Housing Youth Sports Programs, Moving to Opportunity for Fair Housing Program, Report Regarding Fair Housing Objectives, and Special Projects for Elderly and Handicapped Families.

Mr. D'AMATO. Mr. President, I rise to cosponsor the Public Housing Reform and Responsibility Act of 1997. This important legislation contains significant policy reforms which will greatly improve our Nation's public and tenant based housing programs. The Public Housing Reform and Responsibility Act of 1997 is very similar to legislation (S. 1260) which was passed unanimously by the Senate in January 1996.

I wish to salute Senator CONNIE MACK, chairman of the Banking Committee's Subcommittee on Housing and Community Opportunity, for his successful leadership in the development and passage of public housing reform legislation in the 104th Congress. I commend Senator MACK for his initiative and steadfastness in producing an improved housing bill which builds on the lessons learned during the last Congress. Substantial input from the Department of Housing and Urban Development [HUD], resident associations, public housing authorities and other interested parties has been received and incorporated into this legislation.

This legislation addresses just one area of long overdue reform needed at HUD. Given limited Federal resources and the need to balance the budget by the year 2002, Congress must find more cost-effective ways to provide affordable housing. This bill represents a concrete step in the fulfillment of Congress' responsibility to the American taxpayer to ensure that every Federal dollar is maximized to its greatest potential.

The reform provisions contained in this bill will help to ensure the long-term viability of our Nation's existing stock of affordable housing and reaffirms our commitment to providing decent, safe, and affordable housing. Efficiencies will be realized from the elimination and consolidation of duplicative and burdensome Federal regulations, while the essential mission of our housing programs is retained and strengthened.

Mr. President, I would like to comment on several guiding principles of the legislation. First, it will reform the public housing system through the devolution of control from the Federal Government to high performing public housing authorities and their residents. It will streamline program requirements, consolidate programs and provide increased flexibility to public housing authorities which have demonstrated a track record of good management. Federal oversight and enforcement of troubled housing authorities will be increased significantly.

The bill provides incentives to empower public housing residents and facilitate the transition from welfare to work. It provides important linkages to the welfare reform bill which became law last year. This will allow our Nation's public housing residents a greater opportunity to achieve economic independence.

Mr. President, the bill seeks to increase the local accountability of housing authorities through the implementation of a local planning process. Public housing authorities will prepare 5-year and annual plans which will include all significant matters related to the operation of the housing authority. These plans will be required to be consistent with relevant State and local comprehensive plans. In addition, plans will be reviewed by resident advisory boards.

The bill recognizes that public housing is most effective when there is a viable income mix among its residents. Federal preferences will be repealed. The Brooke amendment, which requires residents to pay 30 percent of their income as rent, would be altered to allow tenants to pay ''up to'' 30 percent of their incomes in rent. This will remove a work disincentive which has hampered the economic livelihoods of many residents, while retaining the 30 percent limit as a cap.

The bill has additional rent reforms such as income disregards which will allow welfare recipients to move to work without losing 30 percent of their new-found income to rent, and ceiling rents which will allow working families to continue to move up the economic ladder without a 30 percent tax on income.

Mr. President, this legislation ensures that a significant percentage of units that become vacant in a given year will be set aside for the lowest income families. I believe this bill achieves the delicate balance between fostering the growth of mixed-income communities while ensuring that our neediest citizens will continue to be served.

The safety and security of the residents of public and assisted housing is a paramount objective. Many safety and security measures, including allowing public housing authorities increased access to criminal conviction records and greater flexibility in the eviction of drug criminals, were passed last year in legislation which I introduced, the Housing Opportunity Program Extension Act (Pub. L. 104–120). This legislation includes numerous additional safety and security provisions, including allowing HUD to waive rent requirements to permit police officers a lower rent as an inducement to living in project-based section 8 housing.

Furthermore, the bill will streamline the demolition and disposition process of distressed housing projects through the repeal of the one-for-one replacement requirement and other measures. This impractical and counterproductive Federal requirement has

been waived for the last 2 fiscal years through the appropriations process. By making this repeal permanent, our housing authorities will be able to operate with certainty.

Mr. President, the Banking Committee and its Housing Subcommittee will continue to evaluate proposals for HUD reorganization. Legislation to reform HUD's Federal Housing Administration insured and section 8 assisted multifamily properties will be introduced this spring. Additional legislative initiatives to reform HUD and its multitude of duplicative programs also will be considered.

We must remember that the fundamental goal of this process is to address adequately the affordable housing and community development needs of our citizens in a time of dwindling Federal resources. It is imperative that we protect our needy poor and working class residents whom these programs are intended to serve. Reforms must be made with caution and careful consideration.

This legislation has been crafted with the benefit of a lengthy and productive debate in the 104th Congress. The Banking Committee conducted a series of hearings on HUD and its public and assisted housing programs during the 104th Congress. Additional hearings are planned for this year. The Banking Committee will seek to achieve the swift implementation of needed reforms. The committee will utilize an open process with an opportunity for input from all concerned parties, which has as its goal the formation of a consensus for change.

Mr. President, I believe this bill appropriately balances the social purpose of public and assisted housing programs while also responding to Federal fiscal constraints. I look forward to working with all Members of the Banking Committee on a bipartisan basis to ensure the speedy passage of this important housing initiative.

Mr. BOND. Mr. President, I rise in support with Senators MACK and D'AMATO in introducing the Public Housing Reform and Responsibility Act of 1997. This legislation is substantially the same as S. 1260 which passed the Senate in the 104th Congress, but fell short of enactment in the waning days of that Congress.

This legislation is a critical step to the needed reform of the Department of Housing and Urban Development, as well as a major reform bill in its own right. This legislation consolidates the public housing and section 8 tenant-based assistance programs, and redirects the responsibility and authority for public housing and section 8 back to federally assisted residents, the public housing agencies, the localities, and the States.

This bill also dovetails with many of the public housing reforms contained in the VA/HUD fiscal years 1996 and 1997 appropriations bills and reflects the need to provide streamlined programs and local responsibility as the most appropriate method to address local housing needs.

I cannot emphasize enough the need to find a measured solution to the housing problems of this Nation and to HUD's overregulation of housing and community issues that are better addressed at the local level. This bill represents a complete overhaul of the public housing system and the section 8 tenant-based program and a move away from HUD's all too common one-size-fits-all mentality.

The linchpin of this legislation is to place the responsibility for the decisionmaking for public housing issues, from the demolition of obsolete units to the issue of elderly only housing to the voluntary conversion of public housing to tenant-based assistance, in the hands of local public housing agencies through public housing agency plans developed in conjunction with residents and consistent with state and local housing plans.

In addition, this legislation would continue to protect the poorest of the poor by requiring PHA's to continue to make 40 percent of all units available to families whose incomes do not exceed 30 percent of the area median income, 75 percent of all units to families whose incomes do not exceed 60 percent of median income and to make all other units available to families with incomes no greater than 80 percent of median income.

This bill also reforms and consolidates the section 8 voucher and certificate program into a single voucher program which will reduce administrative burden and increase the acceptability of vouchers in the private housing market.

Finally, the bill continues the Distressed Public Housing Program for the demolition of obsolete and uninhabitable public housing. Obsolete public housing has long been a drag on communities, and I consider it an absolute priority to remove these projects and provide low-income families with positive, affordable housing choices.

I see this bill as part of a downpayment on a larger HUD reform effort which I expect to be pursued throughout this Congress. I look forward to working with my colleagues on these important issues and I am optimistic that we can address many of them.

By Mrs. MURRAY:

S. 464. A bill to amend title 38, United States Code, to allow revision of veterans' benefits decisions based on clear and unmistakable error; to the Committee on Veterans' Affairs.

THE CLEAR AND UNMISTAKABLE ERROR LEGISLATION

Mrs. MURRAY. Mr. President, I am introducing today legislation to ensure that the Board of Veterans' Appeals errs on behalf of our veterans rather than on the side of the Federal Government. Specifically, my legislation will allow a veteran to correct a rating decision which is a clear and unmistakable error.

I am pleased to be joining with Congressman LANE EVANS in introducing this legislation. Congressman EVANS has been a champion in this cause and he has shepherded clear and unmistakable error legislation through the House of Representatives in the last two Congresses. The House Veterans' Affairs Committee will markup this legislation later this week; again, paving the way for House passage of this legislation. This is the first time that Senate legislation has been introduced on clear and unmistakable error. I look forward to working with my colleagues at the Senate Veterans' Affairs Committee to raise the profile of this issue in the Senate in the coming days.

Since joining the Senate Veterans' Affairs Committee in the last Congress, I have made it a priority to work closely with the veterans of my State. This legislative initiative is a direct result of that partnership between my office and the veterans of Washington State. Several veterans service organizations have contacted me in support of this legislation, and I do also know that this issue is a priority for the Disabled American Veterans.

For the record, I want to detail a vivid example of a clear and unmistakable error. The Department of Veterans Affairs schedule for rating disabilities prescribes a 40-percent disability rating for an amputation of the leg below the knee and a 60-percent disability rating for an amputation of the leg above the knee. In an instance where a veteran had an above the knee amputation but was assigned a 40-percent rating, the rating decision is indisputably wrong—clear and unmistakably wrong. My legislation would ensure that egregious errors like this at any administrative level of adjudication would be subject to review.

In recent months, I've handled several cases with the Department of Veterans Affairs that directly involved clear and unmistakable error. In one case, a veteran with a serious shoulder injury dating back to the Vietnam war was rated incorrectly for more than 20 years. In another case, a veteran with PTSD also dating to service in Vietnam was misdiagnosed for a lengthy period, affecting his disability rating and benefits and the treatment he received. To the VA's credit, some cases of clear and unmistakable error are reversible but it depends on where the veteran is in the VA process. Some cases of clear and unmistakable error no longer offer recourse to the veteran. My legislation seeks to correct this. I believe that we must make available every opportunity to right a wrong on behalf of a veteran.

Importantly, this legislation will also allow a veteran who under current law cannot seek to have a clear and unmistakable error claim reviewed the opportunity to request that the Board of Veterans' Appeals review its prior decision. So often we in Congress talk about providing for veterans or about meeting our obligations to veterans.

That is what this bill is all about; it gives a veteran the right to request a review rather than subjecting an ailing vet to a sometimes faceless bureaucracy hesitant to correct its mistakes.

This issue has been cast by some as arcane and complicated. And it is. But let me break it down to its most basic element for the Members of the Senate. Clear and unmistakable errors are errors that have deprived and continue to deprive veterans of benefits for which their entitlement is undeniable. To deny a veteran due to a bureaucratic mistake is beyond comprehension. When I first heard of this problem, I doubted the severity of the problem. But for a small number of veterans, the problem is real, very real, and it is causing hardships for some in meeting the challenges of everyday life.

The Congressional Budget Office determined a previous version of this legislation to be budget neutral. Stated another way, this legislation would not require additional resources for the VA or take needed resources from other VA programs or benefits.

The Department of Veterans Affairs does have a number of objections to the legislation. I do look forward to working with Secretary Jesse Brown to address these concerns so that this important veterans legislation can go forward. Secretary Brown is the most passionate advocate for veterans within government service. I have every confidence that he will work with me and other concerned Members to ensure that the VA works for the veteran.

Mr. President, I ask my colleagues to review this legislation and join me as cosponsors of this important initiative on behalf of veterans.

By Mr. DORGAN (for himself, Mr. BYRD and Mr. SARBANES):

S. 465. A bill to establish an Emergency Commission To End the Trade Deficit; to the Committee on Finance.

THE EMERGENCY COMMISSION TO END THE TRADE DEFICIT ESTABLISHMENT ACT

Mr. DORGAN. Mr. President, I am pleased to be on the floor of the Senate today with my distinguished colleague, the Senator from West Virginia, Senator BYRD. There is no one in the Senate for whom I have greater respect. I am pleased today to join him in introducing a piece of legislation dealing with a very important issue for this country, the trade deficit. Most especially, the merchandise trade deficit.

On behalf of myself, Senator BYRD, and Senator SARBANES, we are introducing legislation today which will establish a commission that will meet and make recommendations on how to end the crippling and growing merchandise trade deficit in our country.

We have had a great deal of discussion about the budget deficit in the U.S. Senate, and in Congress in recent months. In fact, it was not too long ago we had a stack of books, I venture to say 5-foot high, stacked on a desk that was, I think, to demonstrate deficits in various budgets for many years. That was one deficit.

That deficit is a difficult and a serious issue and one we must address. The question was whether it should be addressed through an attempt to alter the Constitution of the United States. There was great controversy about that. Yet, there was no disagreement about whether we had a responsibility to address the fiscal policy deficits. We have addressed them. We need to do more. They are coming down. They have been decreased by over 60 percent. The budget deficit has been coming down substantially for 4 years in a row. We have made progress, but we have a ways to go.

But there is another deficit in this country that is not even whispered about in this town or on the floor of Senate save for a couple of Members who care about it and come to speak about it. That is the merchandise trade deficit. That is a deficit that has not been reduced each of the last 4 years, as has the budget deficit.

This is a deficit that has been growing each of the last 4 years. This is a deficit that last year was the largest in our country's history. This is a deficit that, added on top of other trade deficits which have occurred for 21 consecutive years, now stacks up to a pile of $2 trillion. We have nearly $2 trillion of accumulated merchandise trade deficits that this country must repay some day with a lower standard of living here in the United States.

This is the third straight year of record trade deficits. It is the third straight year of new record levels in a string of 21 consecutive years of trade deficits. The last trade surplus in this country was in the year 1975.

Now, I have a chart I will show that demonstrates the fact that the United States has moved from a net creditor position to a net debtor position.

We are the largest debtor nation in the world. This has happened in a very short period of time. This shows what has happened to our position. We used to export more than we imported. We now import far, far more than we export. The question is, what do we import in this country?

This describes, of course, the yearly merchandise trade deficits, and this chart has enough red on it to demonstrate where we have been and where we are going. This is a very sad picture. It cries out for a remedy. This is not the picture of a strong economy. This is not a road map to a strong economic future.

The next chart shows that the U.S. imports that are coming into this country consist particularly of manufactured goods, and they make up 85 percent of our Nation's imports. These manufactured goods are mostly high-value goods that come from skilled labor. In fact, 75 percent of our trade deficit consists of high-value manufactured goods, such as automobiles, auto equipment, electronics goods and telecommunications equipment.

I have another chart that shows the U.S. imports of manufactured goods. You will see that we now import goods sufficient to match slightly over half of all that we make here. That is quite a statistic. You can see the growth of it. It is almost exponential growth. Imported manufactured goods as a percentage of the U.S. manufacturing gross domestic product have increased from 11 percent in 1970 to 56 percent this past year. As I showed from the previous chart, most of it is high-value manufactured goods.

If I might make a point with respect to our neighbor to the south, Mexico. Mexico now sends us more automobiles than we ship to the rest of the world. Let me repeat that. Today, the United States imports more automobiles from Mexico than we send to the rest of the world.

The next chart shows that the trade deficit we have is principally with six other countries. With Japan, we have had a $50 billion to $60 billion-a-year trade deficit for a long period. We now have a substantial deficit with China, amounting to nearly $40 billion. With Canada and Mexico, our two nearest neighbors, we have a combined deficit of nearly $40 billion.

You can see the dilemma in this country, where we have growing trade deficits with respect to Canada and Mexico and substantially growing trade deficit with respect to China and long-abiding deficits with respect to Japan. You can see what is happening. It is sapping the economic strength of our manufacturing sector in this country.

Yesterday, on a radio program, the talk radio announcer said, ''I don't understand, Senator DORGAN. Unemployment has come down, and our economy seems strong.'' I said, ''Yes, all that seems to be the case.'' I know that there are neighbors, no doubt, who seem to have great-looking homes, a shiny new car, maybe newly poured cement for a new driveway, and they have all the latest gadgets. But you don't see their credit statement. They may well be deep in debt with all that shiny new equipment in their garage.

The question is not how things appear, but what are the fundamentals of our economy? What does the foundation look like? The foundation of an economy that works and one that will grow and provide jobs in the future has a strong manufacturing sector. No country will long remain a world economic power if it does not retain a strong manufacturing base.

I have said often—and people probably get tired of hearing it from me—that you cannot measure this country's economic strength, as the economists so often do, by measuring what we consume every month or quarter. That is not a measurement of economic strength. Our economic strength is measured by what we produce, not what we consume.

What we produce from our manufacturing sector is all too often now moving. Our productive sector is moving out from our country to other countries. Jobs are moving from here to

there. It weakens our country internally and weakens our manufacturing sector.

The next chart talks about trade and jobs. There has been an old formula—in fact, they used this formula to sell the NAFTA trade package to us. They said every billion dollars in trade is the equivalent of 20,000 jobs. What would that mean? In 1996, our trade deficit meant we had a loss of 3.8 million good jobs; 3.8 million good jobs were lost. Just the increase in the deficit from 1995 to 1996—means another 300,000 jobs are gone. They have gone across the border, offshore, overseas. That is the dilemma.

Now, what do people say will happen to the trade deficit? We have the largest trade deficit in this country's history. You can see what has happened to it. It has been a steady, growing deficit. It continues to be a serious problem, and now it is at record levels. Some forecasters say that this deficit is going to continue to reach new record levels. In fact, one expert is predicting a deficit of $354 billion by 2007.

You know, we must think about what these trends mean. What is this all about? If I might simplify it for people, let us look at Japan. This is an ally of ours, a good country, a country that, by all accounts, has citizens who work hard and strive to compete aggressively in the world marketplace and do very, very well. We have become a sponge for much of their manufactured goods, and they make pretty good manufactured goods. They are tough, shrewd international competitors.

But when we send a pound of T-bone steak to Tokyo, guess what? A North Dakota rancher is often out during calving time in some pretty tough weather. He works really hard to deal with the tasks of everyday life on the ranch to care for maybe a 300-cow herd. That rancher raises some beef and then markets the beef. Eventually the beef finds a market, some in this country and some we want to export. When that North Dakota rancher wants to export beef to Japan, guess what happens to that beef? Japan regularly slaps a 50-percent tariff on every pound of beef going into Japan.

Does anybody think that is reasonable? And this is after our negotiations. It is after we have supposedly succeeded in negotiating down the tariffs on beef going into Japan. We have a celebration, but there still is a 50-percent tariff on T-bone steak going to Tokyo.

Guess what? Under any other standards of measurement, that would be considered a failure in international trade negotiations. Only because we have such low expectations from those with whom we trade are we willing to say that is a success. It is not a success, as far as I am concerned.

Why did we get to this position? Well, briefly, after the Second World War, our trade policy was foreign policy. Our trade policy was structured on the premise that we were the biggest, the best, the most, the strongest country on the face of the Earth, and we could compete with almost anybody in this world with one hand tied behind our back and win the competition. So our trade policy with Japan and European countries and others was largely foreign policy.

What we needed to do to at that time was to construct a trade relationship with our allies that helped them? We could certainly afford to help them, and we felt we must help them. That was our trade policy. For a quarter century it was necessary, and it worked, and guess what? We helped grow and nurture the restoration of post-Second-World-War economies, sufficient so that, I am pleased to say and I think others would be as well, that we now have very tough, shrewd competitors in the world marketplace. They are allies, friends and, yes, in the market system they are competitors.

It is time that we understand that this country can no longer win with one hand tied behind its back. It is time to understand that trade policy must be more than foreign policy, and we must insist on reciprocal trade treatment from our allies and trading partners. We must insist on not only free and open and expanded trade, but especially fair trade.

It upsets me to discover what we negotiated in a trade agreement with our neighbor to the north, a wonderful country with good people in it, Canada. We discover what is inside. It is like peeling an onion. You get the layers off and figure out what is in the middle of the treaty.

You discover that literally hundreds of semi-trucks come south from Canada into our country with durum wheat and barley. These are crops that we already grow in substantial surplus. Then I get in a little truck—a little, 12-year-old, 2-ton orange truck—with a North Dakota farmer with 220 bushels of wheat, and we go up to the Canadian border near Portal, ND. And we are stopped. They say, ''What do you have in the truck?'' ''We have 220 bushels of wheat.'' ''You can't go into Canada with wheat.'' ''Gee. We just passed 20 semitrucks coming south into our marketplace with wheat.'' ''Well, that may be but you can't take American wheat into Canada.''

That is the sort of thing that is fundamentally wrong with our trade agreements. We need fully reciprocal trade with all of our trade allies.

Let me finally in the last chart talk about what we are here to propose: An emergency commission to end the trade deficit. We need to respond to and deal with the growing, burgeoning problem in this country. That is the record merchandise trade deficits that we face and that our children and their children must repay with a lower standard of living. We must stop it. How do we stop it?

Senator BYRD, myself, and Senator SARBANES propose that a commission be impaneled that addresses the wide range of concerns: The manner in which the Government establishes and administers our trade policies and objectives; the causes and consequences of the persistence and growth of the overall trade deficit, as well as the specific bilateral trade deficits I mentioned; the relationship of United States trade deficits to both comparative and competitive advantages; the relationship between investment flows, both in and out of the U.S.; and, the development of policies and alternative strategies to end the trade deficit by 2007 and improve the economic well-being of our citizens.

Mr. President, I am delighted that Senator BYRD is on the floor today. I want to make one additional comment.

Those who talk about trade in public discourse here in the U.S. Congress and about town are generally divided into two groups. There is the group that is in favor of free trade and has been for a couple of decades. They are called the free traders, and they are described as those with world vision, those who can see over the horizon, who have the creative ability to think expansively about what our obligations are and what the future will be. And then there are others. They are classified as the xenophobic isolationist stooges who simply don't get it.

The minute you speak about the trade problem and the trade deficit, they say you are a ''protectionist,'' a ''xenophobic isolationist. That is who that is.''

I come from a State in which about half of what we produce must find a foreign home. I am the last person that would want to create walls around our border. I want expanded trade. I want open trade. I want free trade. But I demand that trade be fair.

American businesses and American workers ought to be able to expect that they are going to compete in a marketplace that is a fair marketplace. They should not be expected to compete against a 14-year-old that works 14 hours a day and is paid 14 cents an hour in some foreign factory producing a good that is then shipped to Fargo, Pittsburgh, or Denver. That is not fair trade, and American workers ought not to expect that.

We simply say there is a chronic and growing problem that ought to be addressed. We propose that an emergency commission be impaneled to end the trade deficit and make recommendations on how to do it.

By Mr. LAUTENBERG (for himself, Mr. KENNEDY, Mr. KERRY, Mrs. FEINSTEIN and Mr. TORRICELLI):

S. 466. A bill to reduce gun trafficking by prohibiting bulk purchases of handguns; to the Committee on the Judiciary.

THE ANTI-GUN TRAFFICKING ACT OF 1997

Mr. LAUTENBERG. Mr. President, I rise today to introduce legislation to stop the growing gun violence and death associated with interstate gun trafficking.

Recently, the scourge of gun violence invaded all of our homes, when a madman opened fire on innocent tourists atop the Empire State Building. When the shooting stopped, one person was dead, and six were injured. One of the victims was 27-year-old Matthew Gross of Montclair, NJ. Matthew Gross was shot in the head, and lingered in a coma, connected to a ventilator, for 8 agonizing days. Thankfully, this courageous young man has come out of the coma and is beginning the long and arduous task of recovery.

Mr. President, this gun violence must stop. It is too easy to obtain a gun in America. This morning, I stood with Matthew's father and brother and we all committed ourselves to intensify the fight against gun violence. Because Matthew Gross wasn't only a victim of a disturbed gunman. He was a victim of the epidemic of gun violence. Reducing this violence must be a top national priority.

Today, Mr. President, I am introducing the Anti-Gun Trafficking Act, to reduce interstate gun trafficking by prohibiting bulk purchases of handguns. The bill would prohibit the purchase of more than one handgun during any 30-day period. I am joined in this effort by Senators KENNEDY, JOHN KERRY, FEINSTEIN, and TORRICELLI.

Mr. President, no one needs more than one gun a month. In New Jersey, we have banned assault weapons, and we have established strict permitting requirements for handgun purchases. Yet the effectiveness of these restrictions is substantially diminished because the controls in other States are far less strict.

Unfortunately, many gun traffickers make bulk purchases of handguns in States with weak firearm laws, and then transport them to other States with tougher laws for illegal sale on the streets. This has helped spread the plague of gun violence nationwide. And without Federal limits, there is little that any one State can do about it.

A few years ago, Mr. President, the State of Virginia enacted legislation designed to prevent gunrunners from buying large quantities of handguns in Virginia for export to other States. Under that State law, as under my proposal, handgun purchases are limited to one per month. This Virginia statute has proven to be very effective in controlling gun trafficking from Virginia.

Before the ban, Virginia had become the firearm supermarket of the East Coast. It supplied more than 40 percent of the guns used in crimes in New York City. But under the new legislation, the results were dramatic. The percentage of guns traced back to Virginia gun dealers fell by 61 percent for guns recovered in New York, 67 percent for guns recovered in Massachusetts, and 38 percent for guns recovered in New Jersey.

Mr. President, Virginia's experience suggests that a ban on bulk purchases can substantially reduce gunrunning. However, to be truly effective, such a limit must be enacted nationwide. Otherwise, gunrunners will simply move their operations to other States. The only way to close down the ''iron pipeline'' is to plug it up at all ends.

The Anti-Gun Trafficking Act will impose such a nationwide limit on bulk gun purchases. I do not claim this restriction would end all handgun violence. And, personally, I don't see why anyone needs even 12 guns a year. However, it is a reasonable and modest step in the right direction.

Mr. President, a one-gun-a-month law would take a bite out of gunrunning without imposing any burden on hunters and other law-abiding gun users. After all, who but gang members, drug dealers, and other criminals needs more than 12 guns a year? Law abiding citizens are made safer by limiting the number of firearms available for purchase at one time.

Mr. President, this is a sensible approach, and one which will help to make our families, our streets, our communities, and our country safer. I urge my colleagues to support restrictions on bulk purchases on handguns and to join in cosponsoring ''One Gun a Month.''

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. 466

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 ''Anti-Gun Trafficking Act of 1997''.

SEC. 2. PROHIBITION AGAINST MULTIPLE HANDGUN SALES OR PURCHASES.

(a) PROHIBITION.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

''(y) PROHIBITION AGAINST MULTIPLE HANDGUN SALES OR PURCHASES.—

''(1) IN GENERAL.—It shall be unlawful for an licensed dealer—

''(A) during any 30-day period, to sell 2 or more handguns to an individual who is not licensed under section 923; or

''(B) to sell a handgun to an individual who is not licensed under section 923 and who purchased a handgun during the 30-day period ending on the date of the sale.

''(2) TIME LIMITATION.—It shall be unlawful for any individual who is not licensed under section 923 to purchase 2 or more handguns during any 30-day period.

''(3) EXCHANGES.—Paragraph (1) does not apply to an exchange of 1 handgun for 1 handgun.''.

(b) PENALTIES.—Section 924(a)(2) of title 18, United States Code, is amended by striking ''or (o)'' and inserting ''(o), or (y)''.

SEC. 3. INCREASED PENALTIES FOR MAKING KNOWINGLY FALSE STATEMENTS IN CONNECTION WITH FIREARMS.

Section 924(a)(3) of title 18, United States Code, is amended by striking ''one year'' and inserting ''5 years''.

SEC. 4. DEADLINES FOR DESTRUCTION OF RECORDS RELATED TO CERTAIN FIREARMS TRANSFERS.

(a) HANDGUN TRANSFERS SUBJECT TO THE WAITING PERIOD.—Section 922(s)(6)(B)(i) of title 18, United States Code, is amended by striking ''20 business days'' and inserting ''35 calendar days''.

(b) FIREARMS TRANSFERS SUBJECT TO INSTANT CHECK.—Section 922(t)(2)(C) of title 18, United States Code, is amended by inserting ''not later than 35 calendar days after the date the system provides the licensee with the number,'' after ''[(C)]''.

SEC. 5. REVISED DEFINITION.

Section 921(a)(21)(C) of title 18, United States Code, is amended by inserting '', except that such term shall include any person who transfers more than 1 handgun in any 30-day period to a person who is not a licensed dealer'' before the semicolon.

By Mr. WELLSTONE (for himself, Mrs. MURRAY, Mr. WYDEN, and Mr. DORGAN):

S. 467. A bill to prevent discrimination against victims of abuse in all lines of insurance; to the Committee on Labor and Human Resources.

VICTIMS OF ABUSE INSURANCE PROTECTION ACT

Mr. WELLSTONE. Mr. President, I am very pleased to be joined by my colleagues and original cosponsors Senator RON WYDEN, Senator PATTY MURRAY, and Senator BYRON DORGAN in reintroducing the Victims of Abuse Insurance Protection Act, legislation that will outlaw discrimination by insurance companies against the victims of domestic violence in all lines of insurance. Congressman BERNIE SANDERS is introducing an identical bill in the House this week.

With this legislation, we are trying to correct an abhorrent practice by many insurance companies—the denial of coverage to battered women. It is plain, old-fashioned discrimination. It is profoundly unjust and wrong. And, it is the worst of blaming the victim. Denying women access to the insurance they require to foster their mobility out of an abusive situation must be stopped.

While we were successful in including language in the Kassebaum-Kennedy law which prohibits insurers from denying insurance because the applicant is a victim of abuse, insurance companies can still charge victims of abuse a higher rate.

In Minnesota, three insurance companies denied an entire women's shelter insurance because, as a battered women's shelter, we were high risk. The Women's Shelter in Rochester, MN, was told that it was considered uninsurable because its employees are almost all battered women.

Another shelter in rural Minnesota purchased a car so that women and children in danger who were trying to leave an abusive situation could use this anonymous vehicle and thus the abuser could not track their automobile to find them. The shelter could not find a company to provide them with automobile insurance once the companies knew of the risks surrounding battered women.

A woman in Iowa named Sandra was denied life insurance after the company found out that she had been beaten up twice. In one incident, she had

been so badly beaten by an ex-boyfriend that her cheekbones were splintered, and one of her eyes had to be put back in its socket. Her mother, Mary, was the one who originally applied for the life insurance policy, explaining, ''I didn't ask for a lot of coverage. I just wanted to apply for $1,000 coverage, just enough that if something happened, God forbid, that we could at least bury her.''

Mary was angry about the denial, so she wrote to State officials and the Iowa insurance commissioner's office tried to intervene on their behalf. In four separate letters, the insurance company officials stated they denied the coverage because of a history of assaults. In one letter they defended their decision by citing numerous documents which showed that people involved in domestic violence incidents are at a higher risk of death and injury than others, and, therefore, not a good risk.

There are, unfortunately, many other instances of victims of domestic abuse being denied fire insurance, homeowners insurance, life insurance, and health insurance—denied because they were victims of a crime.

This bill goes a long way toward treating domestic violence as the crime that it is—not a voluntary risky behavior that can be easily changed and not as a pre-existing condition. Insurance company policies that deny coverage to victims only serve to perpetuate the myth that victims are responsible for their abuse.

In order to address the practice of insurers using domestic violence as a basis for determining whom to cover and how much to charge with respect to health, life, disability, homeowners, and auto insurance, this legislation prohibits insurance companies from discriminating against victims in any of the following ways:

First, denying or terminating insurance; second, limiting coverage or denying claims; third, charging higher premiums; or fourth, terminating health coverage for victims of abuse in situations where coverage was originally issued in the abuser's name, and acts of the abuser would cause the victim to lose coverage.

This legislation also keeps victims' information confidential by prohibiting insurers from improperly using, disclosing, or transferring abuse-related information for any purpose unrelated to the direct provision of health care services.

Insurance companies should not be allowed to discriminate against anyone for being a victim of domestic violence. We may never know the full extent of the problem, but it is a grossly unfair practice and should be prohibited.

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. 467

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 ''Victims of Abuse Insurance Protection Act''.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) ABUSE.—The term ''abuse'' means the occurrence of one or more of the following acts by a current or former household or family member, intimate partner, or caretaker:

(A) Attempting to cause or causing another person bodily injury, physical harm, substantial emotional distress, psychological trauma, rape, sexual assault, or involuntary sexual intercourse.

(B) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority and under circumstances that place the person in reasonable fear of bodily injury or physical harm.

(C) Subjecting another person to false imprisonment or kidnapping.

(D) Attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.

(2) ABUSE-RELATED MEDICAL CONDITION.—The term ''abuse-related medical condition'' means a medical condition which arises in whole or in part out of an action or pattern of abuse.

(3) ABUSE STATUS.—The term ''abuse status'' means the fact or perception that a person is, has been, or may be a subject of abuse, irrespective of whether the person has sustained abuse-related medical conditions or has incurred abuse-related claims.

(4) HEALTH BENEFIT PLAN.—The term ''health benefit plan'' means any public or private entity or program that provides for payments for health care, including—

(A) a group health plan (as defined in section 607 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167)) or a multiple employer welfare arrangement (as defined in section 3(40) of such Act (29 U.S.C. 1102(40)) that provides health benefits;

(B) any other health insurance arrangement, including any arrangement consisting of a hospital or medical expense incurred policy or certificate, hospital or medical service plan contract, or health maintenance organization subscriber contract;

(C) workers' compensation or similar insurance to the extent that it relates to workers' compensation medical benefits (as defined by the Federal Trade Commission); and

(D) automobile medical insurance to the extent that it relates to medical benefits (as defined by the Federal Trade Commission).

(5) HEALTH CARRIER.—The term ''health carrier'' means a person that contracts or offers to contract on a risk-assuming basis to provide, deliver, arrange for, pay for or reimburse any of the cost of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation or any other entity providing a plan of health insurance, health benefits or health services.

(6) INSURED.—The term ''insured'' means a party named on a policy, certificate, or health benefit plan, including an individual, corporation, partnership, association, unincorporated organization or any similar entity, as the person with legal rights to the benefits provided by the policy, certificate, or health benefit plan. For group insurance, such term includes a person who is a beneficiary covered by a group policy, certificate, or health benefit plan. For life insurance, the term refers to the person whose life is covered under an insurance policy.

(7) INSURER.—The term ''insurer'' means any person, reciprocal exchange, interinsurer, Lloyds insurer, fraternal benefit society, or other legal entity engaged in the business of insurance, including agents, brokers, adjusters, and third party administrators. The term also includes health carriers, health benefit plans, and life, disability, and property and casualty insurers.

(8) POLICY.—The term ''policy'' means a contract of insurance, certificate, indemnity, suretyship, or annuity issued, proposed for issuance or intended for issuance by an insurer, including endorsements or riders to an insurance policy or contract.

(9) SUBJECT OF ABUSE.—The term ''subject of abuse'' means a person against whom an act of abuse has been directed, a person who has prior or current injuries, illnesses, or disorders that resulted from abuse, or a person who seeks, may have sought, or had reason to seek medical or psychological treatment for abuse, protection, court-ordered protection, or shelter from abuse.

SEC. 3. DISCRIMINATORY ACTS PROHIBITED.

(a) IN GENERAL.—No insurer or health carrier may, directly or indirectly, engage in any of the following acts or practices on the basis that the applicant or insured, or any person employed by the applicant or insured or with whom the applicant or insured is known to have a relationship or association, is, has been, or may be the subject of abuse:

(1) Denying, refusing to issue, renew or reissue, or canceling or otherwise terminating an insurance policy or health benefit plan.

(2) Restricting, excluding, or limiting insurance or health benefit plan coverage for losses incurred as a result of abuse or denying a claim incurred by an insured as a result of abuse, except as otherwise permitted or required by State laws relating to life insurance beneficiaries.

(3) Adding a premium differential to any insurance policy or health benefit plan.

(4) Terminating health coverage for a subject of abuse because coverage was originally issued in the name of the abuser and the abuser has divorced, separated from, or lost custody of the subject of abuse or the abuser's coverage has terminated voluntarily or involuntarily and the subject of abuse does not qualify for extension of coverage under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986. Nothing in this paragraph prohibits the insurer from requiring the subject of abuse to pay the full premium for the subject's coverage under the health plan if the requirements are applied to all insureds of the health carrier. The insurer may terminate group coverage after the continuation coverage required by this paragraph has been in force for 18 months if it offers conversion to an equivalent individual plan. The continuation of health coverage required by this paragraph shall be satisfied by any extension of coverage under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986 provided to a subject of abuse and is not intended to be in addition to any extension of coverage provided under part 6 of subtitle B of title I or the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1161 et seq.) or 4980B of the Internal Revenue Code of 1986.

(b) USE OF INFORMATION.—

(1) IN GENERAL.—No person employed by or contracting with an insurer or health benefit plan may use, disclose, or transfer information relating to an applicant's or insured's abuse status or abuse-related medical condition or the applicant's or insured's status as a family member, employer, or associate,

person in a relationship with a subject of abuse for any purpose unrelated to the direct provision of health care services unless such use, disclosure, or transfer is required by an order of an entity with authority to regulate insurance or an order of a court of competent jurisdiction. In addition, such a person may not disclose or transfer information relating to an applicant's or insured's location or telephone number. Nothing in this paragraph shall be construed as limiting or precluding a subject of abuse from obtaining the subject's own insurance records from an insurer.

(2) AUTHORITY OF SUBJECT OF ABUSE.—A subject of abuse, at the absolute discretion of the subject of abuse, may provide evidence of abuse to an insurer for the limited purpose of facilitating treatment of an abuse-related condition or demonstrating that a condition is abuse-related. Nothing in this paragraph shall be construed as authorizing an insurer or health carrier to disregard such provided evidence.

SEC. 4. INSURANCE PROTOCOLS FOR SUBJECTS OF ABUSE.

Insurers shall develop and adhere to written policies specifying procedures to be followed by employees, contractors, producers, agents and brokers for the purpose of protecting the safety and privacy of a subject of abuse and otherwise implementing the provisions of this Act when taking an application, investigating a claim, or taking any other action relating to a policy or claim involving a subject of abuse.

SEC. 5. REASONS FOR ADVERSE ACTIONS.

An insurer that takes an action that adversely affects a subject of abuse, shall advise the subject of abuse applicant or insured of the specific reasons for the action in writing. Reference to general underwriting practices or guidelines does not constitute a specific reason.

SEC. 6. LIFE INSURANCE.

Nothing in this Act shall be construed to prohibit a life insurer from declining to issue a life insurance policy if the applicant or prospective owner of the policy is or would be designated as a beneficiary of the policy, and if—

(1) the applicant or prospective owner of the policy lacks an insurable interest in the insured; or

(2) the applicant or prospective owner of the policy is known, on the basis of police or court records, to have committed an act of abuse against the proposed insured.

SEC. 7. SUBROGATION WITHOUT CONSENT PROHIBITED.

Subrogation of claims resulting from abuse is prohibited without the informed consent of the subject of abuse.

SEC. 8. ENFORCEMENT.

(a) FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall have the power to examine and investigate any insurer to determine whether such insurer has been or is engaged in any act or practice prohibited by this Act. If the Federal Trade Commission determines an insurer has been or is engaged in any act or practice prohibited by this Act, the Commission may take action against such insurer by the issuance of a cease and desist order as if the insurer was in violation of section 5 of the Federal Trade Commission Act. Such cease and desist order may include any individual relief warranted under the circumstances, including temporary, preliminary, and permanent injunctive and compensatory relief.

(b) PRIVATE CAUSE OF ACTION.—An applicant or insured who believes that the applicant or insured has been adversely affected by an act or practice of an insurer in violation of this Act may maintain an action against the insurer in a Federal or State court of original jurisdiction. Upon proof of such conduct by a preponderance of the evidence, the court may award appropriate relief, including temporary, preliminary, and permanent injunctive relief and compensatory and punitive damages, as well as the costs of suit and reasonable fees for the aggrieved individual's attorneys and expert witnesses. With respect to compensatory damages, the aggrieved individual may elect, at any time prior to the rendering of final judgment, to recover in lieu of actual damages, an award of statutory damages in the amount of $5,000 for each violation.

SEC. 9. EFFECTIVE DATE.

This Act shall apply with respect to any action taken on or after the date of the enactment of this Act, except that section 4 shall only apply to actions taken after the expiration of 60 days after such date.

Mrs. MURRAY. Mr. President, I am pleased today to join with my colleague from Minnesota, Senator WELLSTONE, in introducing the Victims of Abuse Insurance Protection Act. I believe that every Senator in this Chamber should join in support of this important legislation.

The Victims of Abuse Insurance Protection Act will prohibit discrimination by insurance companies against victims of domestic violence. This prohibition will apply to all lines of insurance including health, life, and homeowners.

We are all proud of our efforts to increase our commitment to ending domestic violence. The Federal Government has dramatically increased resources to fighting this devastating public health threat. We have worked to strengthen enforcement of domestic violence laws and ensure that victims have access to the resources and assistance necessary to end the cycle of violence. However, the first step for most victims is reporting the violence and removing themselves from the violent situation. But, if a victim of domestic violence knows that by reporting and seeking help they have now accepted the fact that they will face discriminatory practices in when they try to secure any form of insurance, fewer victims will come forward. This is a chilling consequence that we cannot allow.

Make no mistake about it, this is a real threat. I have been approached by an insurance agent in Washington State who told me that she cannot sell life insurance to victims of domestic violence. I also know of women who are unable to afford adequate homeowners insurance because of past domestic violence. This is an outrage and runs counter to all that is fair and decent. This is a classic example of blaming the victim.

As a strong advocate of ending domestic violence, I cannot sit by and watch insurance companies deny victims insurance or impose such drastic cost barriers that few could overcome. I am appalled by this type of discrimination and extremely concerned about the impact it has on our efforts to combat domestic violence.

By Mr. CHAFEE (for himself and Mr. MOYNIHAN):

S. 468. A bill to continue the successful Federal role in developing a national intermodal surface transportation system, through programs that ensure the safe and efficient movement of people and goods, improve economic productivity, preserve the environment, and strengthen partnerships among all levels of the government and the private sector, and for other purposes; to the Committee on Finance.

THE NATIONAL ECONOMIC CROSSROAD TRANSPORTATION EFFICIENCY ACT OF 1997

Mr. CHAFEE. Mr. President, today, I am introducing, along with my colleague from New York, Senator MOYNIHAN, the National Economic Crossroad Transportation Efficiency Act of 1997, referred to as NEXTEA. NEXTEA is the Clinton administration's legislative proposal for the reauthorization of the Intermodal Surface Transportation Efficiency Act.

I am introducing NEXTEA because it builds upon the landmark ISTEA legislation. It emphasizes environmental protection, system preservation, safety, and intermodalism. I would like to encourage my colleagues to take a serious look at this proposal.

In addition, I will be a cosponsor of the ISTEA Reauthorization Act of 1997, a bill that has been written by Senators MOYNIHAN, LIEBERMAN, and LAUTENBERG which will be introduced in the near future. This proposal also builds upon the program structure and emphasis of the original ISTEA.

Today's introduction does not mean that I endorse all the ideas in the administration's proposal. I am still in the process of reviewing the bill's details and plan to ask the administration questions about their provisions and the thinking behind some of their proposals.

Of particular interest to my colleagues is whether my introduction of the administration's bill indicates my endorsement of the administration's formula for distributing funds among the States. It does not.

The administration's formula relies to a great extent on the contributions paid into the highway trust fund by the individual States. I have serious concerns about setting national policy on the basis of where gasoline is purchased. The Federal Highway Administration's estimate of the highway trust fund contributions is based upon where gasoline is purchased, not even where it is used. Let me give a couple of examples of the problems I see with this misplaced focus.

If you buy gas in Baltimore, MD, and drive to Woonsocket, RI, you will drive through the States of Delaware, New Jersey, New York, Connecticut, and Rhode Island. Maryland will be the only State that gets credit for this trip.

Even if we were better able to estimate where gasoline is used, rather than just where it is purchased, setting national transportation policy on gasoline usage provides incentives that contradict policies of ISTEA such as environmental protection, intermodalism,

and efficiency. Under a gas tax-based formula, States and localities that use transit significantly or use less gasoline because of good planning are actually penalized for their good work.

For example, programs or policies that encourage any of the following would be penalized: Shifting highway usage to other modes such as transit, greater use of carpooling and High Occupancy Vehicle [HOV] lanes, progressive land use planning, and the use of alternative fuels, or electric vehicles. In other words, ''no good deed, goes unpunished'' under such a national policy.

Gasoline taxes are an efficient and low-cost way of raising revenue for transportation purposes. They should not, however, be attributed a policy importance that they do not deserve.

Let me conclude my statement by encouraging all of the Members of the Senate to work together as we craft an ISTEA reauthorization proposal. I know we have some substantial disagreements that need to be resolved.

As we move forward, we need to keep in mind the diversity and uniqueness of the country and all of its transportation needs. All of us must resist the temptation to set a national transportation policy based solely on our own region's particular demands. The demands of the Northeast are different from those of the South; the demands of the South are different from those of the West. And so on.

We need to be cognizant of the population growth that has taken place in the South and Southwest and the strains that such growth has put on areas within that region. Many of the Western States, by contrast, with their low-population density and the great distances involved in travel, rely on highways as the major mode of transportation. We also need to acknowledge the uniqueness of the Northeast United States; its older infrastructure and acute congestion make it more dependent on nonhighway modes such as transit and Amtrak. Attempts to pass a new bill by forming alliances along regional lines will fail unless the bill recognizes the needs of all regions.

I am hopeful that the ISTEA reauthorization will build upon the strong record of its predecessor. Admittedly, the transition from old policies and practices to those embodied in ISTEA has not always been easy, and more work needs to be done. However, we should not let these bumps in the road cause us to retreat from the progress we have made.

Mr. President, I ask unanimous consent that the text of the bill summary be printed in the RECORD.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title; Secretary Defined; Table of Contents

This section designates the title of this legislation as the ''National Economic Crossroads Transportation Efficiency Act of 1997,'' defines ''Secretary'' as the Secretary of Transportation, and lists the table of contents for this legislation.

TITLE I—SURFACE TRANSPORTATION

Sec. 1001. Short Title; Authorization of Appropriations

This section designates title 1 of this bill as the ''Surface Transportation Act of 1997.'' This section also authorizes sums out of the Highway Trust Fund (other than the Mass Transit Account) for the National Highway System, the Interstate maintenance program, the surface transportation program, the congestion mitigation and air quality improvement program, the highway bridge replacement and rehabilitation program, the Federal Lands Highways program, the infrastructure safety program, the integrated safety fund, the national recreational trails program, and university transportation centers.

Authorizations for other highway trust-funded programs not included in this section are included in the legislative provisions authorizing the programs themselves, such as Federal Highway Administration's research and technology, Intelligent Transportation Systems, and motor carrier safety programs.

Paragraph (5) establishes a $17 million annual take-down from HBRRP apportionments to fund the alteration of bridges determined to be unreasonable obstructions to navigation under the Truman Hobbs Bridge Act, 33 U.S.C. 511–524, and requires the Secretary to transfer such sums (contract authority), an amount of obligation authority equal to 100 percent of such contract authority, and the responsibility for administering such sums to the United States Coast Guard. These sums are to be administered in accordance with the Truman Hobbs Bridge Act, rather than the HBRRP.

Sec. 1002. Definitions

This section revises the current definition of ''operational improvement'' found in 23 U.S.C. 101(a) to expressly include the installation, operation, or maintenance of certain Intelligent Transportation Systems infrastructure projects, and the installation or operation of communications systems, roadway weather information and prediction systems, and other such improvements designated by the Secretary that enhance roadway safety during adverse weather. This language expands the definition of operational improvement to include operation and maintenance expenses for public ITS infrastructure projects, since these activities are integral to and inseparable from the installation of the associated infrastructure. Operational improvement projects continue to be eligible for National Highway System (NHS) and surface transportation program (STP) apportionments under the revised NHS and STP provisions of this Act.

Sec. 1003. National Highway System

Paragraphs (a)(1) and (2) amend 23 U.S.C. 103(i) to expand NHS eligibility to make publicly owned intercity passenger rail capital projects eligible for NHS funds under the same criteria that currently apply to transit and non-NHS highway projects under 23 U.S.C. 103(i)(3).

Paragraph (a)(3) amends paragraph 103(i)(13) to expand NHS funding eligibility to include natural habitat mitigation under the same circumstances in which wetlands mitigation is currently eligible for funding under this paragraph.

Paragraph (a)(4) amends section 103 by adding two new items to the list of projects generally eligible for NHS funding: publicly owned intracity or intercity passenger rail or bus terminals and publicly owned intermodal surface freight transfer facilities, other than seaports and airports, where such terminals and facilities are located at or adjacent to the NHS or connections to the NHS; and infrastructure-based Intelligent Transportation Systems capital improvements.

This paragraph also adds to the list of eligible NHS projects a paragraph applicable only to projects on the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands. The Federal-aid highway funds provided to these territories are NHS funds, and therefore, in amending the list of NHS-eligible projects under section 103, new paragraph 103(i)(16) permits these territories to use their entire Federal-aid highway apportionments for any STP-eligible project, any airport, and any seaport. This greatly increases the territories' ability to craft the most appropriate solution to their transportation needs, regardless of transportation mode.

Paragraph (a)(5) amends section 103 by adding a definition of ''intermodal surface freight transfer facilities.'' Under this definition, this term would include: any access road, parking or staging area, ramp, loading or unloading area and equipment, rail yard, track, and interest in land, publicly-owned rail access line to a seaport, and publicly owned access road to a seaport, if they are used to effect the transfer of freight.

Because Congress has enacted legislation designating the National Highway System, subsection (b) amends section 103 to strike all out-of-date references to the States, local officials, and the Secretary working cooperatively to develop and submit to Congress a proposed National Highway System; the requirement that Congress must enact a law designating the National Highway System; the requirement for the equitable allocation of highway mileage on the National Highway System among the States; and the interim National Highway System. Subsection (b) also makes several conforming changes to section 103 to reflect the removal of these NHS designation provisions from this section. Subsection (b) also adds a new paragraph to subsection 103(b) to provide congressional approval of the Department's submission of NHS intermodal connectors.

Sec. 1004. Apportionments

Subsection (a) of this section revises 23 U.S.C. 104(a) to more accurately reflect the program authorizations from which the Secretary may deduct to fund the administration of the Federal-aid highway program and surface transportation research.

Subsection (b) of this section amends 23 U.S.C. 104(b) by revising the current formulas for the National Highway System, congestion mitigation and air quality improvement program (CMAQ), and surface transportation program (STP) apportionments.

NHS and STP Program Formulas

Revised paragraph 104(b)(1) provides that NHS funds shall be apportioned in each fiscal year, on or after October 1, according to the following factors:

75 percent according to each State's annual contributions to the Highway Trust Fund (excluding the Mass Transit Account) as a percent of the total annual contributions to the Highway Trust Fund (excluding Mass Transit) by all States (using the latest available data);

15 percent according to each State's annual commercial vehicle contributions to the Highway Trust Fund (excluding the Mass Transit Account) as a percent of the total annual commercial vehicle contributions to the Highway Trust Fund (excluding Mass Transit) by all States (using the latest available data). Commercial vehicle contributions to the Highway Trust Fund include Federal diesel fuel taxes, the Federal heavy vehicle use tax, the Federal truck and trailer excise tax, and the Federal truck tire tax (using the latest available data); and

10 percent according to each State's public road mileage as a percent of the total public road mileage for all States (using the latest available data);

With the guarantee that each State's annual apportionments will equal no less than one-half of one percent (0.5 percent) of the total annual apportioned NHS funds.

Revised paragraph 104(b)(3) provides that STP funds shall be apportioned according to the following factors:

70 percent according to each State's annual contributions to the Highway Trust Fund (excluding the Mass Transit Account) as a percent of the total annual contributions to the Highway Trust Fund (excluding Mass Transit) by all States (using the latest available data); and

30 percent according to each State's total population as a percent of the total population of the United States (using the latest available annual data);

With the guarantee that each State's annual apportionments will equal no less than one-half of one percent (0.5 percent) of the total annual apportioned STP funds.

CMAQ Formula

The existing CMAQ formula at 23 U.S.C. 104(b)(2) is based on two factors: the population living in ozone nonattainment areas within each State and the severity of that ozone pollution. For increasing levels of severity, an additional weighting factor is applied to the nonattainment area population, rising from 1.0 for the least severe to 1.5 for the most severe ozone air pollution. If an ozone nonattainment area is also nonattainment for carbon monoxide, it receives an additional weighting factor of 1.2. Under the NHS Designation Act of 1995, CMAQ apportionment factors (including the nonattainment area population and the severity level, or ''classification'') were frozen as they were in 1994 to hold CMAQ funding levels even for States whose nonattainment areas were redesignated to attainment and thus dropped out of the apportionment formula.

In subparagraphs 104(b)(2) (A) and (B), the basic formula would remain the same, however additional funding would be apportioned to States with particulate matter pollution and additional consideration would be given to carbon monoxide pollution. Also, a new weighting factor is employed for those areas that have redesignated to attainment, or ''maintenance areas''. They would be given a 1.0 weighting factor and all other ozone nonattainment areas would be bumped up, ranging from a factor of 1.1 to 1.5.

In subparagraph 104(b)(2)(D), any additional area newly designated as nonattainment as a result of a change in the national ambient air quality standards that has submitted to EPA a State implementation plan will have its population included in the CMAQ apportionment formula with a weighting factor of 1.0.

To ensure that no State will receive less in CMAQ funding as a result of a redistribution of funds caused by the new standards, new subparagraph 104(b)(2)(E) provides such sums as necessary from the surface transportation program before STP funds are apportioned, to hold States harmless.

National Recreational Trails Program

Subsection (c) of this section amends 23 U.S.C. 104(h) to establish the formula to be used in apportioning funds authorized to be appropriated for carrying out the National Recreational Trails Program. In paragraph 104(h)(1), the Secretary is directed to deduct, from the sums authorized to carry out this program, an amount to cover the cost of administering the Recreational Trails Program, the cost of research under that program, and the cost of administering the Federal Recreational Trails Advisory Committee. Paragraph 104(h)(1) also limits this amount to three percent or less of the sums authorized. Paragraph 104(h)(2) delineates the manner in which the Secretary is to apportion among the States the remainder of the sums authorized to be appropriated to carry out the Recreational Trails Program. Subparagraph 104(h)(2)(A) provides that the Secretary is to apportion fifty percent of the remainder of the authorized sums equally among the States eligible for funding under the Recreational Trails Program. Subparagraph 104(h)(2)(B) directs the Secretary to apportion the other fifty percent among the eligible States in amounts proportionate to the degree to which non-highway recreational fuel was used in each such State during the preceding year.

Woodrow Wilson Memorial Bridge

Subsection (d) of this section amends 23 U.S.C. 104(i) to authorize funding for fiscal years 1998, 1999, and 2000, to remain available until expended, for the rehabilitation of the existing Woodrow Wilson Memorial Bridge and for the costs related to construction of a new bridge. The design of the new bridge will be based on the design selected by the Woodrow Wilson Memorial Bridge Coordination Committee, and no actual construction contracts can be let until ownership of the bridge is transferred to the Woodrow Wilson Memorial Bridge Authority. The requirements for design selection and transfer of ownership were established by the Woodrow Wilson Memorial Bridge Authority Act of 1995. Construction of the new bridge shall be administered in accordance with Federal Acquisition Regulations.

Subsection (e) of this section adds a new subsection, (k), to section 104, recodifying current subsection 134(k) with one significant revision. New subsection 104(k) establishes a process for transferring and administering transit funds made available for highway projects and highway funds made available for transit projects. This subsection has been revised to expressly provide for program-wide transfers of funds and a like amount of obligation authority, where the current subsection only provides for the project-by-projects transfer of funds. This subsection also provides for program-wide transfers of highway and transit funds to Amtrak and other eligible rail projects.

AUDITS OF HIGHWAY TRUST FUND

Subsection (f) permits the Secretary to reimburse the Department of Transportation's Inspector General for the cost of conducting annual financial statement audits of the Highway Trust Fund in accordance with the Chief Financial Officers Act of 1990.

EQUITY ADJUSTMENTS

Subsections (g) and (h) of this legislation revise and rename the current minimum allocation provision of title 23. As revised, 23 U.S.C. 157(a)(1) provides that each State shall receive at least 90 of its annual contributions to the Highway Trust Fund (excluding the Mass Transit Account) as a percent of total annual contributions to the Highway Trust Fund (excluding Mass Transit) by all States (using the latest available data.) Such adjustment shall only apply to funds apportioned under the following programs: Interstate maintenance, National Highway System, bridge, surface transportation program/enhancements, congestion mitigation and air quality improvement, metropolitan planning, and infrastructure safety.

Paragraph 157(a)(2) provides that for fiscal years 1998 through 2003, each State except Alaska shall receive at least 90 percent of the funds apportioned to that State in the preceding fiscal year, including equity adjustments, but excluding State percentage guarantee amounts. Alaska shall receive at least 90 percent of its previous year's apportionments in fiscal year 1998 and 100 percent of each preceding year's apportionments for each of fiscal years 1999 through 2003.

Sec. 1005. State Percentage Guarantee

Similar to the hold harmless provision (subsection 1015(a)) of ISTEA, this section establishes levels for annual apportionments such that each State is guaranteed to receive at least a certain percentage of total apportionments for each year for the NHS, CMAQ, STP, IM, bridge, infrastructure safety, both equity adjustments in section 157, and Interstate reimbursement programs. Each State's STP apportionment would be increased or decreased as necessary each year to ensure that the total amount of specified apportionments at least equals the percentage specified in this section for every State.

Sec. 1006. Project Approval and Oversight

This section revises 23 U.S.C. 106, concerning Federal and State responsibilities for projects funded under title 23.

Paragraph (a)(1) of this section retitles section 106 from ''Plans, Specifications, and Estimates'' to ''Project Approval and Oversight'' to reflect the greater scope of this section, as revised.

Paragraph (a)(2) of this section redesignates subsection 106(e) and (f) as 106(f) and (g), respectively.

Paragraph (a)(3) of this section strikes current subsections 106(a), (b), (c), and (d) and replaces them with five new subsections. While several of the provisions of these four subsections have been incorporated into this revised section, the 15 percent limit on estimates for construction engineering, found in current subsection 106(c), has not been included in this new section. Striking current subsection 106(c) eliminates this outdated provision that has been found to be flawed for several reasons. It is burdensome to both the States and the Secretary to collect and maintain the data necessary to monitor States' compliance with this provision. Also, because this is only a limit on aggregate (State-wide) construction engineering costs, it is ineffective at controlling such costs on any individual project. Also, this provision has been found to be unnecessary because the benefits of limiting construction engineering costs are uncertain, and an argument can be made that such a limit could potentially affect the quality of the project. Without this limit, States can be reimbursed for their actual costs of construction engineering for each project without having to compile the costs of construction engineering in an annual accounting to see if the costs are, on average, within the 15 percent limitation.

New subsection 106(a) combines the current two-step process for project approval and execution of a project agreement into a process where both actions are taken concurrently, by merging the provisions of current subsection 106(a) with current subsection 110(a). Current subsection 106(a) provides for the Secretary's approval of plans, specifications, and estimates that a State submits for approval. The Secretary's approval constitutes an obligation of the Federal government to pay the Federal share of the cost of the project. Current subsection 110(a) provides for the execution of a project agreement that formalizes the conditions of the project approval. Execution of the project agreement typically occurs at a time later than the time of project approval (usually after contract bids are received). In merging these current provisions for project approval, execution of the project agreement, and obligation of Federal funds into a single process, this subsection would greatly simplify these procedures.

New subsection 106(b) combines the project agreement provisions from current subsections 110(a) and (b) into one subsection. This new subsection states that the project agreement shall specify the State's pro rata share of project costs and provides that the Secretary may rely on the State's representations of arrangements or agreements made by the State with local officials, where projects are to be constructed at the expense of, or in cooperation with, local agencies.

New subsection 106(c) parallels current subsection 117(a) and covers the conditions governing the Secretary's responsibilities for oversight of projects funded under title 23, and how those responsibilities may be discharged. New paragraph 106(c)(1) permits the Secretary to discharge to the State the Secretary's responsibilities under title 23 for the design, plans, specifications, estimates, contract awards, and inspection of projects on the National Highway System (NHS). The intent of this paragraph is to provide significant flexibility to the States and the Secretary to discuss and mutually determine the appropriate balance between State and Federal (FHWA) oversight for Federal-aid highway projects, taking into account overall needs and resources. A threshold of responsibility for the States is ensured in that this paragraph provides that the Secretary's responsibilities under this provision shall be no greater than they are under current law, unless differently agreed upon by the Secretary and the State. The oversight agreement to be reached by the Secretary and the State could be based on the scope and complexity of NHS projects or other criteria determined significant by a State. The agreement could also take into account different levels of Federal oversight on NHS projects: from a detailed review of all project actions to a process review/product evaluation approach. Under new paragraph 106(c)(2), the State must assume the Secretary's responsibilities under title 23 for oversight of projects off of the National Highway System.

New subsection 106(d) is meant to be substantively the same as current subsection 117(e). This language clarifies that, in discharging responsibilities to the States under new section 106, the Secretary is discharging only those title 23 responsibilities listed in this section. The Secretary may not discharge any other Secretarial responsibilities under any other Federal law, including sections 113 and 114 of title 23, United States Code, the National Environmental Policy Act of 1969, title VI of the Civil Rights Act of 1964, the Uniform Relocation Assistance and Land Acquisitions Policies Act of 1970, and any Federal laws administered by the Department of Labor.

New subsection 106(e) is substantively identical to current subsection 106(d); only an out-of-date reference to ''any Federal-aid system'' has been updated. This subsection provides that the Secretary may require that plans, specifications, and estimates for proposed projects on any Federal-aid highway be accompanied by a value engineering or other cost reduction analysis.

New subsection 106(f) provides that the Secretary shall require a financial plan for any project with an estimated total cost of $1 billion or more.

Subsection (b) of this section amends title 23 by creating a new subsection 109(r). New subsection 109(r) parallels a provision in current paragraph 106(b)(3) governing safety considerations for projects for which the State has assumed the Secretary's responsibility for approving plans, specifications, and estimates. This new subsection provides that safety considerations for projects under this title may be met by phase construction. In placing this sentence in section 109, which sets forth Federal standards for all title 23-funded projects, this amendment permits States to use phase construction to meet safety considerations on any title 23-funded project.

Subsection (c) of this section revises the provision making Davis-Bacon Act wage protections applicable to highway construction projects so that the scope of this provision is commensurate with the scope of project eligibility under title 23. That is, where the current subsection 113(a) applies the Davis-Bacon Act's prevailing wage requirement to laborers and mechanics employed by contractors or subcontractors on the construction work performed on highway projects, this revised language would extend these wage protections to the same workers employed on any project eligible for funding under title 23—not simply highway construction projects. This subsection does not apply to projects on local roads and rural minor collectors and on transportation enhancement and recreational trails programs not within a Federal-aid highway right-of-way or otherwise linked based on proximity or impact to a Federal-aid highway.

Subsection (d) of this section strikes current sections 110 and 117 because these sections have been incorporated into the new section 106. Subsection also strikes section 105, because this section is out-of-date, having been superseded in by the State transportation improvement program requirements of section 135, which were added by ISTEA.

Subsection (e) of this section makes a conforming amendment to the analysis at the start of chapter 1 of title 23 to reflect the new title of section 106 and to remove the items relating to sections 110 and 117, which have been stricken.

Sec. 1007. Real Property Acquisition and Corridor Preservation

The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) placed increased emphasis on sound transportation planning, including the preservation of transportation corridors for future use. Ongoing efforts by State and local officials to preserve such corridors can be hampered when development pressures create adverse impacts on affected property owners. Development, when not coordinated with transportation needs, can often foreclose options available to transportation officials to avoid environmentally sensitive sites. Often in such cases, early action and acquisition is the only way to assure that lands can be obtained and reserved for future use.

The changes made by this section expand or modify the flexibility provided to local and State governments to take prudent public action to compete for land resources and implement corridor preservation programs adopted through the public planning process.

Sections 108 and 323 of 23 U.S.C. are modified to remove restrictive language and outdated programs, revise language, and add opportunities for States and local governments to utilize early acquisition when necessary while retaining maximum flexibility to leverage the use of Federal funds.

Section 108 is retitled to reflect its applicability to general corridor preservation programs as well as to identified project right-of-way needs.

Subsection 108(a) is revised to conform with the new title for this section and to provide that property acquisition can be conducted in support of federally assisted transportation improvements and is not limited to Federal-aid highways. States can use any apportioned funds for land acquisition, but the action must be supported by their approved transportation program. The term ''highway department'' is removed from the section to reflect the changed organizational environment and the move to multi-modal planning processes.

Subsection 108(c) is revised to provide an expiration and close-out period for obligations already authorized from the right-of-way revolving fund. No allocations of funds have been made during the last two years, and the fund is no longer considered necessary to support State acquisition activities. Subsection 108(c), as revised, provides that credits based on conversion or reimbursements are to be applied to the Highway Trust Fund rather than the revolving fund.

Section 323 is amended to add flexibility and to provide an alternative means of leveraging Federal funds apportioned to each State by providing a credit based on the value of publicly owned lands incorporated within a federally funded project. This credit applies not only to property that has been donated to the State or local government, but also other property that is owned by the State or local government, so long as at the time such property was acquired there was no intent to avoid requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act or any other Federal law. This provision is consistent with the credits already permitted for donated real property and services. Along with other financing options provided under ISTEA (including provisions retained in 23 U.S.C. 108 regarding reimbursement for property acquired in advance of Federal authorizations and innovative options to establish State-based funds to support early acquisitions), the provisions added by this section expand the choices available to State and local governments in fashioning financial strategies to best serve their transportation objectives.

Sec. 1008. Proceeds from the Sale or Lease of Real Property

Current section 156 of title 23, United States Code, requires States to charge fair market value for the use of airspace acquired in connection with a federally funded project. This section also authorizes States to retain the Federal share of net income from the sale, use, or lease of this airspace as long as that same amount was used by the State for projects eligible for funding under title 23.

This section revises 23 U.S.C. 156 to expand these principles regarding airspace income to apply to the net income generated by a State's lease, sale, or other use of all real property acquired with Federal financial assistance. This reduces administrative overhead relating to property management practices and simplifies such practices by applying the same standard to all real property interests that are acquired with Federal-aid highway funds and requiring that the Federal share of any proceeds be reapplied within the State to other projects eligible for funding under title 23.

Sec. 1009. Interstate Maintenance Program

Subsection (a) strikes subsections 109(m) and 119(b) of title 23, United States Code, to eliminate both the requirement for the Secretary of Transportation to issue Interstate maintenance guidelines and the requirement for States to annually certify that they have a maintenance program in place that is in accordance with those guidelines. Subsection (a) also strikes subsection 119(e) of such title to eliminate the separate Interstate System preventive maintenance eligibility standard. Accordingly, Interstate System preventive maintenance eligibility would be determined in accordance with the general preventive maintenance provision of subsection 116(d).

Subsection (b) amends subsection 119(c), now 119(b), to expand IM eligibility to include the reconstruction of Interstate highways and infrastructure-based ITS capital improvements to the extent that they improve the performance of the Interstate.

Subsection (c) revises subsection 119(f), now 119(d), to require a State that seeks to transfer any of its IM funds to its NHS or STP apportionments to annually certify that it is adequately maintaining its Interstate pavement and bridges and that the IM funds it seeks to transfer are in excess of its needs for its Interstate pavement and bridges.

Subsection (d) technically amends subsection 119(a) to strike an out-of-date reference to subsection 119(e).

Sec. 1010. Maintenance

Subsection (a) amends subsection 116(a) of title 23, United States Code, to revise an out-of-date reference to a Federal-aid highway system and to clarify when a State's duty to maintain shall cease.

Subsection (b) adds a requirement to subsection 116(a) that each State annually certify that it is maintaining its Federal-aid highway projects.

Subsection (c) makes several technical amendments to subsections 116(b) and (c).

Sec. 1011. Interstate 4R Discretionary Program

This section amends 23 U.S.C. 118(c) to reauthorize the current Interstate 4R discretionary program at a level of $45 million per year for each of fiscal years 1998 through 2003. The eligibility, priority, and funds availability criteria for this program are unchanged from current law.

This section also strikes paragraph 118(c)(1) to eliminate an out-of-date provision. Paragraph 118(c)(1) authorized funding for a set aside from Interstate construction apportionments for construction projects, however, funds were not authorized for the Interstate construction program after fiscal year 1995.

Sec. 1012. Emergency Relief Program

Subsection (a) of this section amends 23 U.S.C. 120(e) to reduce the Federal share payable on emergency relief projects to 75 percent of the cost of each such project. This amendment brings the Federal share requirement of the FHWA's emergency relief program in line with the government-wide emergency relief proposal advanced by the President. Subsection (a) also amends 23 U.S.C. 120(e) to shorten the time period in which States receive a 100 percent Federal share of emergency relief funds to the first 30 days after a disaster occurrence. ER funds can be used for eligible emergency repairs done to restore essential highway traffic, minimize the extent of damage, or protect the remaining facility. The 100 percent Federal share requirement for emergency relief projects on Federal lands and U.S. territories is unchanged. Paragraph (a)(1) of this section technically amends 23 U.S.C. 120 to replace an outdated reference to Federal-aid highway systems.

Paragraphs (b)(1), (2), and (3) strike 23 U.S.C. 125(a), redesignate subsections 125(b), (c), and (d) as 125(d), (e), and (f), respectively, and reorganize subsection 125(a), dividing the subsection by subject matter, removing out-of-date language concerning emergency relief authorizations for prior years, and providing that emergency relief funds shall be available until expended.

Paragraph (b)(4) makes conforming amendments to 125(d), as so redesignated, to conform internal section references to the changes made by paragraph (b)(2).

Paragraph (b)(5) technically corrects 125(e), as so redesignated, to correct a reference to Federal-aid highways.

Sec. 1013. Toll Roads, Bridges, Tunnels, and Ferries

Subsection (a) of this section amends paragraph 129(a)(1) of title 23, United States Code, to remove the prohibitions against Federal participation in the initial construction of a toll highway, bridge, or tunnel on the Interstate System or in the reconstruction of a toll-free Interstate highway and its conversion to a toll facility. Such initial Interstate construction or Interstate reconstruction/conversion would be eligible for Federal-aid highway funds to the same extent and under the same terms (including limitations on the use of toll revenues) as such projects on non-Interstate highways, bridges, and tunnels currently are eligible under section 129 of such title. For those States that choose to toll Interstate routes under this provision, the Department encourages the use of electronic tolling. Electronic tolling shortens delays at toll facilities, thereby shortening trip times and reducing vehicle emissions.

Subsection (b) of this section eliminates an out-of-date subsection (129(d)) which established a tolling pilot program that has accomplished its intended purpose. However, pilot toll agreements that were executed under subsection 129(k) are still valid unless they were modified under 23 U.S.C. 129(a)(6).

Sec. 1014. Surface Transportation Program

Subsection (a) amends subsection 133(a) of title 23, United States Code, to reflect that the surface transportation program provided for under this section has already been established.

Subsection (b) of this section amends paragraph 133(b)(2) to clarify that the eligibility for privately owned vehicles and facilities used to provide intercity passenger service by bus or rail under the STP program parallels the eligibility of such vehicles and facilities under 49 U.S.C. 5302(a)(1), as revised by this Act. Subsection (b) also amends 133(b) to expand STP eligibility regarding safety projects to include publicly owned rail safety infrastructure improvements and programs and non-infrastructure highway safety improvements. Subsection (b) also amends paragraph 133(b)(3) to make clear that STP funds may be used to fund the modification of existing public sidewalks to comply with the requirements of the Americans with Disabilities Act. Subsection (b) also codifies a provision governing transportation enhancements eligibility that has been set forth in agency guidance: a transportation enhancements activity must have a direct link to surface transportation. Subsection (b) also expands STP funding eligibility to include natural habitat mitigation under the same circumstances in which wetlands mitigation is currently eligible for funding under 133(b). Subsection (b) also amends subsection 133(b) to expand STP eligibility to include two new categories of projects: publicly owned intercity passenger and freight rail infrastructure and rail passenger vehicles.

Subsection (c) amends section 133 to eliminate the safety set-aside from the STP program and makes conforming amendments to section 133. Highway safety programs will be funded by a direct authorization, rather than as a set-aside of the surface transportation program.

Subsection (d) amends paragraph 133(e)(2) to scale back the current quarterly, project-by-project State certification and notification requirements to annual, program-wide approval of each State's project agreement. Administrative procedures would be established to support the obligation by identifying the projects to be advanced during the period.

Subsection (e) strikes the second sentence in paragraph 133(e)(3) which required that payments made by the Secretary to the States under section 133 could not exceed the Federal share of costs incurred as of the date the State requested payments.

Subsection (f) revises subsection 133(f) regarding the allocation of obligation authority to urbanized areas to extend this provision through the life of the reauthorization. Current FHWA guidance provides that a State is deemed to have complied with this provision if the target amounts of obligation authority for individual areas have been obligated or if the State and MPO agree and document that the obligation authority was made available, but the area was unwilling or unable to use it. Revised subsection 133(f) also requires that each State and MPO ensure the fair and equitable treatment under 133(f)(1) of central cities of over 200,000 in population.

Sec. 1015. Metropolitan Planning
Subsection (a). General Requirements

Subsection 134(a) of title 23, United States Code, sets forth the general bases, goals, and functions of the metropolitan planning process established under this section. This subsection has been revised to emphasize system management and operation (excluding maintenance) to underscore the need to support existing transportation systems and implementation of Intelligent Transportation Systems. A reference to locally determined fair and equitable treatment of all parts of the metropolitan planning area within the planning process is added to emphasize regional problem solving and resource distribution.

Subsection (b). Metropolitan Planning Organizations (MPOs)

Paragraph (1) establishes the process for designation (creation) of metropolitan planning organizations. This paragraph retains the current method for designation of MPOs by agreement of the Governor and units of general purpose local government, but requires that such local governments represent 51 percent of the affected population (under current law, such governments must represent 75 percent of the affected population). This paragraph retains the provision of current law that an MPO can only be designated under this arrangement if the central city agrees to the proposal. As revised, this paragraph also permits designation, consistent with this provision, under procedures established by State law. Under current paragraph 134(b)(1), State or local law can govern.

Paragraph (2) replaces current paragraph 134(b)(5) and establishes the process for redesignation of existing metropolitan planning organizations. This paragraph retains the current method for redesignation of MPOs by agreement of the Governor and units of general purpose local government, but requires that such local governments represent 51 percent of the affected population (under current law, such governments must represent 75 percent of the affected population). This paragraph retains the provision of current law that an MPO can only be redesignated if the central city agrees to the proposal. This paragraph also permits redesignation, consistent with this provision, under procedures established by State law.

The special provisions for Los Angeles and Chicago to request redesignation have been removed because they have not been used by either area.

Paragraph (3) replaces current paragraph 134(b)(6) and establishes the process for designating multiple metropolitan planning organizations in a single metropolitan planning area. Under current law, the Governor alone is responsible for determining whether more than one MPO is needed. As revised, this paragraph includes local officials acting through the MPO and the Secretary of Transportation as key participants in determining whether to create multiple metropolitan planning organizations to serve a single metropolitan area.

Paragraph (4) replaces current paragraph 134(b)(2). This paragraph identifies the membership of the policy boards of metropolitan

planning organizations serving areas designated as transportation management areas. In this paragraph, specific reference is made to the policy board of the MPO, rather than the more general reference to the MPO, as provided in current law, to make clear that these membership requirements are meant to apply to the policy boards only.

The current paragraph 134(b)(4) ''grandfathering'' all MPO structures existing and not redesignated after December 18, 1991, has been deleted to give State and local officials more flexibility in structuring their MPOs.

Paragraph (5) replaces current subparagraphs 134(b)(3)(A) and (B). This paragraph provides that nothing in subsection 134(b) shall interfere with a public agency's authority, under State law, to develop plans and programs for adoption by an MPO and to develop long range capital plans, coordinate transit services and projects, and carry out other activities under State law. No substantive revisions have been made to this language.

Subsection (c). Metropolitan Planning Area Boundaries

This subsection establishes the basis for designating metropolitan planning area boundaries. Such boundaries include the existing urbanized area, the contiguous area expected to become urbanized in the next 20 years, and any areas in nonattainment for ozone, carbon monoxide or particulate matter. This subsection differs from current subsection 134(c) in several ways. It freezes the connection between nonattainment areas and metropolitan planning areas to the metropolitan planning area boundaries in existence as of September 30, 1996, but allows the Governor and the MPO, upon agreement, to expand the boundaries of a metropolitan planning area. This paragraph also adds nonattainment areas for particulate matter to this list of nonattainment areas to be included in the boundaries of a metropolitan planning area. Finally, this paragraph is revised to provide that for urbanized areas designated after September 30, 1996, the Governor and units of general purpose government must establish metropolitan planning area boundaries that appropriately address current areas in nonattainment for ozone, carbon monoxide, or particulate matter.

Subsection (d). Coordination in Multi-State Areas

Paragraph (1) requires the Secretary to encourage the coordination of metropolitan planning activities in metropolitan planning areas divided by State boundaries and served by multiple MPOs. Clarifying editorial changes have been made.

Paragraph (2) authorizes two or more States to enter into a compact to cooperate in implementing the planning activities authorized under this section. This provision is unchanged from current law.

Subsection (e). Coordination of MPOs

This subsection requires coordination between two or more metropolitan planning organizations with authority within a metropolitan planning area or a nonattainment area. This subsection has been revised to include areas that are in nonattainment for particulate matter. In addition, it requires each MPO to coordinate their plans and programs under this section with each other, where the current provision requires that they consult with each other.

Subsection (f). Scope of the Planning Process

This subsection identifies the issues to be considered in the planning process when developing plans and programs. This subsection has been revised to create seven broad clusters of issues, where current subsection 134(f) includes 16 specific factors. These seven clusters encompass the 16 factors included in current law, but are meant to give planning officials greater flexibility, e.g., landside port access planning could be conducted within the metropolitan planning process under 134(f)(1)(E). The use of these clusters must be reflected in their application in transportation decisionmaking. These same clusters, with minor modifications, are used in the Statewide planning provision of 23 U.S.C. 135 for consistency and clarity.

Subsection (g). Development of Transportation Plan

This subsection has been renamed, from ''Development of Long-Range Plan'' to ''Development of Transportation Plan'' to emphasize the comprehensive, multi-modal transportation focus of the plan, rather than its time frame.

Paragraph (1) sets forth the requirement for a transportation plan in each metropolitan area.

Paragraph (2) lists the minimum contents of the plan. This paragraph eliminates the requirement that the plan be in a form determined by the Secretary. These subparagraphs also require consideration of strategies to address system preservation and efficiency of use. The focus of this plan has been broadened to emphasize all transportation investments, including system management and operation (excluding maintenance) and to eliminate the distinction between transit systems and highways. In addition, the reference to vehicular congestion has been modified.

Subparagraph (C) of this paragraph sets forth the requirement for a financial plan based on resources that are available or that can reasonably be made available. This financial planning language has been slightly revised for clarity. In addition, a new requirement for a cooperative process, involving the MPO, public transit agency, and the State, for estimating the resources available to support implementation of a plan has been included.

Current subparagraph (D) requiring the plan to list proposed transportation enhancement activities has been eliminated as unnecessary because all federally supported improvements are already required to be in a plan and program.

Paragraph (3) is retitled and modified to revise the coordination between transportation planning and air quality agencies and to add coordination with other planning processes. Subparagraph (A) requires that MPOs coordinate with State air quality agencies in metropolitan areas that are in nonattainment for ozone or carbon monoxide. Subparagraph (A) also is revised to include areas in nonattainment for particulate matter. Current paragraph (3) requires State air quality agencies and MPOs to coordinate the development of the long-range (now transportation) plan with the development of transportation control measures of the State implementation plan. The revised subparagraph requires State air quality agencies and MPOs to ensure cooperation in the development of air quality and transportation plans. This strengthens the reciprocal relationship between the planning processes beyond just the development of transportation control measures. Subparagraph (B) is added to support the relationship in metropolitan areas between related planning activities and processes. Development of transportation plans is expected to account for related investments and program strategies developed through other planning activities, e.g., economic development and revitalization. Such coordination would ensure that transportation projects and programs would consider, for example, the needs of low income communities so that they would be effectively integrated with transportation investments.

Paragraph (4) requires that each MPO provide an opportunity for public participation and involvement in the planning process. This paragraph is revised to add freight shippers to the list of interested parties to be provided a reasonable opportunity to comment on the transportation plan.

Paragraph (5) requires that each MPO publish or otherwise make readily available to the public its transportation plan. This provision is unchanged from current law.

Subsection (h). Metropolitan Transportation Improvement Program

Paragraph (1) of this subsection establishes the requirement for each MPO to develop, in cooperation with the State and affected public transit operators, a transportation improvement program for its metropolitan area. This program must be updated every two years, and interested parties must be provided with a reasonable opportunity to comment on the proposed program. This paragraph is revised to add freight shippers to the list of interested parties.

Paragraph (2), retitled content, requires the transportation improvement program to include a list of federally funded surface transportation projects and strategies to be carried out within the first 3 years of the program. This paragraph also requires the program to include a financial plan demonstrating how the program can be implemented, indicating the resources that are reasonably expected to be available to carry out the program and any innovative finance techniques needed. This paragraph has been revised to require the MPO, public transit agency, and State to cooperatively develop estimates of funds that will be available to support program implementation.

Paragraphs (3), (4), and (5) have been reordered from previous statutory language for clarity.

Paragraph (3), included projects, replaces paragraph (h)(5). [Current paragraph (h)(4), requiring the Secretary to initiate a rulemaking within 6 months of enactment of ISTEA on conforming NEPA review of transit projects with NEPA review of highway projects has been deleted because this requirement has already been met.] Paragraph (4) provides that only those projects or identified project phases that can be reasonably anticipated to be fully funded may be included in a transportation improvement program.

Paragraph (4), notice and comment, replaces current paragraph (h)(6). This paragraph requires MPOs to provide the public and interested parties with reasonable notice of and an opportunity to comment on a proposed transportation improvement program before approving the program.

This paragraph has been revised to require the MPO to cooperate with the State and public transit operators in implementing this requirement.

Paragraph (5), project selection, clarifies the distinction between project selection and TIP development as established in ISTEA. TIP development is a cooperative process involving the MPO, State and transit operators. Project selection, as referred to in ISTEA, is the process for advancing projects as scheduled in the TIP or moving projects between years within an approved TIP. This language clarifies that project selection is exercised once a TIP has been approved and does not apply to TIP development. It may lead in some cases to TIP amendments where significant changes have occurred after TIP approval.

Subsection (i). Transportation Management Areas (TMAs)

This subsection requires the Secretary to designate a special category of metropolitan

planning areas—those urbanized areas over 200,000 in population—as transportation management areas and it sets forth a special MPO structure and procedures for the planning process serving those areas.

Paragraph (1) drops the current reference to inclusion of the Lake Tahoe Basin, upon request, as a transportation management area because it is ineffective. The area has not benefitted from this provision, which allowed the area to be designated as a transportation management area but did not give it MPO status or make it eligible for planning funds.

Paragraph (2) requires the planning process in TMAs to be based on continuous, cooperative, and comprehensive planning. This provision is unchanged from current law.

Paragraph (3) requires the creation of a congestion management system within a TMA. The language requiring the Secretary to establish a phase-in schedule for this requirement is deleted because this requirement has been implemented.

Paragraph (4) establishes the process for selecting projects for implementation to be carried out within the boundaries of a TMA and with Federal financial participation.

Paragraph (5) establishes a process for triennial Federal review of the metropolitan planning process in transportation management areas and includes sanctions for failure to meet Federal certification standards. The review process is in addition to approval of the STIP and Unified Planning Work program and Federal conformity determinations. FHWA and FTA actions, when coupled together, can be strategically used to induce improved planning by leveraging the consequences of each action.

Where current paragraph (5) provides for withholding 20 percent of only surface transportation program apportionments attributed to a metropolitan area if it remains uncertified, this revised paragraph provides that the Secretary may withhold all or any part of the apportioned funds attributed to the TMA under titles 23 and 49, United States Code, as the Secretary deems appropriate. Based on this authority, the Secretary has multiple options to apply sanctions to reflect the severity of deficiencies in the planning process under review. Further, this penalty can be applied to reinforce the other approval actions mentioned in the preceding paragraph. The withheld apportionments must be restored to the metropolitan area once it is certified by the Secretary under this paragraph.

Subsection (j). Abbreviated Plans and Programs for Certain Areas

This subsection enables the Secretary to permit metropolitan areas (other than transportation management areas) to develop an abbreviated metropolitan transportation plan and program that the Secretary determines to be appropriate to achieve the purposes of this section. MPOs that contain nonattainment areas cannot utilize this provision. This subsection is substantially unchanged from current law.

Subsection (k). Additional Requirements for Certain Nonattainment Areas

Previous subsection (k) on transfer of funds has been moved to 23 U.S.C. 104. Previous subsection (l) is redesignated as (k).

This subsection requires single occupant vehicle (SOV) capacity-increasing projects in TMAs classified as nonattainment to be part of an approved congestion management system before they may be federally funded. In addition, this subsection has been revised to include areas that are in nonattainment for particulate matter.

Subsection (l). Limitation on Statutory Construction

Previous subsection (m) is redesignated as (l).

Subsection (l), as so redesignated, provides that nothing in 23 U.S.C. 134 shall be construed to confer on an MPO the authority to impose legal requirements on any transportation facility, provider, or project not eligible under title 23 or chapter 53 of title 49. This subsection would be amended to correct the reference to the restatement of the Federal Transit Act as positive law in chapter 53 of title 49, United States Code.

Subsection (m). Funding

Previous subsection (n) is redesignated as (m).

The source of federal funds to support metropolitan transportation planning is identified. Additionally, this section permits MPOs to make available to the State (for funding Statewide planning under 23 U.S.C. 135) any funds set aside under 23 U.S.C. 104(f) for metropolitan planning that are not used to carry out such planning.

Sec. 1016. Statewide Planning

Subsection (a). General Requirements

Subsection 135(a) of title 23, United States Code, sets forth the general bases, goals, and functions of the Statewide planning process established under this section. This subsection has been revised to emphasize system management and operation (excluding maintenance) to underscore the need to support existing transportation systems and implementation of Intelligent Transportation Systems. A reference to fair and equitable treatment within the planning process for all areas of the State has been added.

Subsection (b). Scope of the Planning Process

This subsection replaces current subsections 135(b), (c), and (d). This subsection identifies issues to be considered in the Statewide planning process. This subsection lists seven broad clusters of issues to be considered. These clusters encompass the 20 factors included in current subsection 135(c) but are meant to give planning officials greater flexibility, e.g., landside port access planning could be conducted within the metropolitan planning process under 135(b)(1)(E). The same clusters, with minor modifications, are used in the metropolitan planning provision. This subsection is also revised to require the State to cooperatively determine with its planning partners how these considerations are translated into State goals and objectives. Finally, this subsection retains, with clarifying edits, the requirements to coordinate Statewide planning with metropolitan planning and for Statewide planning to consider the concerns of Indian tribal governments and Federal lands agencies. An addition is made to address the concerns of elected local officials with jurisdiction over transportation in non-metropolitan areas. An addition also is made to add coordination with other planning processes. Development of transportation plans is expected to account for related investments and program strategies developed through other planning activities, e.g., economic development and revitalization. Such coordination would ensure that transportation projects and programs would consider, for example, the needs of low income communities so that they would be effectively integrated with transportation investments.

Subsection (c). Transportation Plan

This subsection replaces current subsection 135(e) and has been renamed, from ''Long-Range Plan'' to ''Transportation Plan'' to emphasize the comprehensive, multi-modal transportation focus of this plan, rather than its time frame. This subsection requires States to develop transportation plans for all areas of the State. This subsection has been revised to clarify that the Statewide plan should cover at least a 20-year forecast period and that it should provide for the development of operations and management strategies, in addition to capital. This subsection also is revised to call for consultation between the State and local transportation officials outside of metropolitan area boundaries when developing the Statewide plan for such non-metropolitan areas. This subsection also adds freight shippers to the list of interested parties to which the State must provide a reasonable opportunity to comment on the proposed plan.

Subsection (d). State Transportation Improvement Program

This subsection replaces current subsection 135(f) and has been renamed from ''Transportation Improvement Program'' to ''Statewide Transportation Improvement Program.''

Paragraph (1) of this subsection requires States to develop transportation improvement programs for all areas of the State. This subsection is also revised to call for consultation between the State and local transportation officials outside of metropolitan area boundaries when developing the program for such non-metropolitan areas. This section also adds freight shippers to the list of interested parties to which the State must provide a reasonable opportunity to comment on the proposed program.

Paragraph (2) requires the transportation improvement program to identify all federally funded surface transportation projects. This paragraph has also been revised to provide that the projects included in the Statewide program for metropolitan areas must be identical to the approved metropolitan transportation improvement program .

Paragraph (3) provides for the selection of projects for areas less than 50,000 in population. TIP development is a cooperative process involving the MPO, State and transit operators. Project selection, as referred to in ISTEA, is the process for advancing projects as scheduled in the TIP or moving projects between years within an approved TIP. The proposed language clarifies that project selection is exercised once a TIP has been approved and does not apply to TIP development. It may lead in some cases to TIP amendments where significant changes have occurred after TIP approval. In the case of areas under 50,000 population the State must consult with affected local officials.

Paragraph (4) requires the Secretary to biennially review and approve States' transportation improvement programs. This language is revised to direct the Secretary, before approving a STIP, to find that it is consistent or substantially consistent with this section and 23 U.S.C. 134.

Subsection (e). Funding

This subsection provides that funds made available under 23 U.S.C. 329(a) shall be available to carry out the requirements of this section. This subsection is revised to also make funds set aside under 49 U.S.C. 5313(b) available to carry out these requirements.

Current subsection 135(h), concerning treatment of State laws pertaining to congestion management systems, has been deleted because it is no longer applicable.

Sec. 1017. Research, Training, and Employment Opportunities

Subsection (a) Training

Paragraph (a)(1) The amendment made by this paragraph encourages a State to establish a certain number of training slots on its Federal-aid contracts for welfare recipients residing in the State to help meet its annual goal for placing recipients in work activities, as required by the ''Personal Responsibility and Work Opportunity Reconciliation Act of 1996'' (the ''Welfare Reform Act''). Under the

Welfare Reform Act, a State must demonstrate annually that it has moved a certain percentage of families into ''work activities.'' Work activities, with certain limitations, include participation in job training programs. Failure to meet these percentages will result in a reduction in the block grant that the State is entitled to receive. The Welfare Reform Act also imposes a maximum amount of time for which individuals can stay on public assistance.

Subsection 140(a) of title 23, United States Code, currently provides that the Secretary shall, where necessary to ensure equal employment opportunity, require certification by any State recipient that the state has in existence an apprenticeship or skill improvement program. Pursuant to this authority, FHWA issued regulations requiring States to set goals for a minimum number of training slots to be included on Federal-aid highway contracts (23 CFR Sec. 230.111). Annual training goals are submitted to FHWA Division Administrators for approval. The State selects the contracts on which these slots are to be included in order to achieve the goal. Contractors bidding on the contracts include the costs of the trainees (including salaries) as part of their bids.

Under paragraph (a)(1), the State could reserve some of its training slots for welfare recipients. The State could require contractors on Federal-aid projects to fill some of the training slots designated for the contract with welfare recipients. To minimize the burden on the contractor, DOT could require the State to identify eligible welfare recipients in the guidance implementing the program.

Subparagraph (a)(2)(A) Subsection 140(b) currently provides the authority for the FHWA's On-the-Job Training (OJT) Supportive Services Program. Funds are authorized to be used under this section to develop, conduct, and administer highway construction training, including skill improvement programs. Subparagraph (a)(2)(A) expands the scope of the OJT program to include technology training. This change is proposed so as to capitalize on training opportunities in connection with Intelligent Transportation Systems and other transportation-related technology. This subparagraph also adds Summer Transportation Institutes to the types of programs that can be funded under subsection 140(b). Summer Transportation Institutes are programs that are sponsored by colleges (mostly Minority Institutions of Higher Education) to expose high school students to careers in transportation, to assist them in developing skills that they would need to pursue a career in transportation, and to familiarize them with a college environment. Expanding the program to include Summer Transportation Institutes allows States to provide education, guidance, and motivation for disadvantaged and at-risk youth and to develop a future pool of transportation professionals.

Subparagraph (a)(2)(B) Under the current law, the Secretary is authorized to reserve up to $10 million of the funds authorized under 23 U.S.C. 104(a) to fund the OJT Supportive Services Program. However, this provision was last funded by Congress in 1995, and only at a level of $2 million. FHWA used this funding to pay for ten pilot projects and initiatives focusing on skill improvement and outreach programs to minorities and women. The current legislation also authorizes States to draw down up to ½ of 1 percent of funds apportioned to it for the surface transportation program under subsection 104(b) and the bridge program under section 144. Although there is a significant amount of funding available to the States from this source, the use of these funds has been limited. For example, in 1996, a total of 12 states drew down only 12 percent (less than $4 million) of the $32 million available to develop OJT Supportive Services Programs.

Even though States are not extensively using these funds, a need for training in highway construction and related work continues to exist, especially for disadvantaged and traditionally under represented segments of the population. Women in particular are under-represented in highway construction work: employment of women in highway construction still has not even achieved the goal of 6.9 percent established by the Department of Labor. Further, with the enactment of the Welfare Reform Act, more unskilled workers will be seeking jobs as they are moved off of welfare assistance. Implementation of OJT Supportive Services Programs by the States can help prepare individuals in these groups to take advantage of job opportunities in highway construction and technology.

The statutory language authorizing the States to draw down these funds currently provides that the ½ percent drawdown ''may be available'' to States to implement OJT Supportive Services programs. This subparagraph proposes to change this language to provide that the ½ percent drawdown ''should be utilized'' by States to implement OJT Supportive Services Programs. Although the proposed change does not require that States use this draw down, it is intended to more strongly encourage States to use this funding to ensure that some measure of training is available to increase job opportunities on highway construction and related work.

Subsection (b) Employment

American Indians continue to experience unemployment at a disproportionately high rate. On Indian reservations and in Native communities, chronic unemployment ranges from 25 to 85 percent. Subsection 140(d) of title 23, United States Code, currently provides that States ''may'' implement a preference for employment. Paragraph (b)(1) would change this subsection to provide that States ''should'' implement a preference for employment. Although the proposed change does not constitute a mandate, it is intended to more strongly encourage States to implement employment preferences of Indians on projects carried out under title 23 near Indian reservations.

This subsection adds a new subsection to 23 U.S.C. 140 that would encourage States to require a contractor on Federal-aid highway projects to hire a certain number of qualified welfare recipients residing in the State, or to hire a certain number of residents of Empowerment Zones or Enterprise Communities (areas of pervasive poverty, unemployment, and general distress that have been designated in accordance with the Omnibus Budget Reconciliation Act of 1993). This new subsection (140(e)) would provide a way for the States to create job opportunities to move people from welfare to work in order to meet their obligations under the Welfare Reform bill. It would also allow States to create job opportunities for people living in Empowerment Zones and Enterprise Communities.

In the proposed program, protections for contractors, as well as protections (such as appeal rights) for potentially eligible welfare recipients, could be included in guidance implementing the program.

This subsection also adds a definition of ''welfare assistance.''

Also, this subsection adds a new subsection to 23 U.S.C. 140, concerning employment on Federal-aid highway projects in the Virgin Islands. High and chronic unemployment continues to depress the economy of the territory of the Virgin Islands. Recent natural disasters have had an additional negative impact on the economy. Job opportunities that typically accompany federally-funded projects are frequently taken by non-residents who are employed by companies that are based outside of the Virgin Islands.

This subsection (140(g)) would permit the territory of the Virgin Islands to require a contractor on a Federal-aid highway project to give preferences in hiring to qualified persons who regularly reside in the Virgin Islands. Allowing such a preference gives the Virgin Islands a means to help reduce unemployment and to recapture federal funds in its local economy. As in the welfare recipient program described in new subsection 140(e), implementing guidance could include protections for the contractors as well as for potentially eligible residents.

Subsection (c) Technical Corrections

This subsection makes several purely technical corrections to update and correct the language of section 140.

Subsection (d). Minority Institutions of Higher Education

This subsection is intended to carry out one of the objectives of Executive Orders 12982, ''Promoting Procurement with Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals, Historically Black Colleges and Universities, and Minority Institutions.'' This Executive Order requires Federal agencies to establish goals for participation in federal procurement by Historically Black Colleges and Universities (HBCUs) and other Minority Institutions of Higher Education (MIHEs) of not less than 5 percent.

In the past, FHWA established various initiatives to enhance the involvement of MIHEs in all aspects of its federal and federal-aid funded programs. Beginning in FY 95, FHWA set a goal of not less than 5 percent of its research and technology funds to be awarded annually to MIHEs. Although various grants and cooperative agreements have been awarded to MIHEs, the competition requirements for research and technology contracts are an obstacle in achieving the goal. In 1995, FHWA achieved only 3 percent of its 5 percent goal. MIHEs continue to face barriers to participation in the Federal and Federal-aid highway program, particularly when they are required to compete for grants and contracts with majority institutions which have well-established physical plants as well as advance technological expertise and equipment.

Under this subsection, the Secretary is directed to develop a program designed to remove barriers to participation by MIHEs and help them gain the experience and expertise necessary to be competitive with other educational institutions. The Secretary would be able to carry out this program through a variety of mechanisms, including expanded outreach and technical assistance. In addition, notwithstanding the competitive bidding requirements contained elsewhere in title 23, the Secretary would also be permitted limit competition to increase awards under this section. However, such methods may only be used consistent with any laws relating to affirmative action in Federal procurement that apply to this program.

Sec. 1018. Disadvantaged Business Enterprises (DBEs)

This section continues the provisions regarding affirmative action found in § 1003(b)(1), (2), (3) and (4) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Paragraph 1003(b)(1), now subsection 162(a), requires that 10 percent of the funds authorized to be appropriated under four titles of the ISTEA be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals, except to the extent

that the Secretary of Transportation determines otherwise. Paragraph 1003(b)(2), now subsection 162(b), defines the terms ''small business concern'' and ''socially and economically disadvantaged individuals.'' Paragraph 1003(b)(3), now subsection 162(c), requires States to annually survey and compile a list of DBEs. Paragraph 1003(b)(4), now subsection 162(d), requires the Secretary to establish uniform criteria for State governments to use in certifying whether a concern qualifies as a DBE under this section.

This subsection has served the Department well in administering its contracting programs. In FHWA's program alone, the total dollar amount to DBEs in the form of prime contract awards and subcontract commitments is $10.4 billion. Significantly, prior to the enactment of the DBE program by Congress in 1982, minority and women-owned firms participated in approximately 3.5 percent of the Federal-aid highway program.

In 1995, the Supreme Court decided Adarand v Pena, and heightened the standard of judicial review applicable to Federal affirmative action programs, requiring that they meet a standard of ''strict scrutiny.'' The Adarand decision involved the FHWA's Federal land highway program. The Federal land program is carried out directly by FHWA. At issue was a contract provision designed to encourage prime contractors to utilize the services of small and disadvantaged business enterprises through a compensatory incentive payment. The Federal land highway program uses this provision as part of its effort to comply with both ISTEA and the Small Business Act.

Although deciding that strict scrutiny should henceforth apply to all Federal affirmative action programs, the Supreme Court did not strike down existing statutory requirements. Instead, it remanded the case to the lower courts to determine whether the program at issue meets the strict scrutiny standard of review. By this action, the Supreme Court implicitly recognized the continuing constitutionality of properly structured affirmative action programs.

Indeed, the majority opinion in Adarand recognized the ''unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country.'' It emphasized that strict scrutiny was not to be ''strict in theory, but fatal in fact.'' The President, in charging Federal agencies to review their programs after the Adarand decision, expressed his desire to ''mend, not end″ affirmative action.

In order to comply with the Supreme Court's ''strict scrutiny'' standard, there must be a ''compelling governmental interest'' to create an affirmative action program. The continued disparity, absent affirmative action measures, in the amount of business actually done by minority and women owned business in relation to the number of individuals ready, willing and able to work in various aspects of the construction and transportation industries has been well documented. A preliminary survey of evidence demonstrating a ''compelling governmental interest'' for affirmative action in Federal procurement was published on May 23, 1996, in the Federal Register by the Department of Justice as an appendix to its ''Notice of Proposed Reforms to Affirmative Action in Federal Procurement.'' Information available to the Department of Transportation, some of it considered by the Congress in the past, attests to the continuing need of programs which provide enhanced opportunities for disadvantaged business enterprises.

Strict scrutiny requires more. In order to pass constitutional muster, an affirmative action program must be ''narrowly tailored'' to meet its objectives. The goals or levels of DBE participation should reflect the capacity that such businesses would have had to do the work, but for the continuing effects of discrimination. The 10 percent goal set forth in ISTEA has served the Department well, and has been readily attainable throughout the United States. However, the goal has never been more than a guidepost, even before the Adarand decision. Both the current and proposed regulations require each State and local recipient to establish an overall goal for its program, based on information from its particular jurisdiction. The goals may be higher or lower than 10 percent, based on State and local contracting conditions.

For all of these reasons, continuation of the existing law makes sense. The law sets forth a general goal for the country as a whole. It also gives broad discretion to the Secretary to develop a program which responds to the strict scrutiny standard, both in terms of specific program provisions and higher or lower State or local goals where appropriate. The Department has reviewed its program and is confident that it would survive the strict scrutiny standard required under Adarand. However, in order to improve the program based on the President's direction to ''mend, not end'' Federal affirmative action programs, and to further clarify how the program complies with the Adarand decision, the Department is proposing a number of changes to its regulations implementing the program.

To this end, the Department will publish its proposed revisions to its current DBE regulations shortly after submitting this bill. It is our belief that these proposed revisions illustrate the flexibility of the current law and the wisdom of allowing the Department to deal administratively with these exceedingly complex issues. First, the revised regulations will set forth a new method by which recipients will establish goals, consistent with the post-Adarand guidance issued by the Department of Justice. Secondly, the regulations will establish that race-neutral measures (such as outreach programs, technical assistance, and assistance in financing) should be used first by recipients to reach their overall goals. Race- and gender-conscious mechanisms, such as subcontracting goals, should only be used to the extent that race-neutral mechanisms fail. Finally, the regulations will propose alternatives to limit the duration of firms' participation in the program, and to reduce the concentration of DBE firms in certain types of work. It is the intent of the Department to finalize these regulations over the next few months after carefully evaluating the many comments we receive.

Sec. 1019. Highway Bridge Replacement and Rehabilitation Program

Subsection (a) of his section sets forth a new, revised section 144 of title 23, United States Code, which provides as follows.

Subsection 144(a) lists the purposes of the HBRRP, which have been revised to reflect the expanded funding eligibility under this revised section (see subsection 144(c) below).

Subsection 144(b) requires the Secretary, in consultation with the States, to annually inventory certain highway bridges on public roads. It also requires the Secretary to consult with the Secretary of the Interior when inventorying highway bridges on Indian reservation roads and park roads. This subsection also permits the Secretary to inventory highway bridges on public roads for historical significance.

Subsection 144(c) lists the types of projects that are eligible for HBRRP funds under this section. Eligibility is divided into two main categories: (1) replacement or rehabilitation of deficient highway bridges, and (2) preventive measures, i.e., seismic retrofitting, painting, calcium magnesium acetate application, and installation of scour countermeasures. This subsection expands current HBRRP eligibility, adding scour countermeasures.

Under subsection 144(d), the current apportionment formula for HBRRP funds is retained; these funds would be apportioned between the States based on the square footage of deficient bridges in each State. But the total cost of deficient bridges in a State would be reduced in fiscal year 2003 by the amount of HBRRP funds that the State transferred to its NHS or STP accounts in the previous four fiscal year and did not restore back to its HBRRP apportionment by the end of fiscal year 2002. Subsection 144(d) also includes provisions governing each State's annual share of the total apportionment and the percentage of HBRRP apportionments that each State must spend on projects on highway bridges on public roads classified as local roads or rural minor collectors.

Subsection 144(e) provides an exemption from the U.S. Coast Guard's bridge permitting requirement for the replacement of highway bridges.

The separate biennial reporting requirement on HBRRP projects, bridge inventories, and recommendations for improvements to the program has been deleted. Instead, this report will be merged with and submitted as a part of the FHWA's biennial conditions and performance report.

Subsection 144(f) provides that each State's apportionment shall be made available for obligation throughout the State on a fair and equitable basis.

Subsection 144(g) requires the Secretary to periodically review the procedure used in approving or disapproving States' applications for HBRRP funds and implement any changes that would expedite this procedure.

Subsection 144(h) requires each State to inventory its bridges to determine their historical significance. This subsection also makes certain historical bridge projects eligible for HBRRP funds and it establishes a process by which a State, locality, or responsible private entity may assume responsibility for a historic bridge that would otherwise be demolished.

Subsection 144(i) states that State laws and standards apply to any HBRRP-funded project not on the National Highway System.

Subsection 144(j) defines the term ''rehabilitate'' to mean major work necessary to restore the structural integrity of a bridge and work necessary to correct a major safety defect.

Subsection 144(k) reauthorizes the current bridge discretionary program at an annual funding level of $55 million.

Subsection (b) of this section amends the bridge funds transferability language in 23 U.S.C. 104(g) to enable a State to transfer 50 percent of its HBRRP apportionment to its NHS or STP apportionments only if none of the National Highway System bridges in the State require posting under National Bridge Inventory Item 70, bridge posting, which evaluates the load-carrying capacity of a bridge. If the maximum legal load produces a structural stress level above the bridge operating capacity, the bridge must be posted at a lower load level. Therefore, NHS bridges that must be posted are the structures that the States should be replacing or rehabilitating before any HBRRP funds may be transferred to their NHS or STP apportionments.

Sec. 1020. Congestion Mitigation and Air Quality Improvement (CMAQ) Program

Subsection (a) of this section amends subsection 149(a) of title 23, United States Code,

to reflect that the congestion mitigation and air quality improvement program provided for under this section has already been established.

Subsection (b):

Areas in Nonattainment as of FY 1994: Subsection (b) strikes the provision in 149(b) that ''froze'' the nonattainment areas eligible for CMAQ funds as they were during any part of fiscal year 1994.

Expansion to PM–10 Areas: Subsection (b) amends subsection 149(b) to expand CMAQ eligibility to expressly include projects in nonattainment areas for particulate matter (PM–10). FHWA has administratively interpreted subsection 149(b) to include PM–10 projects; this language codifies this eligibility.

Exclusion of Transitional, Submarginal, Not Classified, and Unclassified Areas: Subsection (b) also limits CMAQ eligibility to nonattainment and maintenance areas that were classified as such under the Clean Air Act amendments of 1990, thereby excluding transitional, submarginal, not classified and unclassified areas from CMAQ eligibility. This provision codifies NHS Act conference report language that accompanied amendments made by that act to the CMAQ program.

Expansion to Two Additional Transportation Control Measures: Subsection (b) also expands CMAQ eligibility to include two traffic control measures identified in the 1990 amendments to the Clean Air Act: vehicle scrappage of pre-1980 vehicles and extreme cold start programs.

Clarification of Nonattainment and Maintenance Area Eligibility/Emissions Reductions: Subsection (b) also revises subsection 149(b) to clarify that only projects that make further improvements to current air quality standards are eligible for CMAQ funding in both nonattainment and maintenance areas. In the case of maintenance areas, subsection (b) expressly provides that projects must reduce emissions to be eligible for CMAQ funds.

Traffic Management and Control Projects: Subsection (b) also consolidates current paragraphs 149(b)(3) and (4). In doing so, this subsection also removes current paragraph 149(b)(4)'s reference to operating assistance for traffic management and control projects. This would restore the general 3-year cap on funding operating assistance, which has been established administratively and which applies to all other CMAQ projects, to traffic management and control projects.

Subsection (c) simply designates the penultimate sentence of subsection 149(b) as new subsection 149(c), and it redesignates 149(c) and (d) as (d) and (e), respectively. The final sentence of subsection 149(b), which addressed the potential eligibility of PM–10 projects within certain nonattainment areas, is deleted as unnecessary, since PM–10 eligibility has been expressly included (see subsection (b) above).

Current section 149(c) allows States that have never had a nonattainment area for ozone, carbon monoxide, or PM–10 to use CMAQ funds for any project eligible under the surface transportation program. Such areas may also continue to fund CMAQ-eligible projects.

Subsection (d) of this section would require that States without nonattainment areas but with maintenance areas fund first CMAQ-eligible activities in such maintenance areas with their CMAQ funds, unless the State can show that its transportation-related maintenance plan activities are fully funded.

Subsection (e) of this section provides that, for purposes of CMAQ funding, the boundaries of nonattainment and maintenance areas will generally continue to be determined in accordance with the classification scheme in the 1990 amendments to the Clean Air Act. If the nonattainment boundaries change as a result of new national ambient air quality standards and any additional area newly designated as a result of such standards has submitted to EPA a State implementation plan, such boundaries would be used under this section.

Subsection (f) amends subsection 120(c) of title 23, United States Code, to exclude projects funded with CMAQ apportionments from the list of certain safety projects eligible for 100 percent Federal participation. As a result, the standard 80 percent Federal share provision of subsection 120(b) that applies to all other CMAQ projects would apply to these projects as well.

Sec. 1021. Interstate Reimbursement

Subsection (a) updates the general authority provision of 23 U.S.C. 160 which directs the Secretary to allocate to the States amounts determined under subsection 160(b) for reimbursement of their original contributions to construction of segments of the Interstate System which were constructed without Federal financial assistance, to reauthorize this provision for fiscal years 1998 through 2003.

Subsection (b) updates 23 U.S.C. 160(b) to render this provision applicable in fiscal years 1998 through 2003. Subsection 160(b) addresses the procedure for determining the amount each State will receive for reimbursement under this section.

Subsection (c) revises 23 U.S.C. 160(e), which directs that provisions in 23 U.S.C. 133 regarding the allocation of STP apportionments do not apply to half of the amount transferred under to this section to each State's STP apportionment. Subsection (c) makes a purely technical edit to subsection 160(e) to reflect the redesignation of 23 U.S.C. 133(d)(3) as 133(d)(2) in light of the elimination of the safety set-aside (previously in 133(d)(1)) from the surface transportation program. Safety programs will now be funded directly and not as a take-down from the surface transportation program.

Subsection (d) revises subsection 23 U.S.C. 160(f) to authorize the appropriation of $1 billion for each of fiscal years 1998 through 2003 in accordance with this section.

Sec. 1022. State Infrastructure Bank Program

Subsection (a) of this section codifies in title 23, United States Code, and thereby makes permanent the State Infrastructure Bank (SIB) Pilot Program authorized for fiscal years 1996 and 1997 in section 350 of the National Highway System Designation Act of 1995 (NHS Act). In codifying this language, references to ISTEA provisions and reporting requirements which will be out of date upon reauthorization of the surface transportation program were also removed. In all other respects, this section is identical to section 350 of the NHS Act, except where noted below.

Under subsection 162(a), States are permitted to enter into agreements with the Secretary to create both single-State and multi-State infrastructure banks. This provision eliminates the 10–State limit on the number of participants in the SIB program, which was included in section 350 of the NHS Act.

Under subsection 162(b), SIBs are required to maintain separate highway account for funds apportioned to the participating State or States under certain provisions of title 23, United States Code and a separate transit account for funds made available to the participating State or other Federal transit grant recipient under certain provisions of title 49, United States Code. A participating State may contribute to the highway account up to 10 percent of its annual apportionments of NHS, STP, Interstate Maintenance, HBRRP, Interstate reimbursement, and minimum allocation funds. A participating State may also contribute up to 10 percent of the funds annually apportioned to metropolitan regions if the metropolitan planning organization concurs with such action in writing. Federal grant recipients in a State may contribute up to 10 percent of their annual Section 3, Section 9, and Section 18 capital grants into the transit account of its SIB.

Subsection 162(c) permits SIBs to make loans or provide other assistance to a public or private entity and permits such loans or other assistance to be subordinated to any other debt financing for the project. This subsection prohibits the initial Federal assistance from a SIB to be made in the form of a grant.

Subsection 162(d) provides that any project eligible for funding under title 23, United States Code, may be funded from the highway account of a SIB, and that any capital transit project may be funded from the transit account of a SIB. This language expands highway account eligibility beyond what was included in section 350 of the NHS Act. Under section 350, funds in the highway account of a SIB could finance the construction of Federal-aid highways only.

Subsection 162(e) lists the requirements a State must meet to establish a SIB under this section. At a minimum, a State must match 25 percent of the Federal contribution with funds from non-Federal sources (except as provided by 23 U.S.C. 120(b)). This matching provision is the same as the traditional Federal-aid highway matching requirement (which is most often expressed as an 80/20 match). A State must also ensure that its SIB maintains an investment grade rating on a continuing basis or has a sufficient level of bond or debt financing instrument insurance to maintain the viability of the bank. Income generated by funds contributed to an account of the bank will be credited to the account, invested in U.S. Treasury Securities or other approved financing instruments, and be made available for use in providing loans and other assistance. Any loan from a SIB shall bear interest at or below market rates, and each participating State must ensure that repayment of any loan made by its SIB begins within 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. The term for repaying any loan may not exceed 30 years after the date of the first payment. Finally, the State shall require its SIB to annually report to the Secretary.

Under subsection 162(f), the repayment of a loan or other assistance provided by a SIB may only be used to fund eligible projects under this section and may not be used to pay the non-Federal share of the cost of any project.

Subsection 162(g) requires the Secretary to ensure that Federal disbursements be made at an annual rate of 20 percent of the amount requested by the State for the SIB. This subsection differs from the disbursement provision in section 350 of the NHS Act, which required that Federal-aid highway and Federal transit funds be disbursed at rates consistent with their respective historical disbursement rates. Federal requirements would apply to all projects receiving assistance through the SIB. However, the Secretary may waive requirements in titles 23 and 49, United States Code, when the Secretary determines that such requirements are not consistent with the purposes of this section, e.g., provisions relating to project payments, except the Secretary may not waive 23 U.S.C. 113 and 114 and 49 U.S.C. 5333. This provision differs from the SIB pilot program in section 350 of the NHS Act, where Federal requirements only

applied to the amount of Federal funds in the SIB. The Secretary shall revise cooperative agreements executed with the States under the pilot program to bring them into accord with the provisions of this section.

Some examples of provisions in title 23 which may be found by the Secretary to be inconsistent with the administration of SIBs are as follows. (1) Where SIBs require that obligation and payment of Federal funds occur at the time of capitalization (before a SIB has provided assistance to any approved project), 23 U.S.C. 106 requires that Federal-aid highway funds be obligated at the time a project is approved, and 23 U.S.C. 121 requires payment to be made as costs are incurred by the State. (2) Where SIBs require non-Federal sources to match 25 percent of the total Federal capitalization grant contributed to the bank, 23 U.S.C. 120 establishes the Federal share on a project-by-project basis. (3) Where SIBs require capitalization funds to be used as the non-Federal match, 23 U.S.C. 323 allows donations to be applied to individual projects to meet this matching requirement. In the current SIB pilot program, the Secretary has determined that Federal-aid highway projects on a toll facility funded from a SIB are not required to comply with 23 U.S.C. 129(a)(3), which imposes restrictions on the use of toll revenues generated by the facility.

Subsection 162(h) clarifies that all requirements of Federal law that apply to projects receiving assistance under such titles shall apply to projects receiving assistance from a SIB, except to the extent the Secretary may waive a Federal law, other than sections 113 and 114 of title 23 and section 5333 of title 49, under paragraph (g)(2) of this section.

Subsection 162(i) provides that the contribution of Federal funds into a SIB under this section shall not be construed as a commitment, guarantee, or obligation on the part of the U.S. to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. This subsection also requires any security or debt financing instrument issued by a SIB under this section to include this same statement.

Subsection 162(j) exempts funds contributed to a SIB under this section from the requirements of 31 U.S.C. 3335 and 6503, which govern the manner in which funds are disbursed.

Subsection 162(k) permits a State to spend as much as 2 percent of the Federal contributions to its SIB to pay the reasonable costs of administering the SIB.

Subsection 162(l) defines, for purposes of this section, the terms ''capital project,'' ''other assistance,'' and ''State.''

Subsection (b) of this section authorizes annual appropriations from the Highway Trust Fund (other than the Mass Transit Account) for the SIB program at $150 million for each of fiscal years 1998 through 2003 and provides that such funds shall remain available until expended and shall have contract authority.

Subsection (c) makes a conforming amendment to the analysis for chapter 1 of title 23, adding a reference to this new section 162.

Sec. 1023. National Scenic Byways Program

Subsection (a) of this section amends chapter 1 of title 23, United States Code, to add a new section, §163, codifying the National Scenic Byways Program.

Subsection 163(a) directs the Secretary of Transportation to carry out the National Scenic Byways program and designate roads having outstanding scenic, historic, cultural, natural or archeological qualities as National Scenic Byways or All-American Roads. Criteria for designation have been defined in an FHWA interim policy notice, which was published in the Federal Register in May 1995.

Subsection 163(b) directs the Secretary to make grants and provide technical assistance to the States to implement National Scenic Byways, State scenic byways, and All-American Roads projects and to plan, design, and develop State scenic byways programs. A key aim of providing technical assistance is to educate and increase awareness about the development, management, and operation of scenic byways programs. Paragraph 163(b)(2) lists the priorities that must be given to eligible projects when making grants of scenic byways funds under this section. These are: projects on routes designated as either National Scenic Byways or All-American Roads, projects that would make routes eligible for designation as National Scenic Byways or All-American Roads, and projects that will assist States in developing their State scenic byways programs.

Subsection 163(c) lists the eight categories of projects eligible for scenic byways funding under this section.

Subsection 163(d) provides that the Federal share payable on account of any project under this section shall be determined in accordance with 23 U.S.C. 120(b), except that, for projects on Federal or Indian Lands, a Federal land management agency may contribute the non-Federal share payable on such projects.

Subsection 163(e) authorizes $15 million for each of fiscal years 1998 through 2003 for carrying out this scenic byways program.

Subsection 163(f) enables the Secretary to authorize scenic byways funds only for projects that protect the scenic, historic, recreational, cultural, natural, and archeological integrity of a highway and adjacent areas.

Subsection (b) of this section makes a conforming amendment to the analysis for chapter 1, adding a reference to this new section.

Sec. 1024. Infrastructure Safety Program

This section combines current sections 130 [Railway-highway crossings] and 152 [Hazard elimination program] of title 23, United States Code, into one section: 23 U.S.C. 164. Except where noted below, these provisions are unchanged from current law.

Paragraph 164(a)(1) sets forth the eligible railway-highway crossing uses of funds apportioned under 23 U.S.C. 104. These funds may be used to fund 90 percent of the cost of construction of projects for the elimination of hazards of railway-highway crossings, including the separation or protection of grades at crossings, the reconstruction of existing railroad grade crossing structures, and the relocation of highways to eliminate grade crossings.

Paragraph 164(a)(2) sets forth the eligible uses of railway-highway crossing funds apportioned under subsection 164(a). These uses include those listed in 164(a)(1) for section 104 funds and also include the following new uses: trespassing countermeasures, railway-highway crossing education, enforcement of traffic laws, and projects at privately owned railway-highway crossings if the project is publicly sponsored and the Secretary determines that such project would serve a public interest.

Paragraph 164(a)(3) authorizes the Secretary to classify various types of projects involved in the elimination of hazards of railway-highway crossings and to determine a railroad's share of the cost of such projects, based on the project's net benefit to the railroad.

Paragraph 164(a)(4) sets forth the payment and collection methods of amounts representing the net benefits to any railroad of a project for the elimination of hazards of railway-highway crossings funded under title 23, United States Code, or any prior Acts.

Paragraph 164(a)(5) requires each State to conduct and maintain a survey of all highways to identify those railroad crossings that may require separation, relocation, or protective devices, and to establish and implement a schedule to complete these projects. This paragraph also includes a new requirement that States report to the Department on completed railway-highway crossing projects funded under this subsection and section 165, for inclusion in the DOT/AAR National Grade Crossing Inventory.

Paragraph 164(a)(6) sets forth a new apportionment formula for railway-highway crossing funds. Under current law, funds are not apportioned in accordance with the apportionment formula in 23 U.S.C. 130(f), but are distributed in accordance with 23 U.S.C. 133(d)(1), which provides that each State shall receive an amount at least equal to the amount of funds made available to the State for carrying out railway-highway crossing projects under this provision in fiscal year 1991. Under paragraph 164(a)(6), railway-highway crossing funds would be apportioned as follows: 25 percent of the funds would be apportioned in the ratio that each State's most recent 3-year total of crashes at public railway-highway grade crossings bears to such total in all States, 25 percent are apportioned in the ratio that each State's most recent 3-year total of fatalities involving rail equipment at public railway-highway grade crossings bears to such total in all States, 25 percent of the funds would be apportioned in the ratio that each State's number of public railway-highway grade crossings bears to such number in all States, and 25 percent of the funds would be apportioned in the ratio that each State's number of public railway-highway grade crossings with passive warning devices bears to such number in all States.

Paragraph 164(a)(7) requires that at least one-half of the railway-highway crossing funds authorized under this subsection be made available for the installation of, and educational and enforcement efforts on, protective devices at railway-highway crossings. This paragraph expands this protective devices set-aside to include enforcement and education efforts; current law (23 U.S.C. 130(e)) makes these funds available only for the installation of protective devices.

Subparagraph 164(a)(8)(A) provides that the Federal share payable on any project financed with railway-highway crossing funds under this subsection shall be 90 percent of the cost thereof. Subparagraph 164(a)(8)(B) permits railway-highway crossing funds to be used as the local match on projects eligible under this section where State law conditions the use of State funds on such projects on the provision of local matching funds.

Paragraph 164(a)(9) authorizes each State to transfer funds from its railway-highway crossing apportionment to its hazard elimination apportionment in an amount equal to the percentage by which the number of crashes in the State has been reduced (in the most recent calendar year) below the average annual number of crashes that occurred in such State in calendar years 1994, 1995, and 1996.

Paragraph 164(a)(10) authorizes States to make incentive payments to local governments upon the permanent closure of railway-highway crossings under such local governments' jurisdiction. This paragraph also prohibits a State from making an incentive payment unless the railroad that owns the tracks on which crossing that is to be closed is located makes an incentive payment to the local government responsible for permanently closing such crossing. In addition,

this paragraph limits the amount of the State payment to the lesser of the railroad's contribution or $7,500, and it requires local governments to use any State payment made under this section for transportation safety improvements.

Paragraph 164(b)(1) authorizes the use of hazard elimination funds on any highway safety improvement project.

Paragraph 164(b)(2) requires each State to conduct and maintain a survey of all public roads to identify hazardous locations, sections, and elements that may constitute a danger to motorists and pedestrians, assign priorities for the correction of such areas, and establish and implement a schedule to complete these projects.

Paragraph 164(b)(3) requires each State to establish an evaluation process to assess the results achieved by highway safety improvement projects carried out under this subsection.

Paragraph 164(b)(4) provides that hazard elimination funds shall be apportioned to the States in a manner similar to that provided in 23 U.S.C. 402(c): 75 percent based on each State's population and 25 percent based on each State's public road mileage. This provision is the same as the apportionment formula currently in subsection 152(e), however, under current law, funds are not apportioned in accordance with the apportionment formula in 23 U.S.C. 152(f), but are distributed in accordance with 23 U.S.C. 133(d)(1), which provides that each State shall receive an amount at least equal to the amount of funds made available to the State for carrying out hazard elimination projects under this provision in fiscal year 1991.

Subparagraph 164(b)(5)(A) provides that the Federal share payable on account of any hazard elimination project shall be 90 percent of the cost thereof. Subparagraph 164(b)(5)(B) authorizes the use of hazard elimination funds made available under this subsection on any public road other than a highway on the Interstate System.

Paragraph 164(b)(6) authorizes each State to transfer as much as 100 percent of its hazard elimination apportionment to either its highway safety apportionment under 23 U.S.C. 402 or its motor carrier safety allocation under 49 U.S.C. 31104 upon a determination by the Secretary that the State would be eligible to receive an integrated safety fund grant under 23 U.S.C. 165. This language is new. It replaces the transferability language currently found in the first two sentences of 23 U.S.C. 104(g), which permits States to transfer 40 percent of their railway-highway crossing, hazard elimination, and highway bridge replacement and rehabilitation program (HBRRP) apportionments among these three categories upon a finding by the Secretary that such transfer is in the public interest. Subsection 104(g) also permits the transfer of 100 percent of the apportionment under one such program to the apportionment under any other of such programs if the Secretary finds that such transfer is in the public interest and the State satisfactorily assures the Secretary that the purposes of the program from which such funds will be transferred have been met. Paragraph 164(b)(6) does not provide for the transfer of funds between the highway safety programs authorized under this section and the HBRRP under 144, as subsection 104(g) does, because this transfer authority has not been used by any State.

Paragraph 164(b)(7) provides that, for purposes of subsection 164(b), the term ''State'' shall have the meaning given this term in 23 U.S.C. 401.

Section 165 authorizes the Secretary to make grants of new integrated safety funds to any State that the Secretary finds has an integrated State highway safety planning process and has established integrated goals and benchmarks for safety improvements.

The amount of any grant made under this section in any fiscal year shall be an amount equal to the percentage that each eligible State's apportionment under 23 U.S.C. 402 for such fiscal year bears to the total apportionment under section 402 to all States for such fiscal year, but in no case could the grant amount exceed 50 percent of the amount apportioned to such State for fiscal year 1997 under section 402.

Any grant made under this section may be used by a State to implement any highway or motor carrier safety program or project eligible for funding under sections 23 U.S.C. 164 and 402 or chapter 311 of title 49, United States Code. Upon receipt of a grant allocation under this section, a State would transfer such allocation to the appropriate apportionment or allocation under 23 U.S.C. 164 or 402 or 49 U.S.C. 31104, and would administer such funds in accordance with the requirements of these programs.

Paragraph (a)(3) of this section amends 23 U.S.C. 104(g) to strike the current transferability language for railroad highway crossing and hazard elimination funds, because this language would be replaced by 23 U.S.C. 164(b)(6).

Subsection (b) of this section amends the analysis for chapter 1 of title 23 by striking the section names relating to sections 130 and 152 and by inserting the section names for new sections 164 and 165.

Sec. 1025. Fiscal and Administrative Amendments

Subsection (a) of this section removes three obsolete provisions from 23 U.S.C. 115 which are no longer applicable to the Federal-aid highway program. The eligibility of bond interest for Federal-aid reimbursement, currently in paragraphs 115(b)(2) and (3), has been superseded by section 122, which was added by section 311 of the National Highway System Designation Act of 1995. Subsection (c), concerning the treatment of a project built without Federal funds, has no current application.

Subsection (b) of this section removes an outdated provision from 23 U.S.C. 118 regarding total payments to a State in any fiscal year. In its place, this subsection reinstates a provision that was once in 23 U.S.C. 118 but which was inadvertently omitted when section 118 was amended by section 1020 of the ISTEA. This reinstated provision permits obligations incurred in prior fiscal years that are released in a current fiscal year to be made available for re-obligation in such current fiscal year.

Subsection (c) of this section technically amends 23 U.S.C. 120, concerning the Federal share payable on account of Interstate projects and other title 23 projects, to conform subsections 120(a) and (b) to subsection 120(i), which allows for an increased non-Federal share. The amendment to 120(b) also conforms this subsection to 23 U.S.C. 121, relating to payments made to States for the cost of construction. Subsection (c) also codifies as new subsection 120(j) the current ISTEA section 1044, which allows States to apply toll revenues used for specified capital improvements to their non-Federal share requirement for projects under title 23. This new subsection 120(j) also requires States taking advantage of this credit provision to maintain their current level of expenditures for matching the Federal share of title 23 projects.

Subsection (d) of this section amends 23 U.S.C. 121 to remove a restriction which applies the Federal/non-Federal matching rate to each payment that a State receives. The Federal share requirements for grant programs under the common rule implementing uniform administrative requirements for grants and cooperative agreements generally applies to the total cost of projects, rather than to individual voucher payments. This amendment will therefore make the Federal-aid highway program more compatible with other Federal programs, particularly the Federal mass transportation program, where projects are often administered jointly by the FHWA and the FTA. This subsection also amends 121 to provide more flexibility in administering the Federal share requirement by allowing for adjustments in the Federal share during the development of the project. The remaining changes made by this subsection remove outdated provisions from section 121.

Subsection (e) strikes 23 U.S.C. 124(b), concerning the construction of toll routes necessary to complete the Interstate System, thereby removing this out of date provision that is no longer necessary because the Interstate System has been completed.

Subsection (f) strikes 23 U.S.C. 126, thereby removing this outdated provision concerning the use of motor vehicle taxes to fund highway construction projects.

A long-standing interpretation of 23 U.S.C. 302 has prohibited the reimbursement of certain indirect costs to the States which are generally allowed for grant programs under the common rule establishing uniform requirements for grants and cooperative agreements. The Federal Highway Administration policy has been a contentious issue with State and local governments since other federal agencies permit States to charge indirect costs. Some States have developed a separate indirect costs rate for the highway program. This interpretation creates a particular burden when projects are administered jointly with other programs, such as the Transit Program. Subsection (g) of this section amends section 302 to clarify that section 302 does not limit reimbursement of eligible indirect costs to State and local governments. Subsection 302(b), concerning arrangements with county personnel to supervise the construction of projects on the Federal-aid secondary system, is stricken as obsolete.

Public Law 87–441 relates to bridge commissions and authorities created by Act of Congress. It provides for Federal approval of such commissions' memberships and requires annual audits. A commission ceases to exist by transferring ownership of the bridge to the States. Initially, five bridge commissions were subject to the act. Today, only one commission remains, the White County Bridge Commission, which operates the New Harmony Bridge across the Wabash River between Indiana and Illinois. While under this act, the FHWA has the authority to appoint commissioners and review the commission's financial operations, we believe that these actions could be administered more effectively and efficiently at the State or local level. Subsection (h), in repealing this 1962 bridge commission act, would remove this unnecessary Federal oversight of the White County Bridge Commission.

Sec. 1026. Federal Lands Highways Program
Subsection (a). Definitions

This subsection amends 23 U.S.C. 101(a) to include a new definition of public lands highways (which excludes forest roads) and it strikes the two definitions currently of public lands highways currently in subsection 101(a).

Subsection (b). Federal Share Payable

This section amends 23 U.S.C. 120 by adding a new subsection (j) to enable Federal land managing agencies (such as the National Park Service, the Bureau of Indian Affairs, and the U.S. Forest Service) to pay the non-Federal share of any Federal-aid highway project where the Federal share of such

project is funded under 23 U.S.C. 104 or 144, or under the Federal scenic byways program. This section also adds a new subsection 120(k) to allow Federal Lands Highways Program funds to be used as the non-Federal share of any Federal-aid project providing access to or within Federal or Indian lands and where the Federal share of such project is funded under 23 U.S.C. 104 or 144, or under the Federal scenic byways program.

Subsection (c). Allocations

Subsection (c) amends section 202 to direct the Secretary to allocate funds for two separate categories: the discretionary public lands program and the forest highway program. These two categories replace the current public lands category, which was comprised of discretionary and forest highways elements. The discretionary public lands highway allocation is contained in subsection 202(b), and a new subsection 202(e) is added for forest highways; this is consistent with the structure of the Federal Lands Highways program prior to the enactment of ISTEA.

Subsection (d). Availability of Funds

Subsection (d) makes conforming amendments to section 203 to reflect the separate forest highways program and revised public lands highways program. This subsection also provides that the point of obligation (at which the Federal Government is contractually obligated to pay its contribution to a project) for Federal Lands Highways Program projects shall be at the time the Secretary authorizes engineering and related work for any such project, or at the time the Secretary approves the plans, specifications, and estimates for any such project.

Subsection (e). Planning and Agency Coordination

Subsection (e) amends subsections 204(a) and (b) to reflect the separate forest highways program and revised public lands highways program and to more accurately reflect the roles of the various Federal agencies in Federal Lands Highways Program projects. It also streamlines the inclusion of Federal Lands Highways Program projects in Statewide and metropolitan transportation improvement programs, providing that the Secretary shall approve the transportation improvement programs. Only regionally significant Federal Lands Highways Program projects will be required to be developed in cooperation with States and metropolitan planning organizations. The Federal Highway Administration's Federal Lands Highways Office would then approve all Federal lands highway transportation improvement programs and submit these to the appropriate States and metropolitan planning organizations for inclusion in their transportation improvement programs without further action.

Subsection (e) also revises subsection 204(i) to reflect the current public lands program structure and to allow funds to be made available to Federal land managing agencies for transportation planning.

Subsection (e) also amends section 204 by adding a new subsection (k) to establish a national bridge program for replacing or rehabilitating deficient Indian reservation road bridges. A minimum of $5 million in funds is reserved from the Indian reservation roads program authorization for these bridges. This program has criteria very similar to those of the FHWA's current Indian reservation bridge program under 23 U.S.C. 144.

Sec. 1027. Bicycle Transportation and Pedestrian Walkways

Subsection 217(b) of title 23, United States Code, currently permits States to use their NHS apportionments on bicycle transportation facilities on land adjacent to highways on the National Highway System, other than Interstate routes. Subsection (a) of this section amends 23 U.S.C. 217(b) to include the construction of pedestrian walkways as an eligible use of States' National Highway System apportionments under the same criteria by which bicycle transportation facilities are eligible. Subsection (a) of this section also amends 217(b) to eliminate the restriction on the use of NHS funds apportioned under 104(b)(1) for the construction of bicycle transportation facilities on land adjacent to the Interstate System.

Subsection 217(e) currently provides for the safe accommodation of bicycles on highway bridges as part of the replacement or rehabilitation of highway bridge decks, except if the bridges are located on highways where access is fully controlled. Subsection (b) of this section amends subsection 217(e) to remove this restriction against safely accommodating bicycles on highway bridges located on fully access-controlled highways.

Subsection (c) of this section revises subsection 217(g) to provide that bicyclists and pedestrians be given due consideration in the comprehensive Statewide and metropolitan planning processes, and that the inclusion of bicycle and pedestrian facilities be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted. Subsection (c) also retains, with minor modification, the requirement currently in subsection 217(g) that transportation plans and projects give due consideration to the safety and continuity of bicycle and pedestrian facilities.

Subsection 217(h) currently provides that motorized wheelchairs are permitted on trails and pedestrian walkways when both State and local regulations permit them. Subsections (d), (e), and (g) of this section amend subsections 217(h) and (i) to specifically define the type of motorized wheelchairs permitted on trails and pedestrian walkways.

Subsection (f) redesignates subsection 217(j) as 217(i).

In addition to adding a definition of ''wheelchair'' to section 217, subsection (g) of this section also retains the current definition of ''bicycle transportation facility'' and adds a definition of ''pedestrian.'' The definitions of ''pedestrian'' and ''wheelchair'' are consistent with the definitions of those terms in the Uniform Vehicle Code (a model uniform law on traffic ordinances that has been adopted in many States) and, in defining a pedestrian to include a mobility impaired person using a manual or motorized wheelchair, they help ensure that both manual and powered wheelchair users have the same mobility rights as pedestrians.

Sec. 1028. Recreational Trails Program

This section amends title 23 of the United States Code to add a new section to chapter two. Most of the provisions in this new section, 206, were originally enacted into law as part of the National Recreational Trails Fund Act (NRTFA) which is Part B of Title I of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), and were codified in title 16, United States Code. By moving these provisions from title 16 to title 23, this section incorporates the Recreational Trails Program into the Federal-aid Highway Program which is administered by the Department of Transportation (DOT) and the Federal Highway Administration (FHWA) under title 23, U.S.C. This section also removes the Recreational Trails Program from title 16 which addresses programs that are usually administered by the Department of the Interior. The provisions in Part B of title I of the ISTEA establishing the National Recreational Trails Advisory Committee are not among the provisions being added to title 23. These provisions are simply being removed and the National Advisory Committee is thereby abolished.

Subsection (a) amends title 23, U.S.C., to add this new section 206 which is entitled ''Recreational Trails Program'' instead of ''National Recreational Trails Program'', its former name.

The new subsection 206(a) amends the preexisting subsection (a) of the NRTFA by adding the provision that the Secretary of Transportation will also consult with the Secretary of Agriculture, in addition to the Secretary of the Interior, in administering this program because the U.S. Forest Service is a major partner in the Recreational Trails Program.

The new subsection 206(b) substantially revises the preexisting subsection (c). The original paragraph (c)(1), the transitional provision, expired December 18, 1994, and is eliminated. The former paragraph (c)(2), the permanent provision, is amended to reflect that it is currently in effect, and is redesignated as subsection (b). The preexisting paragraph (c)(3), establishing the Federal share of the cost of Trails Program projects, which was added to the NRTFA by the National Highway System Designation Act of 1995 (NHS Act) is moved to subsection 206 (e).

The new paragraph 206(b)(1) requires a State to designate the State agency or agencies which will be responsible for administering apportionments received under this section. This requirement was previously found in subparagraph (c)(2)(B).

The new paragraph 206(b)(2) requires a State to establish a State trail advisory committee. This requirement was previously found in the original subparagraph (c)(2)(A), but in the new paragraph 206(b)(2), the term ''board'' is changed to ''committee'' to reflect the name used in most States and to eliminate any confusion as to whether a ''board'' is different than a ''committee.''

The new subsection 206(c) limits the types of trails and trail-related projects on which funds made available through this program may be obligated. To be eligible for funding, trail projects must be planned and developed in accordance with the laws, policies, and administrative procedures of the State. Subsection (c) also requires States to include trail plans or trail plan elements in metropolitan and/or statewide transportation plans in addition to requiring that these trail plans be consistent with their Statewide Comprehensive Outdoor Recreation Plan required by the Land and Water Conservation Fund Act. These provisions emphasize that trails may form part of the metropolitan and State transportation infrastructure. In addition, subsection (c) provides an illustrative list of permissible activities on which funds made available through this program may be obligated. Subsection (c) also includes a provision requiring that at least 50 percent of the funds received annually by a State be used to facilitate the use of trails for diverse recreational purposes, and one activity specifically encouraged is the renovation of trails to accommodate both motorized and nonmotorized trail use.

The new subsection 206(d) was formerly located in paragraph (e)(5). This new subsection 206(d) requires States to give priority to project proposals that provide for the redesign, reconstruction, non-routine maintenance, or relocation of existing trails in order to benefit the natural environment or to mitigate the impact on the natural environment. Paragraph (1) amends the preexisting provision to extend this requirement to all trail projects. This change strengthens the environmental aspects of this program

and ensures that project proposals for existing trails are given priority over new trail projects. Paragraph (2), formerly at (e)(5)(B), directs the State advisory committees to issue guidance to the States for the purpose of implementing paragraph (1).

The new subsection 206(e) addresses the Federal share payable for projects under the Recreational Trails Program. This subject was previously addressed in paragraph (c)(3). This new subsection 206(e) first provides generally that the Federal share payable on these projects is not to exceed 50 percent. Paragraph 206(e)(1) addresses the fact that the prohibition on matching Federal funds with other Federal funds presents a problem for States where much of the recreational activity, especially motorized use, takes place on Federal lands. Consequently, paragraph (e)(1) allows a Federal agency sponsoring a project to provide funding for that project without those funds being credited as part of the Federal share to be covered by the Secretary of Transportation. However, this provision still requires State, local, or private sponsors to provide some matching funds. The new paragraph (e)(2) allows seven specific Federal grant programs to be used by project sponsors to meet non-Federal matching fund requirements. Trails projects are excellent training and work opportunities for participants in youth corp programs and work training programs. This provision will allow States to meet training and employment goals and the goals of the Trails Program simultaneously.

The new paragraph 206(e)(3) establishes a new programmatic non-Federal share that allows States to satisfy non-Federal share matching requirements on a programmatic level rather than on a project-by-project basis. The former subparagraph (c)(3)(B) would have established a programmatic non-Federal share beginning in fiscal year 2001 and would have resulted in a Federal share of approximately 83 percent for Recreational Trails projects. Under the new paragraph (e)(3), the programmatic non-Federal share goes into effect immediately and the Federal share is set at 50 percent. The programmatic non-Federal share provision gives the States flexibility to receive credit for the non-Federal matching funds which they are able to raise in excess of the required non-Federal matching share on some projects. This credit may be used by the States to cover part of the non-Federal matching share on other projects for which they have difficulty raising enough matching funds.

The new paragraph 206(e)(4) establishes a Federal share payable for State administrative costs which conforms with the Federal share payable for State costs incurred in administering projects under other Federal-aid highway programs. This paragraph clarifies that the 50 percent limitation on the Federal share payable for projects under the Trails Program does not apply to State administrative costs. This new paragraph establishes the Federal share payable for State administrative costs at 80 percent or higher in accordance with 23 U.S.C. 120(b). The Federal share is set higher than the Federal share payable for project costs in order to lessen the burden of the Federal mandates associated with this program. However, this paragraph does require the States to cover some of the cost because this program is voluntary. In addition, this provision reflects the intent of the Federal government not to cover 100 percent of the cost of statewide trail planning efforts because non-Federal funding sources are available for many trails.

The new subsection 206(f) lists different activities for which a State may not use funds apportioned to it under section 206. These provisions were, for the most part, formerly found in paragraph (e)(2). However, the new subsection (f) does include one new item. The new paragraph (f)(5) adds to the list of uses not permitted, funding of railroad right-of-way development that would encourage users to engage in any form of recreational activity on or between railroad tracks. The term ''railroad tracks'' is intended to include active and inactive lines and snow-covered tracks. The addition of this item to the list is intended to discourage use of railroad tracks to engage in recreational activity including walking, hiking, horseback riding, cross country skiing, snowshoeing, snowmobiling, rail biking, and use of a motor car.

The new subsection 206(g) is a new provision which incorporates some of the program management elements of the former subsection (e) and adds some other paragraphs to clarify these provisions and facilitate program management. Paragraph (g)(1) provides that a project sponsor may donate, either from a private or public source, funds, materials, services, or right-of-way for the purposes of a project eligible for assistance under this section. Private donations are allowed under 49 CFR 18.24 and 23 U.S.C. 323, as amended by the NHS Act, but this new paragraph clarifies the legislative authority regarding private donations to the Trails Program and establishes authority regarding donations from Federal project sponsors, as well.

New paragraph (g)(2) provides that a project funded under this section is intended to enhance recreational opportunity and, as such, is not subject to the provisions of 49 U.S.C. 303, establishing a U.S. policy on lands, wildlife, and waterfowl refuges and historic sites, or 23 U.S.C. 138, which addresses the preservation of parklands, because implementation of a Recreational Trails project would not qualify as ''using'' a public park, recreation area, wildlife and waterfowl refuge, or historic site for purposes of those laws. As a result, Recreational Trails Program projects are exempt from the ''Section 4(f)'' requirements calling for analyses as to whether a reasonable and feasible alternative to a project exists.

New paragraph (g)(3) provides that a State may treat funds apportioned to it under this section as Land and Water Conservation Fund apportionments for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act. This provision was formerly located at paragraph (e)(8). Section 6(f)(3) requires that projects funded under the Land and Water Conservation Fund Act remain in use as public outdoor recreational facilities in perpetuity. Any conversion would require approval of the Secretary of the Interior.

The new paragraph (g)(4) requires that, before making apportionments available for work on recreational trails, a State obtain written assurances, from the owner of any land that would be affected by the work, that the land owner will cooperate with the State. In addition, new paragraph (g)(4) requires that any use of a State's apportionments on private lands must be accompanied by an easement or other legally binding agreement that ensures public access to those recreational trail improvements. This provision was previously located in paragraph (f)(2).

The new subsection 206(h) provides definitions for terms used in the new section 206. Formerly, the definition section was located in subsection (g). The definition of ''Fund'' as referring to the National Recreational Trails Trust Fund is removed because the Recreational Trails Program is no longer funded through this trust fund which is also being abolished. The Recreational Trails Program will now be funded through a direct authorization of funds from the Highway Trust Fund. Subsection (h) also deletes the definition for ''Nonhighway recreational fuel'' because it is no longer needed. The definition of ''Recreational trail'' from the former definitions section is included in the new subsection 206(h), but is revised to reorganize the uses into a logical order and to add several new uses. In addition, this revision of the recreational trail definition removes a reference to the National Recreation Trails designated under the National Trails System Act because that reference is unnecessary. The definition of ''Motorized recreation'' used in the former subsection (g) is revised to clarify that motorized wheelchair use is not motorized recreational vehicles use. This new definition is consistent with the Uniform Vehicle Code. The new subsection 206(h) also includes a definition for the term ''eligible State'' for purposes of subsection 104(h) of 23 U.S.C. which establishes the formula to be used in apportioning funds authorized to be appropriated for the Recreational Trails Program. The definition for ''eligible State'' is the same as was previously used except that subsection (h) incorporates the title 23 definition of State.

Subsection (b) contains several conforming amendments. First, this subsection strikes part B of title I of ISTEA, since this part is replaced by new sections 206 and 207 of title 23, United States code. In addition, subsection (b) revises the analysis for Chapter 2 of 23 U.S.C. to reflect the addition of new sections 206 and 207.

Sec. 1029. International Highway Transportation Outreach Program

Subsection (a) amends section 325 of title 23, U.S.C., to clarify that the Secretary is authorized to conduct activities aimed at improving United States' firms access to foreign markets. Examples of these activities include gathering and disseminating information about foreign market opportunities and foreign industries, and encouraging the adoption abroad of U.S. technical standards.

Subsection (b) revises subsection 325(c) of such title to specify that funds deposited in the current special account with the Secretary of the Treasury and funds available to carry out this section can be used to reimburse the FHWA for the salaries of its employees and the costs incurred by them in assisting U.S. firms, with technical services unavailable in the U.S. private sector, to develop and carry out proposal for foreign transportation projects. These funding sources may also be used to cover other necessary promotional, travel, reception, and representation expenses.

Subsection (c) adds a new subsection to 23 U.S.C. 325 to enable States to use their State Planning and Research Program funds for international highway transportation outreach activities under section 325.

Sec. 1030. Trade Corridor and Border Crossing Incentive Grants; Border Gateway Pilot Program

This section directs the Secretary to provide grants for planning and project implementation to improve transportation at international border crossings and along major trade transportation corridors. The section authorizes $45,000,000 annually from the Highway Trust Fund to support the activities directed. With the exception of specific sums authorized for planning and coordination purposes under subsections (a) and (b) of this section, all remaining funds authorized under this section shall be used for project implementation.

Paragraph (a)(1) of this section directs the Secretary to make annual incentive grants to States and MPOs that share a common border with Canada or Mexico for the purpose of performing planning for efficient movement of people and goods at and through international border gateways.

Paragraph (a)(2) requires the recipient, as a condition of receiving the grant, to assure the Secretary that it is or will commit to be engaged in joint planning with its counterpart agency in Canada or Mexico.

Paragraph (b)(1) directs the Secretary to make grants to States for the purpose of performing planning for the efficient movement of goods along and within international and interstate trade corridors.

Paragraph (b)(2) requires grant recipients to submit to the Secretary plans for corridor improvements. Corridor planning must be coordinated with transportation planning being done by the States and MPOs along the corridor and, where appropriate, with transportation planning being done in Mexico and Canada.

Paragraph (b)(3) authorizes 2 or more States to enter into agreements for purposes of coordinated trade transportation corridor planning and administration.

Subsection (c) establishes a new border gateway pilot program by authorizing the Secretary to make grants to States and others to fund the development and implementation of coordinated and comprehensive border crossing plans and programs. The intent of this subsection is to promote the efficient and safe use of existing border crossings within defined international gateways, prior to major new infrastructure investment, and to focus all available resources on implementation of a fully integrated and cooperatively developed plan, with special emphasis on full coordination with border inspection agencies, including those in Canada and Mexico.

Gateways are defined in ''Assessment of Border Crossings and Transportation Corridors for North American Trade, Report to Congress pursuant to Intermodal Surface Transportation Efficiency Act of 1991 Public Law 102–240, Sections 1089 and 6015'' as ''groupings of border crossings defined by proximity and similarity of trade.'' The gateways identified in this report are: Maine; Montreal South; Eastern New York; Niagara; Michigan; Upper Plains; Central Plains; Eastern Washington/Rocky Mountains; Pacific Coast; South Texas; West Texas; Arizona; and California. Other defined gateways may be included at the discretion of the Secretary.

Paragraph (c)(1) authorizes the Secretary to make grants to States and others sharing a common border with Canada or Mexico for any project to improve the movement of people and goods at and across such border.

Paragraph (c)(2) limits the maximum number of total grants under this pilot program at eight (including at least two on the U.S./Mexico border and two at the U.S./Canada border) and limits the maximum dollar total of any single grant to $40 million. Projects may vary in scope, with varying degrees of Federal participation. Approval should not be given to fund any one project which will exhaust the entire annual authorization for this pilot program.

Paragraph (c)(3) lists the grant eligibility criteria for this pilot program. In recognition of the potential delays associated with border clearance and vehicle/driver review processes, each project proposal shall reflect cooperation and coordination with the U.S. Federal Inspection Services and their counterparts across the Mexican or Canadian border, as appropriate. Grants shall be made on the basis of the expected reduction in commercial and other travel time through a major international gateway as a result of the project; improvements in vehicle safety at and approaching the crossings within the gateway; the degree of funding leveraging anticipated through this program, including the use of innovative financing, and funding provided under other sections of this Act (which shall not be subject to the limits of this section); the degree of binational involvement in the project; the degree of applicability of innovative and problem solving techniques which might be applicable to other border crossings; and a demonstrated local commitment to implement and sustain continuing comprehensive border improvement programs. Project proposals must be limited, to the greatest extent possible, to improvements to existing border crossings within defined gateways. Construction of new facilities, including bridges, shall not be considered unless and until all options for efficient use of existing facilities has been demonstrated.

Subsection (d) authorizes $45 million in Highway Trust Fund monies for this border crossing pilot program in each of fiscal years 1998 through 2003. This subsection also sets the annual amount of the grants for the purposes of performing border gateway planning at $1,400,000 for each of fiscal years 1998 through 2003. The maximum amount any State or MPO may receive in grants under this section shall not exceed $100,000. These planning grants should be used to supplement State planning and research, planning, and other funds that are used to support long-range planning and programming which are to be implemented using the border gateway pilot program funds and other funds such as State and local funds, NHS, and STP. Subsection (d) also makes $3,000,000 available in each of fiscal years 1998 through 2003 for trade corridor planning incentive grants under this section.

Subsection (e) provides that border gateway funds authorized under this section may be used as the non-Federal match for any border gateway project funded with other Federal-aid highway funds, provided that the amount of border gateway funds cannot exceed 50 percent of project costs. Subsection (e) also provides that the Federal share payable on account of any border crossing or trade corridor planning incentive grant shall be determined in accordance with section 120 of title 23, United States Code.

Sec. 1031. Appalachian Development Highway System

This section amends 40 U.S.C. App. 201, the Appalachian Regional Development Act of 1965, to authorize $2.19 billion for fiscal years 1998 through 2003 to fund the continued construction of the Appalachian development highway system in the 13 States that comprise the Appalachian region.

Subsection (a) of this section amends subsection 201(a), which currently provides that all provisions of title 23 apply to the development highways funded under this provision, to include an exemption from the title 23 provision (23 U.S.C. 118) that all apportioned or allocated funds that have not been obligated by the end of four years shall lapse. As revised, subsection 201(a) provides that funds not expended by a State within four years shall be released to the Appalachian Regional Commission for reallocation to States within the Appalachian region, rather than lapsing.

Subsection (b) of this section amends subsection 201(g) to authorize appropriations from the Highway Trust Fund for fiscal years 1998 through 2003 (and also provides contract authority), and an equivalent amount of obligation authority, to fund the continued construction of the Appalachian development highway system in accordance with section 201. This subsection also limits eligibility for these funds to the development highway system authorized as of September 30, 1996. However, the States of the Appalachian region, the Secretary, and the Appalachian Regional Commission may agree to make alterations to the September 30, 1996, approved system, and such altered routes shall be eligible for funding under this section.

Subsection (c) of this section amends paragraph 201(h)(1) to raise the Federal share payable on account of any pre-financed (i.e., advance construction) development highway project to 80 percent of the cost of such project, which is the same Federal share payable for conventionally funded development highway projects under subsection 201(f). This amendment enables States to use the advance construction financing method of paragraph 201(h)(1) under the same Federal matching ratio as for all other development highway projects.

Subsection (d) of this section authorizes the deduction of up to 3.75 percent of the funds authorized under new paragraph 201(g)(2) for the expenses of the Appalachian Regional Commission in administering such funds.

Sec. 1032. Value Pricing Pilot Program

Subsection (a) of this section amends subsection 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 to reflect the change in the name of the congestion pricing pilot program to the value pricing pilot program.

Subsection (b) increases the number of pilot programs eligible for funding under subsection 1012(b) from 5 to 15.

Subsection (c) of this section amends paragraph 1012(b)(2) to increase the Federal share payable on any project funded under this provision from 80 percent to 100 percent.

Subsection (d) of this section further amends paragraph 1012(b)(2) to reflect administrative interpretations of this paragraph that have made by the Federal Highway Administration, shared with the appropriate congressional committees, and published in the Federal Register. Specifically, paragraph 1012(b)(2) is amended to provide that the Secretary shall fund pre-implementation costs of value pricing programs and that the 3-year funding limitation included in this paragraph commences once the project is implemented, and therefore does not apply to the pre-implementation stage of a project (which could stretch out for several years).

Subsection (e) makes necessary conforming amendments to subsection 1012(b) to reflect that each cooperative agreement entered into by the Secretary under paragraph 1012(b)(1) would cover a specific value pricing program for the area encompassed by the cooperative agreement. Each program could, in turn, cover one or more specific value pricing projects within that area. This subsection also makes a purely technical correction to the list of items to be examined and reported on to the Congress by the Secretary.

Subsection (f) amends paragraph 1012(b)(3) to expand the eligible use of toll revenues generated by any pilot project under this subsection from any eligible use under title 23, United States Code, to any surface transportation purpose.

Subsection (g) removes the 3-program cap on the number of value pricing programs on which the Secretary shall allow the use of tolls on the Interstate System, thereby enabling State and local governments and public authorities to collect tolls on any value pricing pilot program funded under this section.

Subsection (h) adds one item, the effects of value pricing projects on low income drivers, to the list of items on which the Secretary is to report to the Congress under paragraph 1012(b)(5). This subsection also adds a new paragraph to section 1012(b) to provide that any value pricing pilot program funded under this subsection shall give full consideration to the potential effects of value pricing projects on drivers of all income levels

and shall develop mitigation measures to deal with potential adverse effects on low income drivers, thereby making income equity a key consideration in the development of pilot projects.

Subsection (i) revises paragraph 1012(b)(6) to reauthorize Federal-aid highway funding for this program at a level of $14 million for each of fiscal years 1998 through 2003 out of the Highway Trust Fund, and provides that, in the event such funds remain unallocated or allocated and unobligated after four years, a State's unallocated or unobligated amounts shall be transferred to the State's STP apportionment. This subsection also eliminates the current funding cap on individual projects.

Subsection (j) provides an exemption from the HOV–2 requirement of subsection 102(b) of title 23, United States Code, by permitting single occupancy vehicles to operate in high occupancy vehicle lanes if such vehicles are part of a value pricing program funded under subsection 1012(b).

Subsection (k) ensures that this program will continue to have contract authority.

Sec. 1033. Highway Use Tax Evasion Projects

Subsection (a) of this section technically amends subsection 1040(a) of the Intermodal Surface Transportation Efficiency Act of 1991 to correct the reference to the funding provision of section 1040.

Subsection (b) strikes subsection 1040(d) to eliminate the requirements for the Secretary of Transportation to annually report to Congress on motor fuel tax enforcement activities under this section and the expenditure of funds made available to carry out this section, and for the Secretary of the Treasury to annually report to Congress on the increased enforcement activities to be financed with the funds allocated by the Secretary of Transportation to the Internal Revenue Service under subsection 1040(a). The Department has found that other available avenues for reporting on program successes, such as congressional hearings held on this program, have been very effective. Subsection (b) also strikes subsection 1040(e), which requires that the Secretary of Transportation, in consultation with the Internal Revenue Service, study the feasibility and desirability of using dye and markers to aid in motor fuel tax enforcement activities and report to Congress on this study by December 18, 1992. This study has been completed and its results submitted to Congress, so this subsection is no longer necessary. Subsection (b) also deletes the out-of-date funding authorization language for fiscal years 1992 through 1997, which has been replaced by subsection (d) of this section.

Subsection (c) redesignates subsection 1040(g) as subsection 1040(e).

Subsection (d) of this section amends section 1040 to authorize $5 million annually in Highway Trust Fund monies for each of fiscal years 1998 through 2003 to continue joint Federal Highway Administration/Internal Revenue Service/State motor fuel tax compliance projects across the country. The multi-State nature of the enforcement and uniformity efforts developed under this pilot project in ISTEA has been important to its effectiveness. Continued Federal funding at the same level authorized in ISTEA will help ensure that this very successful, coordinated regional and national approach to combating fuel tax fraud can continue.

Sec. 1034. Public Notice of Railbanking

This section would require that public notice be given once an application for interim trail use of a railroad right-of-way has been filed. Currently, a notice must be published in local newspapers announcing a rail abandonment. However, there is no notice requirement when a railroad right-of-way is proposed to be converted to a trail. This provision would allow all members of the community to work together as equal partners in establishing such trails.

TITLE II—HIGHWAY SAFETY

Sec. 2001. Short Title

Sec. 2001 provides that title II may be cited as the ''Highway Safety Act of 1997''.

Sec. 2002. Highway Safety Programs

Sec. 2002 continues the existing State and community highway safety program, established under Section 402 of title 23, United States Code, and amends the program as follows:

Subsection (a), ''Uniform Guidelines,'' and Subsection (b), ''Administrative Requirements,'' make several technical and conforming amendments to Sections 402(a) and (b).

Subsection (c), ''Apportionment of Funds,'' makes one technical correction to Section 402(c) and one substantive amendment. To increase the effective delivery of the Section 402 program to the more than 500 Federally recognized Indian tribes, an amendment is provided to raise the minimum annual apportionment to the Indians (through the Secretary of Interior) from one-half of one percent to three-fourths of one percent of the total apportionment under the section.

Subsection (d), ''Application in Indian Country,'' amends Section 402 to allow Section 402 grants to be made to Indian tribes in ''Indian Country.''

Subsection (e), ''Rulemaking Process,'' amends Section 402(j), which requires the periodic identification, by rulemaking, of highway safety programs that are most effective in reducing traffic crashes, injuries, and deaths. Instead of requiring the States to direct the resources of the national program to the fixed areas identified by this rulemaking process, the amendment directs that the States to consider these highly effective programs when developing their highway safety programs.

Subsection (f), ''Safety Incentive Grants,'' proposes to add four new safety incentive programs concerning alcohol-impaired driving countermeasures, occupant protection, highway safety data, and drugged driving countermeasures (described below) to Section 402, together with a new provision making various procedures applicable to each of those programs.

Section 402(k), ''Safety Incentive Grants,'' replaces an obsolete subsection (k) and makes the following applicable to each of the four incentive programs: (1) the grants for the incentive programs may only be used by the States to implement and enforce, as appropriate, the programs for which the grants are made; (2) no grant may be made to a State in any fiscal year unless the State enters into an agreement with the Secretary to ensure that the State will maintain its aggregate expenditures from all other sources for the actions for which a grant is provided at or above the level of such expenditures in its two fiscal years prior to the date of enactment of the subsection; and (3) basic or supplemental grants applicable under the programs, in any one of these two grant categories, would be available to the States for a maximum of six years, beginning after September 30, 1997. States that meet certain criteria would receive grants that would be funded through a declining Federal share—75 percent for the first and second years, 50 percent for the third and fourth years, and 25 percent for the fifth and sixth years.

Section 402(l), ''Alcohol-Impaired Driving Countermeasures,'' amends Section 402 to establish a comprehensive drunk and impaired driving incentive program to encourage States to increase their level of effort and implement effective programs aimed at deterring the drunk driver. The new program, which continues the Department's strong emphasis on deterring drinking and driving, is similar in structure to that of the existing Section 410 drunk driving prevention incentive program, established under Section 410 of Title 23, United States Code, and would replace the Section 410 program when its terms expire at the end of fiscal year 1997.

A State may establish its eligibility for one or more of three basic alcohol- impaired-driving countermeasure grants—A, B, and C—in the fiscal year in which the grant is received, by adopting or demonstrating certain criteria, as appropriate, to the satisfaction of the Secretary.

To establish eligibility for the first basic grant A under paragraph (1), a State must adopt or demonstrate at least 4 of 5 of the following: (1) an administrative driver's license suspension or revocation system for drunk drivers; (2) an effective system for preventing drivers under age 21 from obtaining alcoholic beverages; (3)(A) a statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis to determine whether the operators are driving while under the influence of alcohol, or (B) a statewide impaired driving Special Traffic Enforcement Program (STEP) that includes heavy emphasis on publicity for the program; (4) effective sanctions for repeat offenders convicted of driving while intoxicated or driving under the influence of alcohol; and (5) a three-tiered graduated licensing system for young drivers that includes nighttime driving restrictions, requiring that all vehicle occupants to be properly restrained, and providing that all drivers under age 21 are subject to zero tolerance at .02 percent BAC or greater while operating a motor vehicle.

To establish eligibility for the second basic grant B under paragraph (2), a State must adopt both an administrative driver's license suspension or revocation system for drunk drivers, and a law that provides for a per se law setting .08 BAC level as intoxicated.

To establish eligibility for the third basic grant C under paragraph (3), a State must demonstrate that its percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration has both: (1) decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and (2) been lower than the average percentage for all States in each of such calendar years.

States that meet the criteria for a basic grant under paragraphs (1), (2) or (3) would receive, for each grant, up to 15 percent (up to 30 percent if they qualify for two, and up to 45 percent if they qualify for all three) of their fiscal year 1997 apportionment under Section 402 of Title 23, United States Code.

States that meet the criteria for any one or more of the three basic grants also would be eligible to receive supplemental grants for one or more of the following: (1) making it unlawful to possess open containers of alcohol in the passenger area of motor vehicles (excepting charter buses) while on the road; (2) adopting a mandatory BAC testing program for drivers in crashes involving fatalities or serious injuries; (3) videotaping of drunk drivers by police; (4) adopting and enforcing a ''zero tolerance'' law providing that any person under age 21 with a BAC of .02 or greater when driving a motor vehicle shall be deemed driving while intoxicated or driving under the influence of alcohol, and further providing for a minimum suspension of the person's driver's license of not less than 30 days; (5) requiring a self-sustaining impaired driving program; (6) enacting and enforcing a law to reduce incidents of driving with suspended licenses; (7) demonstrating

an effective tracking system for alcohol-impaired drivers; (8) requiring an assessment of persons convicted of abuse of controlled substances, and the assignment of treatment for all DWI and DUI offenders; (9) implementing a program to acquire passive alcohol sensors to be used by police in detecting drunk drivers; and (10) enacting and enforcing a law that provides for effective penalties or other consequences for the sale or provision of alcoholic beverages to a person under 21. For each supplemental grant criterion that is met, a State would receive, in no more than two fiscal years, an amount up to 5 percent of its Section 402 apportionment for fiscal year 1997. Definitions are provided for ''alcoholic beverage,'' ''controlled substances,'' ''motor vehicle,'' and ''open alcoholic beverage container.''

Section 402(m), ''Occupant Protection Program,'' amends Section 402 to establish a new occupant protection incentive program to encourage States to increase their level of effort and implement effective laws and programs aimed at increasing safety belt and child safety seat use.

A State may establish its eligibility for one or both of two basic occupant protection grants—A and B—in the fiscal year in which the grant is received, by adopting or demonstrating certain criteria, as appropriate, to the satisfaction of the Secretary.

To establish eligibility for the first basic grant A under paragraph (1), a State must adopt or demonstrate at least 4 of the following: (1) a 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; (2) a provision in its safety belt use law that provides for its primary enforcement or provides for the imposition of penalty points against a person's diver's license for its violation; (3) a law requiring children up to 4 years of age to be properly secured in a child safety seat in all appropriate seating positions in all passenger motor vehicles; (4) 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; and (5) a statewide occupant protection Special Traffic Enforcement Program (STEP) that includes heavy emphasis on publicity for the program.

To establish eligibility for the second basic grant B under paragraph (2), a State must: (1) demonstrate a statewide safety belt use rate in both front outboard seating positions in all vehicle types covered by the State's safety belt use law, of 80 percent or higher in each of the first three years a grant is received, and of 85 percent or higher in each of the fourth, fifth, and sixth years a grant is received; and; (2) follow safety belt use survey methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

States that meet the criteria for a basic grant under paragraphs (1) or (2) would receive, for each grant, up to 20 percent (up to 40 percent if they qualify for both) of their fiscal year 1997 apportionment under Section 402 of Title 23, United States Code.

States that meet the criteria for one or both of the two basic grants also would be eligible to receive supplemental grants for one or more of the following: (1) requiring the imposition of penalty points against a driver's license for violations of child passenger protection requirements; (2) having no nonmedical exemptions in effect in their safety belt and child passenger protection laws; (3) demonstrating 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 how to reduce the improper use of child restraint systems; (4) having in effect a law that prohibits persons from riding in the open bed of a pickup truck; and (5) having in effect a law that requires safety belt use by all rear-seat passengers in all passenger motor vehicles with a rear seat. For each supplemental grant criterion that is met, a State would receive an amount up to 5 percent of its Section 402 apportionment for fiscal year 1997. Definitions are provided for ''child safety seat,'' ''motor vehicle,'' ''multipurpose passenger vehicle,'' ''passenger car,'' ''passenger motor vehicle,'' and ''safety belt.''

Section 402(n), ''State Highway Safety Data Improvements,'' amends Section 402 to establish a new incentive program to encourage States to take effective actions to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the data they need to identify the priorities for State and local highway and traffic safety programs, to evaluate the effectiveness of such efforts, and to link these data, including traffic records, together and with other data systems within the State, such as medical and economic data. Currently, much of the State data in these areas are inadequate or unavailable. The Department believes that the new incentive program under this subsection is vital to the ability of the States to determine and achieve their highway safety performance goals.

A State would be eligible for a first-year grant in a fiscal year under paragraph (1)(A) of subsection (n) if it demonstrates, to the satisfaction of the Secretary, that it has (1) established a Highway Safety Data and Traffic Records Coordinating Committee with a multi-disciplinary 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; (2) completed a recent (within the last five years) highway safety data and traffic records assessment or audit of its highway safety data and traffic records system; and (3) initiated the development of a multi-year 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 the State's highway safety data and traffic records needs and goals, and that identifies performance-based measures by which progress toward those goals will be determined.

A State also would be eligible for a first-year grant in a fiscal year under paragraph (1)(B) of subsection (n) if it provides, to the satisfaction of the Secretary, (1) certification that it has established a Highway Safety Data and Traffic Records Coordinating Committee with a multi-disciplinary membership including the administrators or managers of highway safety and traffic records databases and representatives of the collectors and users of these data; (2) certification that it has completed a recent (within the last five years) highway safety data and traffic records assessment or audit of their highway safety data and traffic records system; (3) a multi-year 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 (4) certification that the Highway Safety Data and Traffic Records Coordinating Committee continues to operate and support the multi-year plan described under paragraph (1)(B).

A State that meets the criteria for a first-year grant under paragraph (1)(A) would receive an amount equal to $125,000, based on available appropriations. A State that meets the criteria for a first-year grant under paragraph (1)(B) would receive an amount equal to a proportional amount of the amount apportioned to the State for fiscal year 1997 under Section 402 of title 23, U.S. Code, except that no State would receive less than $225,000, based on available appropriations.

A State would be eligible for a grant in any fiscal year succeeding the first fiscal year in which they receive a State highway safety data and traffic records grant if the State, to the Secretary's satisfaction: (1) submits or updates a multi-year 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; (2) certifies that its Highway Safety Data and Traffic Records Coordinating Committee continues to support the multi-year plan; and (3) reports annually on its progress in implementing the multi-year plan.

A State that meets the criteria for a succeeding-year grant in any fiscal year would receive an amount equal to a proportional amount of the amount apportioned to the State for fiscal year 1997 under Section 402 of title 23, U.S. Code, except that no State shall receive less than $225,000, based on available appropriations.

Section 402(o), ''Drugged Driving Countermeasures,'' amends Section 402 to establish a new incentive program to encourage States to take effective actions to improve State drugged driving laws and related programs. State drugged driving laws are inconsistent and frequently difficult to enforce. They often seriously hamper attempts by law enforcement and courts to deter drugged driving. The Department believes that the new incentive grant program under this subsection, modeled after the Department of Transportation's successful Section 410 alcohol-impaired driving incentive grant program under title 23 U.S. Code, is essential to improve State drugged driving laws and related activities. This incentive program is separate from subsection (l)'s incentive program for alcohol-impaired driving, which revises and replaces Section 410, so that drugged driving laws and activities receive the more focused attention they deserve.

A State would be eligible for a grant in a fiscal year under subsection (o) if it demonstrates, to the satisfaction of the Secretary, 5 or more of the following 9 criteria: (1) enact zero tolerance laws that make it illegal to drive with any amount of an illicit drug in the driver's body; (2) establish that it

is illegal to drive while impaired by any drug (licit or illicit); (3) allow drivers to be tested for drugs if there is probable cause to suspect impairment; (4) suspend the driver's license administratively (without criminal proceedings) for persons driving under the influence of drugs; (5) suspend the driver's license for persons convicted of other drug offenses, even if not related to driving; (6) incorporate drug use and drugged driving provisions into a graduated licensing system for beginning drivers; (7) actively enforce and publicize drugged driving laws; (8) provide an intervention program for drugged drivers that incorporates assessment and drug education, counseling, or other treatment as needed; and (9) provide drug education information to persons applying for or renewing drivers' licenses and include drug-related questions on drivers' license examinations.

A State that meets the criteria for a grant under subsection (o) would receive an amount up to 20 percent of its Section 402 apportionment for fiscal year 1997. Definitions are provided for ''alcoholic beverage,'' ''controlled substances,'' and ''motor vehicle.''

Subsection (g), ''Conforming Amendment,'' repeals Section 410 of title 23, U.S. Code (''Alcohol-impaired driving countermeasures''), and the analysis pertaining to Section 410 under chapter 4 of this title.

Sec. 2003. National Driver Register

Sec. 2003 would add several provisions to the National Driver Register (NDR) statute (chapter 303 of title 49, U.S. Code) to make the program more effective and efficient. The National Highway Traffic Safety Administration (NHTSA) manages the NDR, which was established by Congress in July 1960 as a central index of State reports on individuals whose driving privileges have been suspended or revoked. Applications for driver licenses are checked routinely by States against the NDR to identify ineligible license applicants, problem drivers, drivers in need of improvement, and drivers under suspension or revocation.

Subsection (a), ''Transfer of Selected National Driver Register Functions to Non-Federal Management,'' amends Section 30302 of title 49, U.S. Code (''National Driver Register''), by adding a new subsection (e). Under subsection (e), the Secretary would be authorized to decide whether to enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's (NDR) computer timeshare and user assistance functions.

NDR operations are divided into five main functions: (1) data processing, accomplished by computer timeshare; (2) external support services, accomplished by staff assistance to NDR users; (3) development and maintenance of software for data processing, accomplished by staff responsible for system and applications support; (4) Federal Privacy Act requirements support, accomplished by Federal staff; and (5) overall management and supervision (including assistance to non-State NDR users, manual preparation of needed data, public information, and media relations), accomplished by Federal staff. Legislation is required to permanently transfer one or more of these functions, since existing statutory provisions and government contracting regulations do not permit one or more of these NDR functions to be assigned to a designated non-Federal organization.

If the Secretary decides to enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the NDR's computer timeshare and user assistance functions, subsection (e) directs that: (1) the Secretary ensure any management of these functions is compatible with chapter 303 of title 49, U.S. Code, and the regulations issued to implement that chapter; (2) any transfer of these functions begin only after the Secretary makes a determination that all States are participating in the NDR's ''Problem Driver Pointer System,'' the system used by the NDR to effect the exchange of motor vehicle driving records, and that this system is functioning properly; (3) the agreement to transfer these functions include a provision for a transition period to allow the States time to make any budgetary and legislative changes needed in order to pay fees for using these 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 these functions not exceed the organization's total cost for performing these functions in that fiscal year; and (5) nothing in subsection (e) be interpreted to diminish, limit, or in any way affect the Secretary's authority to carry out chapter 303 of title 49, U.S. Code. The last provision affirms the Secretary's overall responsibility for the NDR (which includes Privacy Act and data security requirements), regardless of any transfer of these functions.

Subsection (b), Access to Register Information, amends Section 30305 (''Access to Register information'') of title 49, U.S. Code. Subsection (b)(1) amends Section 30305(b)(2) to make two technical conforming amendments.

Subsection (b)(2) amends Section 30305(b) to add two substantive provisions. The first would eliminate a deficiency in the NDR by extending participation to Federal departments or agencies, like the State Department, that both issue motor vehicle operator's licenses and transmit reports on individuals to the NDR about whom the department or agency has such licensing authority and has (1) denied a motor vehicle operator's license for cause; (2) revoked, suspended or canceled a motor vehicle operator's license for cause; or (3) 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 subsection 30304(a)(3). The reports on these individuals transmitted by the Federal department or agency must contain the identifying information specified in subsection 30304(b).

Subsection (b) also would reduce a burden on the States and strengthen the NDR's efficiency by allowing Federal agencies authorized to receive NDR information to make their requests and receive the information directly from the NDR, instead of through a State. The NDR statute currently requires authorized NDR users, other than chief driver licensing officials and the individuals to whom the information pertains, to submit all NDR inquiries through a State.

Sec. 2004. Authorizations of Appropriations

Sec. 2004 contains provisions that would authorize appropriations out of the Highway Account of the Highway Trust Fund for National Highway Traffic Safety Administration programs.

Paragraph (a)(1)(A), ''Consolidated State Highway Safety Programs,'' would authorize appropriations to carry 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 Section 402 incentive programs under subsections (l), (m), (n), and (o), of $166,700,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, and $171,034,000 for fiscal year 2003. This paragraph consolidates the previously separate NHTSA and FHWA authorizations for appropriations for the Section 402 program under NHTSA, continuing a process begun by Congress in fiscal year 1997 to facilitate administrative efficiencies in the program.

Paragraph (1)(B), ''Consolidated State Highway Safety Programs,'' would authorize appropriations to carry out the alcohol-impaired driving countermeasures incentive grant provisions of subsection (l) of Section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, of $44,000,000 for fiscal year 1998, $39,000,000 for each of fiscal years 1999, 2000, and 2001, $49,000,000 for fiscal year 2002, and $50,170,000 for fiscal year 2003. Amounts made available to carry out subsection (l) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (l) to subsections (m), (n), and (o) 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.

Paragraph (1)(C), ''Consolidated State Highway Safety Programs,'' would authorize appropriations to carry out the occupant protection program incentive grant provisions of subsection (m) of Section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, of $20,000,000 for each of fiscal years 1998, 1999, 2000, and 2001, $22,000,000 for fiscal year 2002, and $22,312,000 for fiscal year 2003. Amounts made available to carry out subsection (m) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (m) to subsections (l), (n), and (o) 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.

Paragraph (1)(D), ''Consolidated State Highway Safety Programs,'' would authorize appropriations to carry out the State highway safety data improvements incentive grant provisions of subsection (n) of title 23, United States Code, by the National Highway Traffic Safety Administration, of $12,000,000 for each of fiscal years 1998, 1999, 2000, and 2001. Amounts made available to carry out subsection (n) are authorized to remain available until expended.

Paragraph (1)(E), ''Consolidated State Highway Safety Programs,'' would authorize appropriations to carry out To carry out the drugged driving countermeasures incentive grant provisions of subsection (o) of title 23, United States Code, by the National Highway Traffic Safety Administration, paragraph (l) also would authorize $5,000,000 for each of fiscal years 1999, 2000, 2001, and 2002, and $5,130,000 for fiscal year 2003. Amounts made available to carry out subsection (o) are authorized to remain available until expended, *provided* that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (o) to subsections (l), (m), and (n) 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.

Paragraph (2), ''NHTSA Operations and Research,'' would authorize appropriations for the National Highway Traffic Safety Administration to carry out programs and activities with respect to traffic and highway safety under (A) Section 403 of title 23, U.S. Code (Highway Safety Research and Development), (B) Chapter 301 of title 49, U.S. Code

(Motor Vehicle Safety), and (C) Part C of Subtitle VI of title 49, U.S. Code (Information, Standards, and Requirements), of $147,500,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, and $151,335,000 for fiscal year 2003.

The authorizations under paragraph (2) would provide the necessary funds for the agency to carry out essential traffic and highway safety functions. Section 403 of title 23, U.S. Code, provides for highway safety research and development activities, including programs to improve highway safety through human factors research, evolving initiatives such as intelligent transportation systems, a comprehensive assessment of the agency's data needs and the data priorities of the highway safety community, public information programs, and university research and training. Chapter 301 of title 49, U.S. Code, provides for the establishment and enforcement of safety standards for new motor vehicles and motor vehicle equipment, together with supporting research. In keeping with the Department's policy that programs with identifiable users be funded as much as possible through user fees, support of the motor vehicle safety program, which clearly benefits highway users, is shifted to the Highway Account of the Highway Trust Fund. Part C of Subtitle VI of title 49, U.S. Code, provides for the establishment of low-speed collision bumper standards, consumer information activities, odometer regulations, automobile fuel economy standards, and motor vehicle theft prevention standards. In keeping with the Department's policy that programs with identifiable users be funded as much as possible through user fees, support of the motor vehicle information and cost savings programs, which clearly benefit highway users, is shifted to the Highway Trust Fund's Highway Account.

Paragraph (3), ''National Driver Register,'' would authorize appropriations for the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, U.S. Code (National Driver Register), appropriated under section 30308(a) of chapter 303, of $2,300,000 for each of fiscal years 1998, 1999, 2000, 2001, and 2002, and $2,360,000 for fiscal year 2003. The National Driver Register (NDR) provides information needed by the States to identify ineligible applicants for motor vehicle driver licenses, problem drivers, drivers in need of improvement, and drivers under license suspension or revocation.

TITLE III—MASS TRANSPORTATION AMENDMENTS OF 1997

Sec. 3003. Definitions

Section 3003 would amend section 5302, ''Definitions.''

Section 5302(a)(1), ''capital project,'' would be amended by combining from other parts of the chapter all definitions covering capital programs in this provision. This consolidation would make the substantive change of applying the broader definition to all capital grants made under this chapter. Further, by amending existing subparagraph (A), it would add as an eligible cost three new cost categories: associated pre-revenue startup costs, environmental mitigation, and Intelligent Transportation Systems (as defined in section 6052 of the National Economic Crossroads Transportation Efficiency Act). The phrase ''capital portions of rail trackage rights agreements'' would be amended to ''payments for rail trackage rights'' as a clarification. (For the Government's share of the costs for the various categories of capital projects, see section 3028 of this Act, ''Government's Share of Costs.'')

A new subparagraph (E) would be added to the existing ''capital project'' definition, to permit preventive maintenance as an eligible capital cost to ensure proper preservation of the Federal capital investment. This will make eligibility of preventive maintenance for capital program funds the same as in the Title 23 highway program.

New subparagraph (F) would add leasing to the definition. This provision would be moved from section 5307(b)(3).

New subparagraph (K), a combination of provisions moved from sections 5309(f)(2), 5309(a)(1)(E), 5307(b)(1), would make joint development costs eligible for all capital programs. Transit operators would be permitted to participate more fully in joint development opportunities created by mass transit projects. The change would provide additional local revenue sources to meet transit capital and operating needs without Federal subsidy. Participation in commercial development would continue to be prohibited except where a fair share of the proceeds were returned for use in meeting mass transit needs.

Subparagraph (L) (moved from section 5309(a)(1)(F)) would add to the definition mass transportation projects that meet the special needs of the elderly and disabled individuals.

A new subparagraph (M) regarding the development of corridors to support fixed guideway systems was moved from section 5309(a)(1)(G).

A new subparagraph (N) would add to the definition, vehicles and facilities, publicly or privately owned, that are used to provide intercity passenger service by bus or rail. This change would enhance intermodalism and facilitate modal choices by local decision makers.

A new subparagraph (O) regarding access for bicycles to mass transportation facilities was moved from section 5319.

A new subparagraph (P) would add to the definition the repayment of the principal and interest of revenue bonds used for capital projects. This change would increase the financing options and sources of funds for recipients.

A new subparagraph (Q) regarding crime prevention and security was moved from section 5321.

A new subparagraph (R) would allow the acquisition of non-fixed route paratransit transportation service to comply with the Americans with Disabilities Act of 1990.

Subsections (a)(10) and (13) would be added to clarify that both ''public transportation'' and ''transit'' mean ''mass transportation.''

Section 3004. Metropolitan Planning

Section 3004 and section 1015 of this Act are intended to make identical changes to 49 U.S.C. section 5303, ''Metropolitan Planning'' and 23 U.S.C. section 134, ''Metropolitan Planning,'' respectively.

Subsection (a), ''Development Requirements,'' would be amended to require that transportation plans and programs for State urbanized areas be developed in a ''fair and equitable'' manner. It would also require that plans and programs provide for the development and integrated management and operation of transportation systems and facilities that will function as an intermodal transportation system for the metropolitan area, the State, and the United States.

Subsections (b), ''Plan and Program Factors,'' paragraphs (1) through (15) containing the existing 16 factors would be deleted. New subsection (b)(1) would require that Metropolitan Planning Organizations (MPO) comply with seven new goals, found in subparagraphs (A) through (G), in developing plans and programs. These are: economic vitality; safety and security; accessibility and mobility; environment, energy conservation, and quality of life; integration and connectivity; efficient management and operation; and preservation of existing transportation system.

New subsection (b)(2) would require MPOs to cooperate with States and transit operators in incorporating these goals into the transportation plan.

Subsection (c), ''Designating Metropolitan Planning Organizations.'' Paragraph (1)(A) would be amended to reduce the threshold required for designating or redesignating an MPO for an urbanized area with a population of more than 50,000. Representatives of local governments with 51 percent of the affected population must support the designation of the MPO, rather than 75 percent, as in current law. This change would make it easier to redesignate an MPO and recognizes the importance the MPO plays in local transportation planning. Also permitted would be designation under procedures established by State law.

Under subsection (c)(2), specific reference would be made to the policy board of the MPO, rather than the more general reference to the MPO for the purpose of specifying MPO composition.

Subsection (c)(3) would be amended to add the MPO and the Secretary of DOT as key participants, along with the chief executive officer (existing law) in determining the need to create multiple MPO's to serve a single metropolitan planning area. It also would create balance with the lowered threshold for local officials (51 percent) to request redesignation, allowing the Secretary to temper local actions under subsection (c)(4)(B)(i) and (c)(5).

Subsections (c)(5) (B) and (C) would be deleted because MPO redesignated would be covered in subsection (c)(3) and (4). Subsection (c)(5)(A) would be redesignated subsection (c)(5).

Subsection (d), ''Metropolitan Area Boundaries,'' would be amended to freeze the connection to nonattainment boundaries to those existing at the end of FY 1996 and would prevent an automatic increase in the metropolitan planning area with changes in nonattainment boundaries. Subsection (d) would also allow the Governor and the MPO (including the central city) to affirmatively increase the boundary to the nonattainment limit rather than retroactively reduce it after being forced to increase the boundaries. New urbanized areas after FY 1996 would have their metropolitan planning boundaries agreed to by the Governor and local officials and particulate matter would be added as a consideration in the designation of metropolitan planning area boundaries. Regulations, guidance, or both will address the operational issues. The practical effect will not materialize until after the 2000 census.

Subsection (e), ''Coordination.'' Paragraph (3) would be amended by substituting ''coordinate'' for ''consult'' between MPO's where more than one MPO has authority within an existing metropolitan planning area. It would also add particulate matter to non-attainment areas.

The catchline of subsection (f) would be changed from ''Developing Long-Range Plans'' to ''Development of Transportation Plan'' to emphasize the transportation focus rather than the time frame. In subsection (f)(1), ''long-range plan'' would be changed to ''transportation plan.'' Subsection (f)(1)(A) would be amended so that the plan identifies transportation facilities that function as a ''future'' integrated transportation system rather than as ''an integrated metropolitan transportation system.'' New subsection (f)(1)(B) would be added to require that the planning process address the same seven planning goals in subsection (b) of section 5303. Subsection (f)(1)(B) would be redesignated (f)(1)(C), current (f)(1)(C) would be redesignated as (f)(1)(D), and current (f)(l)(D)

would be deleted. Redesignated subsection (f)(1)(C)(iii) would be amended to change financial techniques of value capture, tolls, and congestion pricing to simply ''any additional financing strategies,'' thus enhancing flexibility. Redesignated subsection (f)(1)(D)(ii) would be amended by deleting reference to ''vehicle'' congestion. New subsection (f)(1)(D)(iii) would be added to enhance transportation access for individuals without private automobiles.

Subsection (f)(2) would be amended to require MPOs, transit operators, and States to cooperate in developing estimates of funds that could become available to implement the plan.

Subsection (f)(3) would be amended to require air and transportation agencies to cooperate on both the State Implementation Plan (SIP) development and transportation plan development processes. Development of transportation plans is expected to account for related investments and program strategies developed through other planning activities, e.g., economic development and revitalization. Such coordination would ensure that transportation projects and programs would consider, for example, the needs of low income communities so that they would be effectively integrated with transportation investments.

Subsection (f)(4) would be amended to add freight shippers to the list of stakeholders that can comment on the transportation plan.

The catchline of subsection (h) would be changed from ''Balanced and Comprehensive Planning'' to ''Metropolitan Planning Grants.''

Sec. 3005. Metropolitan Transportation Improvement Program

Section 3005 and section 1015 of this Act are intended to make identical changes to 49 U.S.C. section 5304, ''Metropolitan Transportation Improvement Program'' and 23 U.S.C. section 134, ''Metropolitan Planning,'' respectively.

The title of section 5304 would be changed from ''Transportation Improvement Program'' to ''Metropolitan Transportation Improvement Program'' to clarify the focus on the metropolitan program.

Subsection (a), ''Development and Update,'' would be amended to add freight shippers to the list of stakeholders that could comment on the program Transportation Improvement Program (TIP) and to require the MPO, in cooperation with the State and transit operators, to provide opportunities for public comment on the proposed program.

Subsection (b), ''Contents.'' Paragraph (1) would change the listing of projects included in the TIP to be more inclusive. Paragraph (2) would be changed to require that financial plans identify ''innovative financing techniques'' rather than ''innovative financing, including value capture, tolls, and congestion pricing,'' to give local authorities greater flexibility. Paragraph (2) would also require a cooperative process for developing financial estimates on which to base TIP development.

Subsection (c), ''Project Selection'' would clarify that States and recipients select projects from the TIP developed by the MPO, rather than select projects to be included in the TIP. The development of the TIP is the responsibility of the MPO.

Subsection (d), ''Notice and Comment,'' would require the MPO, ''in cooperation with the State and transit operators,'' to provide opportunity for public comment prior to approving the TIP.

Subsection (e), ''Regulatory Proceeding,'' requiring FTA to adopt the FHWA environmental analysis process under the National Environmental Policy Act (NEPA) of 1969 would be deleted because it has already been accomplished.

Sec. 3006. Transportation Management Areas

Section 3006 and section 1015 of this Act are intended to make identical changes to 49 U.S.C. section 5305, ''Transportation Management Areas'' and 23 U.S.C. section 134, ''Metropolitan Planning.''

Section 5305 (a), ''Designation.'' Paragraph (2) would be amended to delete the reference to Lake Tahoe because the area has not benefited from the existing provision, which allowed the area to be designated as a Transportation Management Area (TMA) but did not give them MPO status and eligibility for planning funds.

Subsection (c), ''Congestion Management System,'' would be amended to delete the requirement for a phase-in schedule for congestion management systems because this has already been accomplished.

Subsection (d), ''Project Selection,'' would be clarified to provide that States and transit operators select projects from the TIP developed by the MPO, rather than select projects for inclusion in the TIP. Development of the TIP is the responsibility of the MPO. Paragraphs (2)(A) and (B) would be deleted as extraneous.

Subsection (e), ''Certification.'' Paragraph (1) would be amended to clarify that the Secretary certifies the planning process rather than the planning organization. Paragraph (2) would be amended to eliminate date references that were originally included to implement the new certification requirements of the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102–240) (ISTEA) and to eliminate the mandatory penalty of 20 percent of Surface Transportation Program (STP) attributable funds if an area is not certified after September 30, 1996. The penalty for lack of certification would no longer be limited to 20 percent of STP attributable funds. It would be whatever portion of those funds the Secretary determines to be appropriate.

Subsection (f), ''Additional Requirements for Certain Nonattainment Areas,'' would be amended to add particulate matter to ozone and carbon monoxide nonattainment classifications in TMAs for purpose of funding certain projects.

Subsection (g), ''Areas Not Designated Transportation Management Areas.'' Paragraph (2) would be amended to prohibit the Secretary from allowing abbreviated transportation plans and programs for metropolitan areas in nonattainment status for particulate matter in addition to ozone and carbon monoxide.

A new subsection (h), ''Transfer of Funds,'' would allow the transfer of funds on the transfer of funds for highway projects under FTA and for transit projects under FHWA. This provision would be moved here from 23 U.S.C. section 104.

A new subsection (i), ''Limitation on Statutory Authority,'' would be added to clarify that this section does not give an MPO authority to impose legal requirements on any transportation provider, facility, or project that is not eligible for Federal transit assistance.

Sec. 3007. Statewide Planning

Section 3007 would amend section 5306 by moving the entire section, ''Private enterprise participation in metropolitan planning and transportation improvement programs and relationship to other limitations,'' to subparagraph (K) of section 5323, ''General Provisions on Assistance.'' This change makes room for the new section 5306, ''Statewide Planning.''

It is intended that new section 5306 parallel the current requirement for ''Statewide Planning'' in title 23 (23 U.S.C. section 135). This is not a substantive change because 23 U.S.C. section 135 already applies to grants under chapter 53 of title 49 by reference. The language included in chapter 53 of title 49 would be identical to that contained in 23 U.S.C. section 135, after the following substantive changes are made.

Subsection (a) ''General Requirements.'' New subsection (a) would add emphasis on operations and management to underscore the need to maintain the existing transportation system and to support implementation of Intelligent Transportation Systems (ITS). The need for ''fair and equitable'' treatment within the planning process for all areas of the State would also be emphasized.

Subsection (b), ''Scope of the Planning Process,'' would be amended to include seven broad clusters of goals found in paragraphs (1)(A) through (G) which would encompass the 20 planning factors in ISTEA. These include the broad categories of the economic vitality; safety and security; accessibility and mobility; environment, energy conservation, and the quality of life; integration and connectivity; management and operation; and preservation of the existing transportation system. These are the same planning factors as in amended section 5303(b).

Paragraph (2) would require the application of goals in each State to be made through cooperative arrangements between the State and those involved in the statewide planning process. This would be demonstrated through application in transportation decision making and is meant to give planning officials greater flexibility.

New paragraph (3)(A) would incorporate existing language on coordination.

Subsection (c), ''Transportation Plan'' would include reordered and clarified language from that presently in 23 U.S.C. section 135 concerning coordination of statewide planning with metropolitan planning and the concerns of Indian tribal governments. Subsection (c) would also clarify that the statewide plan would cover a 20-year time frame. Freight shippers would be added to the list of interested parties to which the State must provide a reasonable opportunity to comment on the proposed plan. Also added would be new language calling for consultation between the State and local elected officials outside the metropolitan planning area boundaries when developing the Statewide plan for such non-metropolitan areas. Development of transportation plans is expected to account for related investments and program strategies developed through other planning activities, e.g., economic development and revitalization. Such coordination would ensure that transportation projects and programs would consider, for example, the needs of low income communities so that they would be effectively integrated with transportation investments.

Subsection (d), ''State Transportation Improvement Program,'' would reflect the focus on the statewide program. Freight stakeholders would be added to the list of parties that the State must provide reasonable opportunity to comment on the proposed State Transportation Improvement Program (STIP). Paragraph (1) would require consultation between State and local transportation officials outside the metropolitan area when developing the program for such non-metropolitan areas. Paragraph (2) would emphasize that projects included in the STIP for metropolitan areas must be identical to the approved metropolitan TIP for each area. Paragraph (3) would clarify that for areas under 50,000 in population the projects would be selected from the approved STIP and the State must consult with affected local officials. Paragraph (4) would direct the Secretary, before approving the STIP, to find

that the STIP was developed through a planning process that was consistent with Federal transportation planning requirements. Such approval would be required at least every two years.

Subsection (e), ''Statewide Planning Grants,'' describes the formula grant program for Statewide transit planning. This provision would be moved from section 5313(b).

Subsection (f), ''Other Eligible Activities,'' would permit States to use funds under this section to supplement metropolitan planning grants under section 5303(h)(2)(A) and grants under the Transit Cooperative Research Program under section 5313(a).

Subsection (g), ''Period of Availability,'' would make funds available for 3 years after the fiscal year of apportionment, after which remaining funds would be reapportioned among the States.

Subsection (h), Exclusion of Certain United States Territories,'' would clarify that section 5306 would not apply to the Northern Mariana Islands, Guam, American Samoa, or the Virgin Islands.

Sec. 3008. Urbanized Area Formula Grants

Section 3008 would change the title of section 5307 from ''Block grants'' to ''Urbanized area formula grants'' to better reflect the contents of this section.

Subsection (a), ''Definitions.'' Paragraph (1) would be amended to delete the definition of ''associated capital maintenance items'' because of the changes that would be made to section 5302, ''Definitions;''; the expanded definition for preventive maintenance would includes costs for associated capital maintenance items, thus making this definition extraneous.

Subsection (b), ''General Authority.'' Paragraph (1) would allow the following eligible grant activities: capital projects, under subparagraph (A); planning, under a new subparagraph (B); financing the operating costs of equipment used in mass transportation in urbanized areas with a population of less than 200,000, under subparagraph (C); the transportation cooperative research program, under a new subparagraph (D); the university transportation centers, under a new subparagraph (E); training, under a new subparagraph (F); research, under a new subparagraph (G); and technology transfer, under a new subparagraph (H). Subparagraphs (A) through (C) are in existing subsection (b)(1). Subparagraph (C) would be amended to limit operating assistance to only areas under 200,000; new section 5302(a)(1)(E) allowing preventive maintenance is intended to provide areas of over 200,000 with funds to maintain their assets, thus offsetting the loss of operating assistance.

Subsection (b)(2) would be amended by adding subparagraph (C), which was moved from current subsection (b)(5). This subparagraph permits funds to be used for a highway project only if local funds are eligible to finance either highway or transit projects, i.e., are flexible.

Subsection (b)(3) would be deleted because leasing would now be eligible under the consolidated section 5302(a)(1)(F), ''Definitions.''

Subsection (b)(4) would be deleted because the new definition of preventive maintenance in section 5302(a)(1)(E) would include costs for associated capital maintenance items.

Subsection (c), ''Public Participation Requirements,'' would be deleted because the public participation requirements are included in the planning process under sections 5303 through 5306 and are not needed as a separate requirement under the urbanized area formula grant program.

Subsection (d) ''Grant Recipient Requirements'' would be redesignated subsection (c). Redesignated subsection (c), would eliminate the requirement for a separate program of projects as a streamlining effort because one is already required in the planning process. It would also require that projects be selected only from those included in the STIP.

Redesignated (c)(1)(A) through (C) regarding the certification of legal, financial, technical capacity, continuing control over the use of equipment and facilities, and maintenance of equipment and facilities would be moved from section 5307 to section 5323(i) and (j) as general conditions of assistance and would now apply program wide. Redesignated subsection (c)(1)(E) would be deleted and moved into a consolidated section 5325 ''Contract Requirements.'' Redesignated subsection (c)(1)(F) would be deleted as extraneous.

Subsection (e), ''Government's Share of Costs,'' would be deleted because this requirement would be consolidated in a new section 5328 and applied program-wide.

Subsection (g), ''Undertaking Projects in Advance,'' would be deleted because advance construction requirements would be consolidated for program-wide application in a new section 5319 ''Advance Construction Authority.''

Subsection (h), ''Streamlined Administrative Procedures,'' would be deleted as extraneous.

Subsection (j), ''Reports,'' would be deleted as not necessary.

Subsection (k), ''Submission of Certifications,'' would be deleted because submissions of certifications would be moved to and consolidated in section 5323(j) for program-wide application as a streamlining effort.

Subsection (n), ''Relationship to Other Laws.'' Paragraph (1) would be deleted and consolidated into section 5323(i). Subsection (n)(2) would be redesignated subsection (h).

Sec. 3009. Mass Transit Account Block Grants

Section 3009 would delete current section 5308, ''Mass Transit Account Block Grants'' because this section applied to a one year capital program in Fiscal Year 1981 and has been executed.

Sec. 3010. Major Capital Investments

Section 3010 would change the title of section 5309 from ''Discretionary Grants and Loans'' to ''Major Capital Investments'' because the fixed guideway modernization program would be merged with the urbanized area formula grants program (see section 3034 of this Act) and the bus discretionary program would be eliminated.

Subsection (a), ''General Authority.'' All capital project definitions contained in subparagraphs (1) (A) through (G) would be moved to section 5302, ''Definitions.''

Paragraph (2) would be amended to remove the Secretary's authority to make loans. Paragraph (2) concerning the Secretary's authority to apply all appropriate terms, conditions, requirements, and provisions to grants under section 5309 does not provide the Secretary with authority to waive statutory requirements, such as the application of Federal labor standards, civil rights requirements, or employee protective arrangements.

A new paragraph (3) would be added so that funds made available under section 5309 may be transferred to section 5311 (Formula Program for Other than Urbanized Areas recipient) and would be administered under the requirements of section 5311.

Subsection (b), ''Loans for Real Property Interests'' would be deleted.

Subsection (c), ''Consideration of Decreased Commuter Rail Transportation'' would be deleted because this provision applied to the establishment of Conrail as a private corporation in 1986 and is obsolete.

Subsection (d), ''Project as Part of Approved State Program of Projects'' would be redesignated subsection (b) and retitled ''Project as Part of Approved State Improvement Program,'' to be consistent with changes made to redesignated 5307(c)(1) (existing section 5307(d)(1)). Subsections (d)(1) and (2) concerning the requirements for legal, financial, and technical capacity and maintenance of equipment or facilities that applied to section 5309 would be moved to section 5323(i) and (j) and would apply program-wide.

Subsection (e), ''Criteria for Grants and Loans for Fixed Guideway Systems'' would be redesignated subsection (c) and renamed ''Criteria for Grants for Fixed Guideway Systems.'' Paragraph (1)(A) would be amended by deleting ''contract'' and substituting ''grant agreement'' to reflect current practice. Paragraphs (3)(A) and (B) would be deleted as extraneous since these project approval requirements of mobility improvements, environmental benefits, cost effectiveness, and operating efficiencies would be covered in paragraph (2)(B). Paragraph (6)(B) would be amended to clarify which determinations made by the Secretary would be expedited if the project was contained in a State Improvement Program in a nonattainment area. Paragraph (6)(C) would be amended by removing ''completely'' and substituting ''substantially'' to provide greater flexibility in application of this subsection to a part of a project financed with flexible highway funds.

Subsection (f) ''Required Payments and Eligible Costs of Projects that Enhance Urban Economic Development or Incorporate Private Investment'' would be redesignated subsection (d). Paragraphs (2)(A) and (B) would be moved and consolidated into the definition of eligible capital project costs contained in section 5302(a)(1)(K).

Subsection (h), ''Government's Share of Net Project Costs'' would be moved and consolidated into the new section 5328 of the same name.

Subsections (i)-(k) on loan term requirements would be eliminated.

Subsection (m), ''Allocating Amounts.'' Paragraphs (1) and (2) regarding allocations for FY 1993 through FY 1997 would be deleted because section 5309 would now cover major capital investments, rather than fixed guideway modernization and bus discretionary funds. Paragraph (4) would be deleted as extraneous because the amended section would no longer include three different allocations. Paragraph (3) would be redesignated subsection (g) and entitled ''Report to Congress.''

Subsection (n), ''Undertaking Projects in Advance,'' would be deleted because advance construction authority would apply program wide under section 5319.

Subsection (o), ''Use of Deobligated Amounts,'' which allowed deobligated funds to be used for any purpose under this section would be deleted because the section would now apply only to major capital investments.

Sec. 3011. Formula Grants for Special Needs of Elderly Individuals and individuals with Disabilities

Section 3011 would change the title of section 5310 from ''Grants and loans for special needs of elderly individuals and individuals with disabilities'' to ''Formula grants for special needs of elderly individuals and individuals with disabilities.''

Subsection (a), ''General Authority,'' would be amended to remove loan authority. Paragraph (1) would be deleted as a streamlining effort because funds to local public transit operators for service for elderly and disabled persons are made available through the urbanized and nonurbanized area formula programs. Paragraph (2) would be redesignated paragraph (1). Redesignated paragraph

(1) would be amended to simplify the conditions of assistance made to private nonprofit corporations and associations.

Subsection (b), ''Apportioning and Transferring Amounts,'' would be amended to remove the 90-day limitation on the transfer of funds from section 5310 to either section 5311, ''Formula Program for Other than Urbanized Areas'' or section 5307, ''Urbanized Area Formula Grants.'' This change would permit such transfers at anytime during the fiscal year, providing enhanced flexibility and improved program management.

Subsection (e) ''Application of section 5309.'' The catchline and paragraph (1) would be deleted; thus no longer requiring that a grant made under this section follow the requirements of section 5309, ''Major Capital Investments.'' It would require that grants be subject to requirements the Secretary deems appropriate. Paragraph (2) would be redesignated subsection (e) and entitled ''Grant requirements.''

Subsection (f) ''Minimum Requirements and Procedures for Recipients'' would be deleted as extraneous because both the Americans with Disabilities Act and the planning process already provide these minimum requirements and procedures for grant recipients.

The remaining sections would be redesignated and would remain unchanged.

Sec. 3012. Formula Program for Other than Urbanized Areas

Section 3012 would change the title of section 5311 from ''Financial assistance for other than urbanized areas'' to ''Formula program for other than urbanized areas'' for clarification.

Subsection (b), ''General Authority.'' Paragraph (2) would be amended to provide that four percent of the rural formula program funds shall be available for the Rural Transportation Assistance Program (RTAP). This streamlining change moves RTAP from the Transit Planning and Research Program to the formula program for other than urbanized areas.

Subsection (c) ''Apportioning Amounts'' would be amended to remove the extraneous apportionment calculation based on nonexistent Census estimates of nonurbanized population. The number of years for obligation after the fiscal year in which the amount is apportioned would be increased from two, to three, to conform the nonurbanized area program with the urbanized formula program under section 5307.

Subsection (e), ''Use for Administration and Technical Assistance.'' Paragraph (1) would be amended to broaden the availability and use of funds by allowing States to use the rural formula funds now available to them for program administration to be used, as well, to support the Transit Cooperative Research Program (TCRP) and for training.

The catchline of subsection (f) would be changed from ''Intercity Bus Transportation'' to ''Intercity Bus or Rail Transportation'' to reflect the inclusion of rail as an eligible activity. The first sentence of paragraph (1) would be deleted to drop the requirement for intercity bus set-asides; the remaining phrase of paragraph (1) would be redesignated subsection (f). Subparagraph (A) would be redesignated paragraph (1). Planning and marketing expenses for intercity buses would still be eligible, and would be expanded to include intercity rail.

Paragraphs (1)(B) and (1)(C) would be deleted as extraneous because intercity bus shelters and joint use stops and depots would be generally eligible under this section. Paragraph (1)(D) would expand operating grants to include either bus or rail and would be redesignated as paragraph (2). Paragraph (1)(E) would be amended so that rural connections between small mass transportation operators and intercity bus would now include connections to rail or air carriers to enhance intermodalism in nonurbanized areas and would be redesignated as paragraph (3).

Subsection (f)(2) would be deleted because there would no longer be a requirement for a specific amount to be spent on intercity bus projects. The deletion of the requirement for a specific set-aside for intercity bus services obviates the need for a certification from the State that intercity bus needs are met before the funds could be used for other eligible purposes.

Subsection (g), ''Government's Share of Costs,'' would be moved to and consolidated into section 5328. Subsections (h) and (i) would be redesignated as subsections (g) and (h), respectively.

A new subsection (i), ''Apportioning and Transferring Amounts'' would be added to allow the transfer of funds from section 5311 to section 5310 for use in the elderly and disabled programs. This provision would be moved from existing section 5336(g).

Sec. 3013. National Research Programs

Section 5312 would be renamed the ''National Research Programs'' which would be moved from section 5314. Section 5312 on ''Research, Development, Demonstration, and Training Projects'' would be moved to section 5314.

Subsection (a), ''Program.'' Paragraph (1) would provide that funds made available to this section can be used for the Transit Cooperative Research Program under section 5313; for research, development, demonstration, and training projects under section 5314; for the national transit institute under section 5315; for bus testing under section 5318; and for the human resource program under section 5322. Paragraph (2) sets aside a minimum of $2 million to help transportation providers comply with the Americans with Disabilities (ADA) and would be moved without change from section 5314, ''National Planning and Research Program.''

The only substantive change to section 5312 would be the deletion of subsection (a)(4)(B) regarding the establishment of an Industry Technical Panel. This provision is extraneous because several other avenues exist to acquire advice from the transit industry.

Subsection (b), ''Government's Share,'' provides that the Secretary establish the government's share consistent with the benefit provided.

Sec. 3014. Transit Cooperative Research Programs

Section 3014 would amend section 5313 by changing the title from ''State Planning and Research Programs'' to ''Transit Cooperative Research Program''.

Subsection (a), ''Cooperative Research Program'' would be amended to include the Federal Transit Administration (FTA) as a member of the governing board of the program.

Subsection (b), ''State Planning and Research,'' would be deleted because the State planning requirements would be consolidated under section 5306, ''Statewide Planning.'' Because the funds would no longer be divided and allocated directly, the fifty percent limit of section 5312, National Planning and Research Programs, would be deleted.

Subsection (c), ''Government's Share,'' would be deleted and would be moved to section 5306 ''Statewide Planning.''

Sec. 3015. Research, Development, Demonstration, and Training Projects

The language of section 5314 would be replaced by and moved to section 5312. Section 5314 would be renamed ''Research, development, demonstration, and training projects.''

Subsection (a), ''Research, Development, Demonstration, and Technical Assistance Projects.'' In paragraph (1), eligible projects would be expanded to include those that improve service, enhance safety or security, increase capacity, reduce costs of services, equipment, or infrastructure, improve intermodal connections, reduce the need for transportation, overcome institutional barriers, disseminate technical information, promote applications of innovative technology, or advance the knowledge of mass transportation.

A new subsection (d), ''Joint Partnership Program for Deployment of Innovation,'' would be added governing a joint partnership program for transit innovation deployment. Under paragraph (1), consortia would consist of public or private organizations which provide mass transportation service to the public, and businesses offering goods or services to mass transportation providers. It may also include public or private research organizations or state or local governmental authorities. The program would, under paragraph (2), permit entering into cooperative agreements, grants, contracts, or other agreements with consortiums to promote the deployment of innovation in mass transportation technology, services, management, or operational practices. In paragraph (3), the government's share of the cost would be limited to a maximum of 50 percent of the net project cost. Paragraph (4) gives the Secretary the authority to establish the solicitation and award process. Paragraph (5) states that net revenues would be credited to the future joint partnerships under this subsection.

Subsection (e), ''International Mass Transportation Program,'' authorizes an international mass transportation program whereby the Secretary may develop and disseminate information on international transportation marketing opportunities to domestic operators; cooperate with foreign public sector entities on research; advocate U.S. mass transportation products and services in international markets; participate in seminars to inform international markets of the technical quality of mass transportation products and services; and offer FTA technical services to foreign public authorities on a cost reimbursement basis. The Secretary would be authorized to cooperate with Federal agencies, State and local agencies, public and private nonprofit institutions, government laboratories, foreign governments, or any organization deemed appropriate to carry out this section. A special account would be established for funds from any cooperating organization or person to pay for promotional materials, travel, reception, and representation expenses.

Sec. 3016. National Transit Institute

Section 3016 would amend section 5315 by changing the title from ''National Mass Transportation Institute'' to the ''National Transit Institute'' to reflect current practice. It would also change the subsection (a), ''Establishment and Duties,'' list of courses to include architectural design in paragraph (5), construction management, insurance, and risk management in paragraph (11), and innovative finance in a new paragraph (15). Paragraph (7) would be amended to clarify that turnkey approaches ''deliver'' mass transportation system rather than ''carry-out.''

Sec. 3017. University Research Institutes

Section 5316 would be repealed. The program would be combined with the Transportation Centers program, section 5317, into an Intermodal Transportation Centers program administered by the Research and Special Programs Administration in a new chapter 52 of title 49.

Sec. 3018. Transportation Centers

Section 3018 would repeal section 5317. This program would be combined with the University Research Institutes, section 5316, program into an Intermodal Transportation Centers program administered by the Research and Special Programs Administration in a new chapter 52 of title 49.

Sec. 3019. Bus Testing Facility

Section 3019 would amend section 5318 (b), ''Operation and Maintenance,'' and (d), ''Availability of Amounts to Pay for Testing,'' to permit, in addition to a contract, the use of a grant or cooperative agreement to operate and maintain the bus testing facility. This would enhance flexibility in choosing and managing facility operators by FTA. Other mass transportation vehicles such as paratransit vans would be permitted to be tested at the facility in subsection (a), ''Establishment.''

Sec. 3020. Advance Construction Authority

Section 3020 would delete section 5319, ''Bicycle Facilities'' in its entirety. Eligibility for bicycle facilities would be moved to, ''Definitions,'' section 5302(a)(1)(O), and its special 90 percent matching share would be moved to section 5328, ''Government's Share of Costs.'' A new section 5319, ''Advance Construction Authority,'' consolidating the advance construction authority in sections 5307(g) and 5309(n) would be substituted in its place. The requirements of advance construction authority would remain unchanged from their previous application to sections 5307 and 5309, and would be expanded to apply to section 5311.

The new section incorporates the requirement that the interest eligible for reimbursement be based on the most favorable interest terms available, as is now included in section 5309(n), rather than the inflation-based approach under section 5307(g), which proved to be unworkable in practice. Preaward authorization to incur project costs would be allowed. This would permit commencement of work at the time funds are apportioned, rather than after grant award. This change would incorporate in law a current practice.

Sec. 3021. Suspended Light Rail System Technology Pilot Project

Section 3021 would delete section 5320, ''Suspended Light Rail System Technology Pilot Project,'' in its entirety. This section is unnecessary because the project is already eligible under section 5312, ''National Planning and Research Programs.'' A new 5320, ''Access to Jobs and Training'' would be added.

Under subsection (a), ''General Authority,'' the Secretary would make grants to assist States, local governments, and private nonprofit organizations to transport economically disadvantaged persons to jobs and employment-related activities.

Under subsection (b), ''Grant Criteria,'' the Secretary would make discretionary grants to recipients based on statutory criteria including severity of the welfare transportation problem, existence of or willingness to create a mechanism to coordinate transportation and human resource services planning, the applicant's qualifications and performance under other welfare reform activities, the extent to which a partnership with human resource agencies exists, and the applicant's application. The application would be required to address the access to work transportation needs and possible new service strategies, the coordinating of existing service providers and possible new service strategies, the promotion of employer-provided transportation services, and long-term financing strategies to support the program.

Under subsection (c), ''Eligible Projects,'' eligible grant activities would include integrating transportation and welfare planning, coordinating transit providers with human resource service providers, operating and capital costs of service start-up, promoting employer-provided transportation, developing financing strategies, and related administrative expenses.

Under subsection (d), ''Technical Assistance,'' the Secretary may make grants, cooperative agreements, or contracts for technical assistance and the evaluation of projects funded under this section.

Under subsection (e), ''Government's Share of Costs,'' the DOT share of costs would be 50 percent of the net cost and the remainder will be cash from sources other than revenues from providing transit service. Subsection (e) would allow a recipient to use other Federal human services funds to fund the non-governmental share. This subsection would not apply to the grants, cooperative agreements, and contracts for the provision of technical assistance; thus they could be funded completely by the Government.

Under subsection (f), ''Planning Requirements,'' grants would be required to be included in Metropolitan and Statewide plans and Transportation Improvement Programs.

Under subsection (g), ''Grant Requirements,'' grants would be subject to terms and conditions as determined by the Secretary.

Under subsection (h), ''Availability of Amounts,'' funds are available for three years after the fiscal year they are made available.

Sec. 3022. Crime Prevention and Security

Section 3022 would amend section 5321, ''Crime Prevention and Security,'' by moving its provisions to section 5302(a)(l)(Q), ''Definitions,'' thereby making crime prevention and security eligible as a capital project.

Sec. 3023. General Provisions on Assistance

Section 3023 would amend section 5323, ''General Provisions on Assistance.''

Subsection (a), ''Interests in Property.'' Paragraph (1)(A) would be amended to clarify that a project must be contained in a TIP rather than in a program of projects before a recipient can acquire property with FTA funds.

Paragraph (1)(D) would be amended to clarify that an employee protective arrangement certification under section 5333(b) applies only to projects under sections 5307 (except planning), 5309, 5311, 5313 (for operational activities only), redesignated 5314, and 5320 (except planning) and not to all projects in the transit program.

Subsection (b), would be amended to change the catchline from ''Notice and public hearing'' to ''Social, economic, and environmental interests'' to clarify the nature and purpose of the environmental public hearing. Paragraph (2), which describes how the notice of hearing must be published, would be removed due to its unnecessary prescriptive requirements. New paragraphs (2)(A) and (B) would be added here to reflect only those environmental requirements that are unique to FTA, by moving them from section 5324(b); National Environmental Policy Act of 1969 (42 U.S.C. §4321 et seq.) (NEPA) provides the overall environmental review requirements.

Subsection (d) would be renamed from ''Buying and Operating Buses'' to ''Charter Bus Limitation'' to more accurately reflect the meaning of the subsection. It would now only apply to sections 5307, 5309, and 5311. The reference to existing section 5308, which would be repealed, would be deleted.

Subsection (e) ''Bus Passenger Seat Specifications″ would be deleted. This ''housekeeping'' effort removes unnecessarily prescriptive requirements and recognizes the fact that specifications were never issued by the Secretary.

Subsection (i), ''Government's Share of Costs for Certain Projects'' would be deleted and moved to section 5328 where these requirements would be consolidated.

Subsection (j), ''Buy America,'' would be redesignated subsection (h). Paragraph (7) would be deleted as extraneous since the ''foreign entity purchases'' report to Congress has been submitted.

Subsection (k) ''Application of Section 135 of Title 23,'' would be deleted and moved to section 5303 where planning requirements would be consolidated.

A new subsection (i), ''Submission of Certification'' moved from section 5307(k), would be added to provide for a single certification for all programs under this chapter.

A new subsection (j), ''Legal Financial, and Technical Capacity,'' would be added which would consolidate all requirements for legal, financial, and technical capacity for all programs under this chapter.

A new subsection (k), ''Private Enterprise Participation'' would be moved here from section 5606(a).

Subsection (l), ''Preaward and Postdelivery Review of Rolling Stock Purchase'' would be deleted because this requirement is costly and unnecessary.

Sec. 3024. Acquisition of Real Property Owned By The Government

Section 3024 would delete as extraneous section 5324, ''Limitations on discretionary and special needs grants and loans,'' in its entirety. Subsection (a), ''Relocation Program Requirements,'' are contained in the Surface Transportation and Uniform Relocation Assistance of 1987 and would be redundant if retained. The environmental requirements contained in subsection (b), ''Economic, Social, and Environmental Interests,'' are now included in NEPA with the exception of the unique environmental requirements that apply to FTA, which would be placed in section 5323(b), ''General Provisions on Assistance.'' Subsection (c), ''Prohibitions Against Regulating Operations and Charges,'' would be moved to section 5334, ''Administrative,'' and would now apply program wide, rather than only to section 5309 recipients.

A new section 5324 would be named ''Acquisition of Real Property Owned by the Government.'' This new section would make surplus real property owned by the Government available for a transit purpose or as a source of materials for the construction and maintenance of a transit facility adjacent to Government land. This section is patterned on 23 USC section 317.

Sec. 3025. Contract Requirements

Section 3025 would amend section 5325, ''Contract Requirements.''

Subsection (b), ''Acquiring Rolling Stock,'' would be moved to section 5326, ''Special Procurements.'' New subsection (b), ''Competitive Negotiation,'' would authorize the use of a competitive negotiation procurement process when the sealed bid procurement process is not suitable. Subsection (c), ''Procuring Associated Capital Maintenance Items,'' would be deleted because they would now be included as preventive maintenance in section 5302(a)(l)(E), ''Definitions.''

Subsection (d), ''Architectural, Engineering, and Design Contracts,'' would be moved to new subsection (b)(2).

Sec. 3026. Special Procurements

Section 3026 would amend section 5326, ''Special Procurements.''

Subsection (a), ''Turnkey System Projects,'' would be amended to expand the

definition of turnkey system projects to include an operable segment of a transportation system and to expand from seller operation to seller financing, designing, building, and system operation, or any combination thereof. It would allow the contractor to acquire, rather than construct, a mass transportation system or segment. Paragraph (2) would require a turnkey solicitation to be based on a two-phased competitive procurement process where participation of small and medium sized businesses would be encouraged in joint ventures with large firms. Paragraph (3) would be deleted because it is completed.

Subsection (c), ''Efficient Procurement'' would be amended to remove references to dates and guidance requirements and moved to subsection (e). New subsection (c), ''Acquiring Rolling Stock'' would be moved here from section 5325(b) as a ''housekeeping'' effort.

Subsection (d), ''Procuring Spare Parts'' would be amended to permit a recipient to purchase spare parts directly from the original manufacturer or supplier without prior FTA approval if the manufacturer is the only source for the item and the price reflects market conditions.

Sec. 3027. Oversight

Section 3027 would change the name of section 5327 from ''Project Management Oversight'' to ''Oversight'' to reflect the expansion of this section to include other oversight such as financial oversight.

Subsection (c), ''Limitations on Use of Available Amounts,'' would be amended to increase the percentage takedown from .5 percent to .75 percent of section 5307. A takedown would no longer be taken from section 5311. Taken together, these changes would result in an increase in the total funds available for oversight activities and focus the source of funds to the programs with the most need for oversight. Paragraph (2) would be amended to permit funds under this section to be used to provide technical assistance to correct deficiencies identified by compliance reviews and audits. This change would facilitate implementation of needed changes to recipient procedures and practices.

Sec. 3028. Government Share of Costs

Section 3028 would delete section 5328, ''Project review,'' in its entirety. This section required specific timelines and milestones for the various stages of fixed guideway projects.

Compliance with the section's requirements was problematic; projects proceed at a pace determined primarily by local actions, not by those of the FTA. Also, commitments have already been made to the projects contained in subsection (c) which would therefore no longer be needed.

This section would be renamed ''Government share of costs'' and would contain a consolidation of most of the government's share of costs requirements in this single section. Subsection (a), ''Capital Projects,'' would establish the Government's share of the costs for all capital projects funded under chapter 53 of title 49. The Governments' share for most capital projects would remain at 80 percent. Paragraphs (1) (A) and (B) contain special Government share ratios for certain kinds of projects.

Under paragraph (1)(A), the Government's share of a bicycle facility, as defined in section 5302(a)(1)(O), would remain 90 percent of the cost of the project.

Under paragraph (1)(B), the Government's share of the costs for a capital project that involves acquiring vehicle-related equipment required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or the Clean Air Act (42 U.S.C. 7401 et seq.), would remain at 90 percent of the net project cost of the equipment that is attributable to complying with those Acts. The Secretary of Transportation, through practicable administrative procedures, would still be able determine the costs attributable to that equipment .

Under subsection (b), ''Operating Expenses,'' the government's share of operating costs may not exceed 50 percent and would be limited to projects under sections 5302(a)(1)(R), 5307, or 5311. In section 3008 of this Act, operating assistance would be limited to only those areas under 200,000 in population.

Sec. 3029. Investigation of Safety Hazards

Section 3029 would amend section 5329, ''Investigation of Safety Hazards,'' by deleting the extraneous subsection (b), ''Report.'' This report to Congress on safety has been submitted.

Sec. 3030. Nondiscrimination

Section 3030 would amend section 5332, ''Nondiscrimination.''

Subsection (b), ''Prohibitions,'' would be amended by adding disability to the list of nondiscrimination factors, and to replace ''creed'' with ''religion'', that now includes race, color, creed, national origin, sex, or age. This addition makes this section consistent with the requirements of the Americans with Disabilities Act.

Sec. 3031. Labor Standards

Section 3031 would amend section 5333, ''Labor Standards.''

Subsection (b), ''Employee Protective Arrangements,'' would be amended to conform it to current practice and to apply it to the section 5320 ''Access to Jobs and Training'' (except planning). Section 5333(b) would apply to sections 5307 (except planning), 5309, 5311, 5313 (operational activities only), redesignated 5314, and 5320 (except planning). It removes its incorrect application to bus testing, administrative requirements, oversight, rail modernization formula, and the authorization section caused by codification.

Sec. 3032. Administrative

Section 3032 would amend section 5334, ''Administrative.''

Subsection (a), ''General Authority.'' Paragraph (10) would be amended to permit FTA to charge fees to cover the costs of training or conferences that promote mass transportation. This change would increase FTA's flexibility in offering courses, help defray the costs of such courses, and provide additional revenues to expand course offerings.

A new paragraph (11) would be added that would clarify FTA's participation with cooperating foreign countries on various activities, such as research and technology. This wording would be consistent with Federal highway law.

Subsection (g), ''Transfer of Assets No Longer Needed,'' would be simplified to allow assets that are acquired by FTA assistance and that are no longer needed for public transportation purposes may be sold or transferred under conditions determined by the Secretary. This change removes unnecessary regulatory burdens, enhances flexibility in making decisions regarding asset disposition, and facilitates the undertaking of joint development projects.

Subsection (i), ''Authority of Secretary of Housing and Urban Development,'' would be deleted as a ''housekeeping'' change; it references pre-1967 authority of the Secretary of Housing and Urban Development (HUD) over the Federal transit assistance program. Subsection (j), ''Relationship to Other Laws,'' would be redesignated subsection (i).

New subsection (j), ''Prohibitions Against Regulating Operations and Charges,'' which prohibits FTA from regulating transit operations and charges would be moved here from section 5324 (c) and would remain unchanged, except that it would now apply to all programs, rather than to only section 5309. This would incorporate in law a current practice.

New Subsection (k), ''Test and Evaluation,'' would be added to allow the waiver of all requirements except for labor certification and environmental review under NEPA for grants to test or develop any material, invention, patented article, or process. This authority would be similar to that contained in Federal highway law.

Sec. 3033. Reports and Audits

Section 3033 amends section 5335, ''Reports and Audits.''

Subsection (a) would be amended to change the catchline from ''Reporting system and uniform system of accounts and records'' to ''National transit database'' to more accurately reflect the contents of this subsection.

Subsection (a)(2) would be redesignated subsection (b) and entitled ''Inclusion of Grant Recipients in Database.''

Subsection (b), ''Quarterly Reports,'' would be deleted, removing the requirement for quarterly reports to Congress on State obligations and grants executed. This information is readily available elsewhere through normal distribution so that a Congressional report is extraneous and not cost effective.

Subsection (c), ''Biennial Needs Report,'' would also be deleted, removing the requirement for a biennial needs report to be submitted by the Comptroller General. The General Accounting Office (GAO) concurs that this report is redundant because a comparable report to Congress is required by 49 U.S.C section 308.

Subsection (d), ''Biennial Transferability Report'' would also be deleted. The GAO agrees that this report is not needed, since the information on the amount of mass transportation money transferred for non-mass transportation purposes is readily available elsewhere.

Sec. 3034. Apportionment of Appropriations for Formula Grants

Section 3034 would amend section 5336 by changing the name from ''Apportionment of Appropriations for Block Grants'' to ''Apportionment of Appropriations for Formula Grants'' to more accurately reflect the purpose of this section.

Subsection (a), ''Access to Jobs and Training,'' would provide $100 million annually until 2003 for the ''Access to Jobs and Training Program'' under section 5320.

Subsection (b), ''Allocation For Urbanized Area, Other Than Urbanized Area, Special Needs of Elderly Individuals and Individuals With Disabilities Formula Programs,'' would provide for distribution of funds among the formula programs as follows: 94.5 percent of the funds for ''Urbanized Area Formula Grants'' (section 5307); 1.75 percent of the funds for ''Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities'' (section 5310); and 3.75 percent of the funds for the ''Formula Program for Other than Urbanized Areas'' (section 5311). In the urbanized area formula grants program, the changes to this section would merge the formula fixed guideway program into the program without change in the formula. The amount apportioned by the current fixed guideway formula would be equal to the amount available for major capital investments. The remainder would be apportioned by the current urbanized area formula.

Subsection (c), ''Fixed Guideway Tier,'' would provide funds to the fixed guideway systems listed in existing section 5337.

Subsection (d), ''Operating Assistance,'' would be redesignated subsection (f) and

would provide that urbanized areas under 200,000 in population could use their entire apportionment for operating assistance, eliminating the former statutory cap (areas over 200,000 would not be able to use funds for operating assistance).

Subsections (e) through (i) would be redesignated (g) through (k), respectively. Redesignated subsection (i), ''Transfers of Apportionments'' would be amended to permit transfers of apportionments from the urbanized area formula program to either the ''Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities program'' (section 5310) or the ''Formula Program for Other than Urbanized Areas'' (section 5311).

Former subsection (j), ''Application of Other Sections,'' would be deleted as extraneous. Application of other sections is not relevant since this section covers only urbanized area formula grants (section 5307).

Former subsection (k), ''Certain Urbanized Areas Grandfathered,'' would be deleted. Grandfathering urbanized areas designated under the 1980 census and not designated under the 1990 census for FY 1993 is obsolete.

Sec. 3035. Apportionment of Appropriations for Fixed Guideway Modernization

Section 3035 would delete section 5337 in its entirety because the current formula would be merged into section 5336(c).

Sec. 3036. Authorizations

Section 3036 would amend and completely rewrite section 5338 by providing new authorization levels for fiscal years 1998 to 2003.

Formula programs under subsection (a) would be funded from the Mass Transit Account for ''Urbanized Area Formula Grants'' (section 5307) (including Access to Jobs and Training (section 5320)), ''Formula Grants for Special Needs of Elderly Individuals and Individuals with Disabilities'' (section 5310), and ''Formula Program for Other than Urbanized Areas'' (section 5311) at $3,970.5 million for fiscal years 1998–2002 and $4,077,704,000 for fiscal year 2003. No General Funds would be provided.

Under subsection (b), ''Major Capital Investments,'' the following levels would be authorized:

FY 1998—$800 million.

FY 1999—$950 million.

FY 2000–2002—$1,000 million per year for each fiscal year.

FY 2003—$1,026 million.

Subsection (c), ''Metropolitan Planning,'' would authorize appropriations of not more than $39.5 million per year for FY 1998–2002 and $40.527 million for FY 2003 for metropolitan planning grants under sections 5303–5305.

Subsection (d), ''Statewide Planning,'' would authorize appropriations of not more than $8.25 million per year for FY 1998–2002 and $8.465 million for FY 2003 for statewide planning grants under section 5306.

Subsection (e), ''National Transit Research,'' would authorize appropriations of not more than $38.050 million in FY 1998–2002 and $39,039,000 for FY 2003 for national transit research under section 5312 (including the Transit Cooperative Research Program, the National Transit Institute, and the Bus Testing Facility).

Subsection (f), ''University Transportation Centers,'' would authorize not more than $6 million for FY 1998–2002 and $6.156 million for FY 2003 for the University Transportation Centers under chapter 52 of title 49.

Subsection (g), ''Administrative Expenses,'' would authorize appropriations of such sums as necessary for administrative expenses.

Subsection (h), ''Grants as Contractual Obligations,'' would provide that grants under subsections (a) and (b) of section 5338 constitute contract authority.

Subsection (i), ''Availability,'' would provide that funds made available under subsections (a) through (f) of section 5338 are available until expended.

Subsection (j), ''Transfer of Prior Year Funds Remaining Available,'' would provide a ''housekeeping'' change by allowing the transfer of any appropriated funds to the most recent appropriations heading for the same purpose; these funds would be administered in accordance with the provisions of the heading into which they were transferred. This will allow for the elimination of the need to account for expired programs separately.

Sec. 3037. Washington Metropolitan Area Transit Authority

Section 3037 would amend the National Capital Transportation Act of 1969 to change the source of funding for the final two years. Section 17(c) would be amended to repeal the authorization for general fund appropriations for fiscal years 1998 and 1999, and would reduce the total amount authorized to be appropriated by $250,000,000. In its place, a new subsection (d) would be added authorizing a like amount to be appropriated from the Mass Transit Account, $200,000,000 in fiscal year 1998 and $50,300,000 in fiscal year 1999.

TITLE IV—MOTOR CARRIER SAFETY

Sec. 4001. State Grants and Other Commercial Motor Vehicle Programs

Subsection (a) amends 49 U.S.C. 31101 by adding a new subsection (a) to provide a detailed description of the objectives of subchapter I, State Grants. This new subsection (a) emphasizes that the grants authorized under section 31102 are to be used by the Secretary, States, and other political jurisdictions working in partnership to improve commercial motor vehicle and driver safety. This new subsection (a) also provides some detail on the new performance-based approach grant recipients are to take by explaining that the funds authorized by this section are to be used to establish program baselines and benchmarks to evaluate overall motor carrier safety program effectiveness. The new subsection 31101 (a) further clarifies the performance-based grant concept by describing some of the other activities eligible for funding under this section and the safety goals these activities will provide the means to achieve.

Paragraphs (b) (1) and (2) and (c)(9) amend 49 U.S.C. 31102 to authorize the Secretary to encourage State implementation of performance-based activities to improve motor carrier safety. Section 31102 had already authorized grants to support State enforcement of Federal regulations, standards, and orders and compatible State regulations, standards, and orders. As a result of this amendment, section 31102 authorizes grants to fund traditional Motor Carrier Safety Assistance Program (MCSAP) activities, including uniform roadside driver and vehicle safety inspections, traffic enforcement, compliance reviews, safety data collection, and also new performance-based activities and analyses to identify Statewide safety problems, establish benchmarks, implement activities to address unique problems, and measure program effectiveness. States are still required to submit a State Motor Carrier Safety Plan to qualify for the MCSAP grants and the performance-based incentives. It is envisioned that all States will implement performance-based activities by the end of fiscal year 2003.

Subsection (c) amends section 31102 by adding references to hazardous materials transportation safety to perpetuate the longstanding policy that motor vehicle safety encompasses hazardous materials transportation safety as well.

Subsection (d) amends various provisions in section 31102(b), 49 U.S.C., which describe required components of the plan each State must develop and submit to the Secretary in order to qualify for funding under section 49 U.S.C. 31102.

Paragraph (d)(1) amends 49 U.S.C. 31102(b)(1)(J) to clarify that the activities referred to in that subparagraph are those activities described in paragraph (1) of subsection (c) of section 31102, 49 U.S.C. This amendment thus explains that a State plan must ensure that State ''enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States'' (49 U.S.C. 31102(c)(1)) will not diminish the effectiveness of the State commercial motor vehicle safety programs funded through subsection (a) of 49 U.S.C. 31102.

Paragraph (d)(2) revises 49 U.S.C. 31102(b)(1)(K) to provide States with more flexibility in establishing consistent and effective sanctions for violations of commercial motor vehicle safety regulations. The maximum fine schedule published by the Commercial Vehicle Safety Alliance is too prescriptive. As a result of this change, States will no longer be limited in their ability to use a range of fines to ensure compliance and address their unique safety problems.

Paragraph (d)(3) revises 49 U.S.C. 31102(b)(1)(L) to expand the preexisting requirement that each State coordinate the development and implementation of its Motor Carrier Safety Plan with the development and implementation of its Section 402 highway safety plan. This revision directs the States to also coordinate their Motor Carrier Safety Plans with other agencies responsible for highway safety in the State including FHWA and NHTSA highway grant recipients. This change also requires the State to provide for coordination of data collection and information systems with these other agencies.

Paragraph (d)(4) revises 49 U.S.C. 31102(b)(1)(M) to require that State plans ensure that all jurisdictions receiving funding participate in SAFETYNET, not just the 48 contiguous States. This revision also deletes the January 1, 1994, deadline for meeting this requirement.

Paragraph (d)(5) strikes 49 U.S.C. 31102(b)(1)(N), and thereby deletes the requirement that a State's plan emphasize and improve enforcement of traffic safety laws regarding commercial vehicle safety. This requirement is being removed because it is overly prescriptive and unnecessary; if a State's unique problems can best be addressed by other actions, such as public education, this requirement would cause the State to spend grant receipts on activities not best designed to solve that State's problems.

Paragraph (d)(6) revises 49 U.S.C. 31102(b)(1)(O) to remove the requirement that a State plan promote enforcement of requirements related to the licensing of commercial motor vehicle (CMV) drivers and the requirement that a State plan promote enforcement of hazardous material transportation regulations by encouraging more inspections of shipper facilities affecting highway transportation and more comprehensive inspections of the loads of CMVs transporting hazardous materials. Removal of these State plan requirements does not in any way diminish the obligation of the States participating in this program to enforce commercial driver's licensing requirements and hazardous materials transportation regulations.

Paragraph (d)(6) retains the requirement that a State plan promote activities to remove impaired CMV drivers from the highways through adequate enforcement of regulations on the use of alcohol and controlled substances and the requirement that a State plan provide an appropriate level of training to State motor carrier safety assistance program officers and employees on recognizing drivers impaired by alcohol or controlled substances. Paragraph (d)(6) moves from subparagraph 31102(b)(1)(P) to 49 U.S.C. 31102(b)(1)(O) the requirement that a State plan promote interdiction activities affecting the transportation of controlled substances by CMV drivers and provide training on appropriate strategies for carrying out those interdiction activities. In addition, paragraph (d)(6) amends subparagraph (O) to specify that a State plan must promote activities that further national safety priorities and performance goals.

Paragraph (d)(7) strikes 49 U.S.C. 31102(b)(1)(P), thereby deleting the requirement that a State plan ensure that the State will use trained and qualified officers and employees of political subdivisions and local governments to enforce commercial motor vehicle and hazardous material transportation safety regulations. This requirement is being removed because it duplicates language in the subsection 31104(f) as revised by this section. Clause (i) of 49 U.S.C. 31102(b)(1)(P) requiring that a State plan promote interdiction activities affecting the transportation of controlled substances by CMV drivers is retained, but is moved to clause (iii) of 49 U.S.C. 31102(b)(1)(O). Paragraph (d)(7) also redesignates subparagraph 31102(b)(1)(Q) as subparagraph 31102(b)(1)(P).

Paragraph (d)(8) redesignates subparagraphs (A) through (M) of 49 U.S.C. 31102(b)(1) as subparagraphs (B) through (N). This redesignation is necessary because of the addition of a new element at the beginning of the list of required State motor carrier safety plan components.

Paragraph (d)(9) amends 49 U.S.C. 31102(b)(1) to add a new required element of the State Motor Carrier Safety Plan to the beginning of the list of requirements. This new criterion requires the State to propose in its plan to implement performance-based programs by the year 2003. The requirement that performance-based programs be in place by a certain date ensures that State safety activities which were formerly based on inputs are replaced by activities focused on attaining solutions to existing problems.

Subsection (e) amends section 31103 of 49 U.S.C. by adding a new subsection to authorize the Secretary to reimburse State agencies, local governments, or other persons for up to 100 percent of the cost of the activities specified in 49 U.S.C. 31104(f)(2). The activities referred to in that paragraph are border enforcement and other high priority activities. The preexisting language of 49 U.S.C. 31103 is also redesignated as subsection (a).

Paragraphs (f)(1) through (6) revise section 31104 of 49 U.S.C. to authorize that $83,000,000 be appropriated from the Highway Trust Fund in each of fiscal years 1998 through 2003 to carry out section 31102 of 49 U.S.C., i.e., to provide States with grants to develop or implement programs for improving motor carrier safety and the enforcement of Federal and State regulations, standards, and orders regarding commercial motor vehicle safety.

Paragraph (f)(7) revises 49 U.S.C. 31104(b)(2) by replacing the reference to section 404(a)(2) of the Surface Transportation Assistance Act of 1982 with a reference to paragraphs 4002(e)(1) and (2) of the Intermodal Surface Transportation Efficiency Act of 1991, to change an October 1, 1991, deadline to October 1, 1996, and to change an October 1, 1992, deadline to October 1, 1997. These changes remove out of date references and revise this paragraph to provide that amounts made available under paragraphs 4002(e)(1) and (2) of the ISTEA prior to October 1996 that are not obligated on October 1, 1997, are available for reallocation and obligation.

Paragraph (f)(8) revises 49 U.S.C. 31104(f) by deleting the language authorizing the Secretary to designate specific eligible States for an allocation of funds to be used for research, development, and demonstration of technologies, methodologies, analyses, or information systems designed to implement programs for the enforcement of Federal and State regulations, standards, and orders. The removal of this specific allocation of funds will increase flexibility and enable States to design programs to target their unique problems. In addition, the language in subsection 31104(f) authorizing the Secretary to allocate funds for education of the motoring public on how to share the road safely with commercial motor vehicles is also deleted by the revision in paragraph (f)(8). Instead of the provisions described above, paragraph (f)(8) substitutes a provision authorizing the Secretary to designate up to 12 percent of the funds available to improve motor carrier safety under section 31102, to reimburse States for border enforcement and other high priority activities and projects. This new provision specifies that the Secretary may allocate this 12 percent, in coordination with State motor vehicle safety agencies, to State agencies and local governments, that use trained and qualified officers and employees, and also to other persons for use in improving commercial motor vehicle safety.

Paragraph (f)(9) revises 49 U.S.C. 31104 by deleting subsection (g). Subsection (g) required the Secretary to allocate funding authorized under section 31104(a) for very specific State activities. Eliminating these specific allocations provides State grantees with more flexibility to develop the best combination of activities to address their unique safety concerns.

Paragraph (f)(10) makes a technical amendment to 49 U.S.C. 31104(j) to remove the word ''tolerance'' as a descriptive term to qualify the kinds of guidelines and standards which the Secretary was directed by subsection (j) to prescribe.

Paragraph (f)(11) revises 49 U.S.C. 31104 to strike subsection (i) and thereby eliminate the requirement that the Secretary prescribe regulations to develop an improved formula and process for allocating amounts made available for grants under section 31102(a) because the Secretary has promulgated these regulations. A formula will be maintained in these regulations.

Subsection (g) revises 49 U.S.C. 31106 to include more comprehensive provisions regarding motor carrier information systems including the Commercial Vehicle Information System (CVIS) and other motor carrier information systems and data analysis programs which the Secretary is directed, in the revised section 31106, to establish to facilitate the motor carrier safety, regulatory, and enforcement activities required under this title. Implementation of these information systems and programs will provide the Secretary and the States with the data and tools necessary to develop a more analytical approach to motor carrier safety: these systems and programs will enhance the focus on problem companies, drivers, and employers by identifying safety problems and potential countermeasures, determining the cost effectiveness of State and Federal compliance, enforcement programs, and other countermeasures, and providing the tools and data necessary for evaluating the safety fitness of motor carriers and drivers. The CVIS is 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. Under subparagraph 31106(a)(2)(C), the CVIS will link the Federal motor carrier safety systems with State driver and commercial vehicle registration and licensing systems. Paragraph 31106(a)(2) also provides that the CVIS will be designed to enable States to ascertain the safety fitness of a registrant or motor carrier when issuing license plates, to allow States to decide the types of sanctions, conditions, or limitations that may be imposed on a registrant or motor carrier, to monitor the safety fitness of a registrant or motor carrier, and to require States, as a condition of participation in the system, to possess or seek authority to impose commercial motor vehicle registration sanctions on the basis of a Federal safety fitness determination. Subparagraph 31106(a)(2)(D) provides that no more than $6,000,000 of the funds authorized to carry out this section may be used in each fiscal year to carry out paragraph 31106(a)(2). This subparagraph also provides that the Secretary may authorize the operation of the information system by contract, through an agreement with one or more States, or by designating, after consultation with the States, a third party, representing the interests of the States.

The new subsection 31106(b) of 49 U.S.C. authorizes the Secretary to establish a program focusing on ways to improve commercial motor vehicle driver safety. Approaches to be taken in achieving this objective include enhancing the exchange of licensing information among States, the Federal government, and foreign countries, providing information to the judicial system on the licensing program, and evaluating any aspect of driver performance and safety as deemed appropriate by the Secretary. The funds authorized to carry out this section may be used to initiate pilot programs and to support research studies. These funds will be made available through grants, cooperative agreements, contracts, or direct purchase.

Subsection (c) of 49 U.S.C. 31106 authorizes the Secretary to develop these information systems and carry out these initiatives 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, or corporations. To the maximum extent practicable, the information systems and data collection efforts conducted under 49 U.S.C. 31106 should be coordinated with similar activities of other highway safety programs authorized under title 23, U.S.C.

Subsection (h) revises title 49, U.S.C., to remove a preexisting section 31107, which authorized the Secretary to make grants to States which agree to adopt or have adopted the recommendations of the National Governors' Association related to police accident reports regarding truck and bus accidents. Subsection (h) replaces this provision with a new section 31107 which authorizes that $17 million be appropriated annually from the Highway Trust Fund to carry out section 31106 for fiscal years 1998 through 2003.

Subsection (i) amends the heading for Subchapter I of Chapter 311 of 49 U.S.C. The heading as amended reads as follows: ''STATE GRANTS AND OTHER COMMERCIAL MOTOR VEHICLE PROGRAMS''.

Subsection (j) revises the analysis for Chapter 311 of 49 U.S.C. to reflect the new headings for sections 31106 and 31107.

TITLE V—INFRASTRUCTURE CREDIT ENHANCEMENT

Sec. 5001. Short Title

This section identifies a new Federal surface transportation program as the Transportation Infrastructure Credit Enhancement Act of 1997.

Sec. 5002. Findings

This section recites Congressional findings that current public sector resources are insufficient to meet the Nation's transportation infrastructure investment needs in both urban and rural areas. These include building new facilities as well as renovating or expanding existing facilities. The funding gap is particularly acute for large projects of National significance, due to their scale and complexity. A new Federal credit enhancement program for transportation infrastructure will help address these projects' special needs by supplementing existing Federal programs and leveraging private capital investment.

This title is designed to encourage the development of large, capital-intensive infrastructure facilities through public-private partnerships consisting of a State or local governmental project sponsor and one or more private sector firms involved in the design, construction or operation of the facility. The Federal credit enhancement program is targeted to those projects whose financings are payable in whole or in part by user charges, such as tolls, or other dedicated funding sources. By taking advantage of the public's willingness to pay user fees to receive the benefits and services of transportation infrastructure sooner than would be possible under traditional grant-based financing, the program will result in a more efficient and equitable allocation of the Nation's resources.

The program should result in additional surface transportation facilities being developed more quickly and at a lower cost than would be the case under conventional public procurement, funding and operation. In addition to the benefits of enhanced accessibility in moving goods and people, such transportation facilities should provide benefits to the Nation in terms of stimulating job creation and enhancing the Nation's economic competitiveness overseas.

Sec. 5003. Definitions

This section sets forth the definitions for terms used in this title. Key terms are listed below: A ''Project'' is defined as any publicly-owned surface transportation facility eligible under the expanded provisions of title 23 as well as chapter 53 of title 49, United States Code. Permitted Projects would include free or tolled highways, bridges and tunnels; mass transportation facilities and vehicles; inter-city passenger rail facilities and vehicles (including Amtrak); publicly owned freight rail facilities; and various intermodal facilities.

The term ''Eligible Project Costs'' is defined to include those costs of a capital nature incurred by a Project Sponsor in connection with developing an infrastructure Project. These costs fall into three categories: (i) pre-construction costs relating to planning, design, and securing governmental permits and approvals; (ii) hard costs relating to the design and construction (or rehabilitation) of a Project; and (iii) related soft costs associated with the financing of the Project, such as interest during construction, reserve accounts, and issuance expenses. It would not include operation or maintenance costs.

The term ''Project Obligation'' means any debt instrument issued by a Project Sponsor in connection with the financing of a Project.

A ''Project Sponsor'' is defined as any entity (whether a State or local governmental unit, a private entity authorized by such governmental unit to develop a Project, or a public-private partnership) that is an issuer or obligor of debt obligations used to finance a Project.

A ''Revenue Stabilization Fund'' is defined as a reserve account capitalized with Federal grants pursuant to this title or contributions from other entities, which may be used for the payment of principal of and interest on Project Obligations.

Sec. 5004. Determination of Eligibility and Project Selection

This section defines the threshold eligibility criteria for a Project to receive Federal credit enhancement and outlines the basis upon which the Secretary will select among potential candidates. The Secretary's determination of a Project's eligibility will be based on both quantitative and qualitative factors, and the Secretary should consult with the Secretary of the Treasury in making this determination.

Of prime importance, the Project must be deemed by the Secretary to be ''nationally significant'' in terms of facilitating the movement of people and goods in a more efficient and cost-effective manner, resulting in major economic benefits.

Also, the Project sponsor must demonstrate that it cannot obtain adequate financing on reasonable terms and conditions from other sources in order to be eligible for Federal credit enhancement. The Federal government's assistance is designed to assist Projects which otherwise would have difficulty in accessing the private capital markets to obtain the required financing.

To ensure that the Project enjoys both State and local support, it must be included in the State's transportation plan and program and, if the Project is in a metropolitan area, it must satisfy all metropolitan planning requirements of 23 U.S.C. 134. The State or a State-designated entity will be responsible for forwarding the Project application to the Secretary.

In terms of size, the Project must cost at least $100,000,000 or an amount equal to 50 percent of the State's annual Federal-aid highway apportionments, whichever is less. This two-fold test is designed to allow small and rural States to accommodate Projects otherwise too large for their transportation programs. Based on fiscal year 1997 apportionments, 18 States could qualify Projects costing less than $100 million, with the minimum amount equaling approximately $40 million.

In addition, a Project must be supported at least in part by user charges, such as tolls, or other dedicated revenue sources to encourage the development of new revenue streams and the participation of the private sector.

Project applicants meeting the threshold eligibility criteria then will be evaluated by the Secretary based on a number of other factors. Among them are: the likelihood that the Federal assistance will enable the Project to proceed at an earlier date; the degree to which the Project leverages non-Federal resources, including private sector capital; the degree to which public benefits exceed public costs; and the Project's overall creditworthiness.

This section also provides that all requirements of titles 23 and 49, United States Code, shall apply to funds made available under this title and Projects assisted with such funds unless the Secretary determines that any such requirement is inconsistent with any provision of this title. This section provides, however, that the Secretary cannot waive 23 U.S.C. 113, the provision that applies Davis Bacon Act wage requirements to title 23 projects, 23 U.S.C. 114, concerning convict labor, and the labor protection provisions which are found in 49 U.S.C. 5333. This section does not affect the Secretary's responsibilities under any other Federal law.

Sec. 5005. Revenue Stabilization Funds

This section authorizes the Secretary to make grants to Project Sponsors to capitalize Revenue Stabilization Funds. A Project's Revenue Stabilization Fund could be drawn upon if needed to pay debt service on the Project's debt obligations in the event of revenue shortfalls. The Revenue Stabilization Fund may be used to secure junior lien debt or other obligations requiring credit enhancement, as determined by the Secretary. Limiting the Revenue Stabilization Funds to these types of obligations is designed to maximize the Project's ability to leverage private capital, and assist it in obtaining investment grade ratings on its senior debt.

The principal amount of the deposit could not exceed 20 percent of Eligible Project Costs. Moneys in the Fund are to be invested in U.S. Treasury securities or other prudent investments approved by the Secretary, with interest earnings credited to the Revenue Stabilization Fund. Beginning five years after the Project is completed, amounts in the Fund in excess of the level needed to secure the Project Obligations may be applied to pay other Eligible Project Costs, with the approval of the Secretary.

This section also provides that Project Obligations secured by the Revenue Stabilization Fund are not considered federally guaranteed under the tax code, enabling the Fund to back both taxable and tax-exempt debt.

The Secretary shall consult with the Secretary of the Treasury in devising rules for the implementation of this section.

Sec. 5006. Rules and Regulations

Program guidelines will be established by the Secretary in order to ensure the program operates prudently and efficiently, including requiring Project Sponsors to provide annual audits.

Sec. 5007. Funding

The sum of $100 million per year between FY 1998 and FY 2003 is authorized to fund the Transportation Infrastructure Credit Enhancement Program.

TITLE VI—RESEARCH

PART A—PROGRAMS AND ACTIVITIES

Sec. 6001. Research, Development, and Technology

This section adds a new chapter 52 to subtitle III of title 49, United States Code. Among the critical challenges the Department faces is the need for strategic investment in the Nation's surface transportation infrastructure. Chapter 52 addresses this challenge by strengthening the Department's efforts in intermodal and multimodal research and development. It recognizes that improvements in the surface transportation infrastructure require attention to cross-cutting research in areas such as non-destructive testing, information technologies, urban transportation, the future transportation workforce, and the environment.

New chapter 52 is divided into subchapters. Subchapter I supplements existing administrative authorities. New section 5201 provides the Secretary general authority to enter into grants, cooperative agreements, and other transactions with states, industry, educational or other non-profit institutions, and other entities to further the objectives of the chapter. The Department strives to leverage its research dollars through cost-sharing with the private sector. Major disincentives to cost-sharing in the research

area have been the allocation of data rights and the limitations of standard financial management and intellectual property provisions. Cooperative agreements and other transactions provide needed flexibility to achieve cost-sharing in the Department's research programs. This provision would fill gaps in existing Departmental authority.

New section 5202 streamlines the procurement process for transportation research and development to be conducted by institutions of higher education that have already competed for transportation grants under this chapter. This approach follows the example of the successful pilot developed by the Federal Aviation Administration under the National Performance Review Laboratory, whereby universities which had prevailed in full and open competition for award of grants as Aviation Centers of Excellence were eligible to receive sole source contracts for related activities. This provided additional incentive to prospective proposers in the competition and facilitated the Department's ability to take advantage of its investment in the national centers of excellence. Additional grants and contracts authorized by section 5202 will be limited to work that is consistent with the original grant. These additional awards would not require specific justification under the Competition in Contracting Act.

New subchapter II provides for the planning necessary for the success of long-term research and development. New section 5221 requires the Secretary to establish a strategic planning process to determine national priorities for transportation research and development, coordinate Federal activities in the area, and evaluate the impact of the Federal investment. In planning, the Secretary must consider the concept of seamless transportation, innovation, and the need to compete globally. The Secretary has broad discretion in implementation and may, if appropriate, use an interagency executive council or a board of science advisors.

New subchapter III establishes a research and technology program within the Department to concentrate on intermodal and multimodal issues. The program recognizes that much of the research sponsored by the Department focuses on individual modes of transportation and that there is a need for research and technology development that is truly intermodal or multimodal in nature.

New subchapter IV addresses both current research needs and the need for a transportation workforce capable of meeting the challenges of transportation in the future. New section 5241 consolidates and modifies the two programs currently authorized by sections 5316 and 5317 of title 49: the University Research Institutes and the University Transportation Centers. It would continue the ten regional university transportation centers. The current array of national centers and institutes, each of which concentrates on a particular transportation issue specified in statute, would be consolidated into a single system. This system authorizes the Secretary to fund up to ten national centers whose themes are designated by the Secretary to meet national transportation needs. Selection of all centers would be by open competition. The centers conduct transportation research that is widely disseminated. The centers also conduct education and training, not only to attract highly qualified graduate and undergraduate students into transportation-related fields, but also to expose current transportation practitioners to developments in transportation theory and practice. The new authorizing language incorporates existing practice and provides needed flexibility for the program. For example, centers which perform transit-related research would now be allowed to meet requirements for the ''match'' of grant funds provided under this section with operating funds provided by mass transit authorities whose potential for sponsoring such research might otherwise be limited.

Sec. 6002. Bureau of Transportation Statistics

Subsection (a)(a1). The provision relating to the term of the first Director of the Bureau of Transportation Statistics is stricken as being obsolete.

Subsection (a)(2). The list of topics to be covered by statistics compiled by the Bureau is expanded to include transportation-related variables influencing global competitiveness, recognizing the growing importance of international trade to the nation's economy, the impact of international trade on domestic transportation facilities and services, and the impact of transportation on the ability of domestic U.S. businesses to reach foreign markets.

Subsection (a)(3). The Director's responsibilities for long term data collection are to be coordinated with other efforts in support of the Government Performance and Results Act (GPRA), which was passed subsequent to ISTEA and extends beyond the efforts to develop surface transportation system performance indicators under 23 USC 307(b)(3). The Director is to ensure that the long term data collection is made relevant to States and metropolitan planning organizations in recognition of their increased role in transportation decision making.

Subsection (a)(4). Also in support of the GPRA, BTS will report to the Secretary on the sources and reliability of statistics from DOT modal Administrations required by the Act and for other purposes.

Subsection (a)(5). This amendment provides that the Director's responsibilities for providing statistics is specifically tied to the support of transportation decision making. This assures that the Bureau's activities are relevant and provides a basis for evaluating the Bureau under the Government Performance and Results Act.

Subsection (a)(6). This paragraph would amend section 111 by deleting an obsolete subsection relating to functions performed by the first Director of BTS and by adding four new subsections. New subsection (d) would clarify the content of the Intermodal Transportation Data Base, originally specified in section 5002 of ISTEA (now codified at 49 U.S.C. 5503(d)). That provision will be repealed by a conforming amendment (see below). In response to a General Accounting Office concern with a lack of universally accepted definitions of intermodal transportation, the data base is made inclusive of movements by competing and complementary modes of transportation as well as by intermodal combinations. The original requirements for data on patterns of passenger and commodity movements are clarified to include international and local movement as well as intercity movements, since all levels of movement affect transportation facilities of national significance. The original requirement for information on public and private investments in intermodal transportation facilities and services was open to many interpretations, particularly with respect to the level of geographic specificity. Initial experience with developing the data base demonstrated that facility-level data was obtainable and useful for locational characteristics, but that investment-related data was cost-effective to develop only for national and industry aggregates. The requirement is clarified to include locational and connectivity data for facilities and services, and national data on expenditures and capital stocks.

New subsection (e) codifies in law the goals and purpose of the Bureau's existing National Transportation Library, as referenced in the Senate Report of the FY 1997 DOT appropriations bill. The goals and purpose are consistent with other national libraries, such as the Library of Medicine.

New subsection (f) codifies the general content of the Bureau's National Transportation Atlas Data Base (NTAD), developed in response to needs of the transportation community and to the National Spatial Data Infrastructure (NSDI) under Executive Order 12906. The NTAD is to be capable of integration with other government maintained transportation databases, such as the Census TIGER files and the U.S. Geological Survey DLG files. BTS also will assume leadership for the development of a national ground transportation data base as an Executive Order 12906 framework data layer for the NSDI and will coordinate with the Census Bureau, the Geological Survey, and other appropriate Federal agencies.

New subsection (g) would authorize the Bureau to establish grants and cooperative agreements with public and not-for-profit private organizations to conduct research and development in support of the Bureau's major activities, including the Transportation Statistics Annual Report, data collection, the National Transportation Library, and the National Transportation Atlas Data Base.

Subsection (a)(7). This subsection would enhance the current provision governing the protection of confidentiality of data provided to the Bureau. General protections provided by the ISTEA were not specific to statistical agencies, and are not adequate to protect the privacy of respondents. Stronger protections are necessary to enhance the respondent's confidence that sensitive information will not be compromised, thus ensuring respondent cooperation with the Bureau's data collection efforts. The confidentiality provisions are based on those applicable to the Bureau of the Census.

Subsection (a)(8). The January 1, 1994 due date for the initial Transportation Statistics Annual Report is removed as obsolete and the requirement that BTS file its report by January 1 of each year is deleted. The Bureau obtains most data for its report each year by December, and prepares most analyses of the data by January. However, because editing and production of the report require additional time, the January 1 deadline is impractical.

Subsection (a)(9). This paragraph add two new subsections to section 111. New subsection (k) is based on the provisions in the FY1996 and FY1997 DOT Appropriations Acts that allow the Bureau to retain funds from the sale of products. New subsection (l) provides for funding of the Bureau's activities in the amount of $31 million from the Highway Trust Fund per fiscal year for fiscal years 1998 through 2003, with a limitation of $500,000 per year for grant activities under new subsection (g). As under ISTEA, it also provides contract authority for such funds.

Subsection (b). This paragraph makes a conforming amendment to 49 U.S.C. 5503 regarding the responsibility of the Bureau to establish an intermodal transportation data base. This requirement is clarified and incorporated into section 111 by the amendment contained in subsection (a)(5).

Sec. 6003. Research and Technology Program

This section revises 23 U.S.C. 307 as indicated below.

Preamble: Subsection (a)(1) is a new preamble defining the Secretary's general authority under the section to develop and administer programs for research, technology, and education.

Authority of the Secretary; In General: Subsection (a)(2)(A) grants authority to the Secretary to engage in research,

development, and technology transfer activities with respect to motor carrier transportation and all phases of highway planning and development. This is the same as current law at 23 U.S.C. §307(a)(1)(A), but renumbered.

Cooperation, Grants, and Contracts: Subsection (a)(2)(B) authorizes the Secretary to carry out the research and technology program independently or through cooperative agreements, grants, contracts, and other transactions. This is similar to current 23 U.S.C. §307(a)(1)(B).

Technical Innovation: Subsection (a)(2)(C) requires the Secretary to develop and administer programs to facilitate the application of the products of research and technical innovations to improve the safety, efficiency, and effectiveness of the highway system. This program may encompass products from all available sources, including the private sector and both the domestic and international communities.

Funds: Subsection (a)(2)(D) replaces the provision currently at 23 U.S.C. §307(a)(3)(A), expands it to include a ''use of funds'' clause that opens up use of funds for activities necessary to interact with, or deliver technology to, DOT customers and partners, and drops 23 U.S.C. §307(a)(3)(B), Minimum Expenditures on Long-Term Research Projects, which is covered under a separate section.

Collaborative Research and Development: Subsection (a)(3), currently 23 U.S.C. §307(a)(2), authorizes the Secretary to undertake and continue, on a cost-shared basis, collaborative research and development with non-Federal entities for the purposes of encouraging innovative solutions to highway problems and stimulating the marketing of new technology by private industry.

Mandatory Contents of Program: Proposed subsection (b) consolidates current law at 23 U.S.C. §307(b), dropping subsection (b)(2), SHRP Results, which is recaptured in a new section; dropping subsection (b)(4), Short Haul Passenger Transportation Systems, which required a report to Congress by January 15, 1993; and dropping (b)(5)(C) which required submission to Congress by July 1, 1992, a report with recommendations regarding the need for a construction equipment research and development program.

Sec. 6004. National Technology Deployment Initiatives

This new section establishes a National Technology Deployment Initiatives Program to significantly expand the adoption of innovative technologies by the surface transportation community in seven goal areas. Progress reports to the Congress are required at 18 and 48 months. More specifically:

Establishment: Subsection (a) directs the Secretary to develop and administer a National Technology Deployment Initiatives program to significantly expand the adoption of innovative technologies by the surface transportation community. Deployment Goals: Subsection (b) outlines the deployment goals of the program to be carried out under this subsection. For each of these goals, described in (1) through (7), the Secretary will work with representatives of the transportation community to develop strategies and initiatives to achieve the goal.

Reporting: Subsection (c) mandates reports to the House of Representatives and Senate on progress and results or activities carried out under this section not later than 18 months after enactment and then another at 48 months.

Funding: Subsection (d) directs the Secretary to expend from the Highway Trust Fund (other than the mass transit account) $56,000,000 per fiscal year for each of the fiscal years 1998, 1999, and 2000, and $84,000,000 for years 2001, 2002, and 2003. The Secretary is authorized to allocate the funds to States for their use.

Leveraging of Resources: Under subsection (e), the Secretary is directed to give preference to projects that leverage Federal funds against resources from other sources.

Contract Authority: Subsection (f) makes funds authorized by this subsection applicable for obligation in the same manner as if apportioned under chapter 1 of title 23, U.S.C.; except that the Federal share of the cost of any activity shall be determined in accordance with this section and such funds shall be available for obligation for a period of three years after the last day of the fiscal year for which such funds are authorized. Furthermore, the Secretary may waive application of any provision of title 23 that is a barrier to the use of new technology if he determines such waiver is not contrary to the public interest and will advance technical innovation. Any waiver shall be published in the Federal Register with reasons for such waiver.

Sec. 6005. Professional Capacity-Building and Technology Partnerships

This new section brings together technology transfer programs and activities, including education and training efforts, that focus on equipping people to use new technologies. Private agencies, international and foreign entities, and individuals shall pay the full cost of any such training, education, technical assistance, or other support provided through these programs and activities in accordance with this section.

Local Technical Assistance Program: Subsection (a) provides significant changes to this program. First, contractors working for local and tribal governments are specifically called out as customers of the program. Then the number of tribal centers is changed from 2 to 4 to better reflect the number of centers able to benefit from this program. The major change is in funding. The new proposed amount is $12,000,000 for each of fiscal years 1998 through 2003 from the Highway Trust Fund.

Local Technical Assistance Program: This section authorizes the Secretary to carry out a transportation assistance program to provide modern highway technology to highway and transportation agencies in urbanized areas with populations between 50,000 and 1,000,000 and in rural areas, and to the contractors doing work for them. This is similar to current law at 23 U.S.C. §326(a), but adds contractors.

Grants, Cooperative Agreements, and Contracts: Subsection (a)(2) allows the Secretary to make grants and enter into cooperative agreements and contracts for education and training. This is similar to current law at 23 U.S.C. §326(b), and provides the option for cooperative agreements.

Subsection (a)(2)(A) defines the training grants, cooperative agreements, and contracts allowed as those that assist rural local transportation agencies and tribal governments, and the consultants and construction personnel working for them, to develop and expand their expertise in specific areas. This is similar to current law at 23 U.S.C. §326(b)(1), but adds an option for training in intergovernmental transportation planning and project selection, in place of development of a tourism or recreational travel program, which has been completed. This provision also adds reference to the consultants and construction personnel employed by local agencies.

Subsection (a)(2)(C) allows grants, cooperative agreements, and contracts that will operate, in cooperation with State transportation agencies and universities (i) technical assistance program centers to provide technology transfer to rural areas and urban areas of more than 50,000 people, and (ii) not fewer than four centers designated to provide transportation technology assistance to American Indian tribal governments. This is similar to current law at 23 U.S.C. §326, but specifies grants, agreements, and contracts that will operate, rather than establish, the centers that are described in (i) and (ii).

Subsection (a)(2)(D) allows grants, cooperative agreements, and contracts with local transportation agencies and tribal governments and the private sector to enhance new technology implementation.

Funding: Under subsection (a)(3), the sum of $12,000,000 per fiscal year is authorized from the Highway Trust Fund to provide funding for the program and for technical and financial support to the technology transfer centers. This is similar to current law at 23 U.S.C. §326(c), but raises the funding level to $12,000,000 per fiscal year of the period of authorization and directs the funds to be deducted from the Highway Trust Fund.

Contract Authority: Subsection (a)(4) is new and defines the applicability of title 23 to these funds, thereby providing contract authority.

National Highway Institute: Section (b) codifies current 23 U.S.C. §321 as a separate section, with several changes. The basic change raises the set-aside for State training programs from 1/16 to¼ of 1 percent. Fees may still be collected from States, but are not required.

Subsection (b)(1)(A) and (B) describe the establishment, duties, and programs of the NHI. This is the same as current law, except that subsection (b)(1)(B) expands current law to acknowledge that the Institute's programs with industry are growing, and that the Institute administers education, as well as training programs.

Set-Aside; Federal Share: Subsection (b)(2) directs that not more than¼ of 1 percent of all funds apportioned to a State under 104(b)(3) for the surface transpor-

tation program shall be available for the State transportation agencies' payment for up to 80 percent of the cost of their employees' educational expenses. This is similar to current law at 23 U.S.C. §321(b), but raises the percentage of set-aside funds from 1/16 of 1 percent.

Federal Responsibility: Subsection (b)(3) permits education and training of Federal, State, and local highway employees be provided (A) by the Secretary at no cost; or (B) by the State through grants, cooperative agreements, and contracts; except that private agencies, international entities, and individuals shall pay the full cost of education and training unless the Secretary determines a lower cost to be in the best interest of the United States. This is similar to current law, but subsection (b)(3)(A) is expanded to apply to all training the current provision that training in ''those subject areas which are a Federal Programs Responsibility'' may be provided without charge to States and local government. Subsection (b)(3)(B) allows education and training to be paid by the State through cooperative agreements, in addition to grants and contracts, and adds international entities to those that must pay the full cost of education and training. An added clause allows the Secretary to reduce charges to private agencies, international entities, or individuals when in the U.S. interest to do so. The Secretary shall use this authority very sparingly, and any reduction in costs should be done only upon strong justification that such reduction is in the national interest, such as in conjunction with NAFTA.

Training Fellowships; Cooperation: Subsection (b)(4) authorizes the Institute to engage in all phases of contract authority, including the granting of training fellowships, independently or in cooperation with other entities. This is the same as current law at 23 U.S.C. §321(d).

Collection of Fees: Subsection (b)(5)(A) through (C) describes the Institutes collection of fees, including limitations, persons subject to fees, and the amount of fees allowed. This is the same as current law at 23 U.S.C. §321(e).

Funds: Subsection (b)(6) authorizes funds to support the NHI from the Highway Trust Fund in the amount of $8,000,000 for each of fiscal years 1998 through 2000, and $14,000,000 for each of fiscal years 2001, 2002, and 2003.

Contract Authority: Subsection (b)(7) defines the applicability of title 23 to funds, providing contract authority for this program. This is a revision of current law.

Contracts: Under subsection (b)(8), the provision of section 3709 of the Revised Statutes shall not be applicable to contracts or agreements made under this section. This is similar to current law at 23 U.S.C. §321(g).

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Subsection (c) law is currently at 23 U.S.C. §307(a)(1)(C)(ii).

General Authority: Subsection (c)(1) allows the Secretary to make grants for research fellowships for any purpose for which research, technology, or capacity building is authorized by this section. This is the same as current law, but adds references to technology and capacity building.

Subsection (c)(2) provides for the implementation of the Eisenhower Transportation fellowship for the purpose of attracting qualified students to the field of transportation. Further, fellowships are to be offered at the junior through postdoctoral levels of college education, and recipients must be U.S. citizens. This is similar to current law, but provides for the implementation of the fellowship, rather than establishment and implementation. The program's purpose is to attract students to the general field of transportation, rather than specifically attracting transportation engineering and research students. Reference to proposed funding level has been cut, and students eligible for the fellowships have been defined as those U.S. citizens in their junior through postdoctoral levels of college.

Funding: Subsection (c) also authorizes $2,000,000 from the Highway Trust Fund for each of fiscal years 1998 through 2003, and provides contract authority for such program.

TECHNOLOGY IMPLEMENTATION PARTNERSHIPS

This provision sets forth, as a separate subsection, language that is similar to 23 U.S.C. §307(b)(2) that essentially provides for continued support of efforts to implement the products of the Strategic Highway Research Program and to begin to address the new technical innovations coming out of the Long-Term Pavement Performance program.

Authority: Subsection (d)(1) directs the Secretary to continue close partnerships established through the Strategic Highway Research Program and administer a program to move technology and innovation into common practice.

Subsection (d)(2)(A) through (D) authorizes the Secretary to make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to bring about technical change in high-payoff areas through defined approaches.

Funding: Subsection (d) also authorizes $11,000,000 per fiscal year out of the Highway Trust Fund for each of fiscal years 1998 through 2003 to carry out this section.

Sec. 6006. Long-Term Pavement Performance and Advanced Research

This section sets forth a new, revised section continuing and revising the Long Term Pavement Performance (LTPP) program currently codified at 23 U.S.C. §307(b)(3), and establishes a new Advanced Research program.

Authority: Subsection (a)(1) directs the Secretary to continue the LTPP, now at the mid-point of its 20-year schedule, to completion.

Grants, Cooperative Agreements, and Contracts: Subsection (a)(2) identifies elements of the program for which procurement arrangements may be initiated.

Funding: Subsection (a)(3) and (4) provide for funding the program from the Highway Trust Fund at $15,000,000 each of fiscal years 1998 through 2003.

Advanced Research; Authority: Subsection (b)(1) requires the Secretary to establish a program to address longer-term, higher-risk research.

Subsection (b)(2) identifies, but does not limit, areas for advanced research.

Funding: Subsection (b)(3) funds the program at $10,000,000 for each of fiscal years 1998 through 2000, and $20,000,000 for each of fiscal years 2001 through 2003, from the Highway Trust Fund.

Sec. 6007. State Planning and Research Program (SP&R)

This section sets forth a new section in title 23, which incorporates, with revisions, subsection 307(c) of title 23, United States Code.

Subsection (a)(1) defines the general rule, which directs that 2 percent of the funds apportioned for the National Highway System, congestion management and air quality improvement program, surface transportation program, Interstate reimbursement, Interstate maintenance, and highway bridge replacement and rehabilitation programs for each fiscal year of the period of authorization be available for expenditure by the State transportation agency for specified purposes. Language has been added to correct an oversight in ISTEA that resulted in SP&R funds not being set aside from the Interstate reimbursement program which replaced the Interstate construction program from which SPR funds were previously set aside.

Subsection (a)(1) of this section makes SP&R funding available for engineering and economic surveys, same as current law.

Subsection (a)(2) makes SP&R funding available for metropolitan, statewide and non-metropolitan planning, including planning for highway, public transportation, and intermodal transportation systems. It revises current law by adding metropolitan and non-metropolitan planning, which is a technical change because these funds are currently eligible for planning and research for these areas.

Subsection (a)(3) makes SP&R funding available for development and implementation of management systems, similar to current law, with added reference to section 303 of title 23 where the management systems are described.

Subsection (a)(4) makes SP&R funding available for studies of the economy, safety, and convenience of highway, public transportation, and intermodal transportation usage, same as current law.

Subsection (a)(5) makes SP&R funding available for necessary studies, research, development, and technology transfer activities. It is similar to existing law, with revisions to clarify that States may use SP&R funds to support training on engineering standards and construction materials, including evaluation and accreditation of inspection and testing of engineering standards and construction materials.

Subsection (b) requires minimum expenditures on research, development, and technology transfer activities of not less than 25 percent of the apportioned funds, unless the State certifies otherwise to the Secretary and the Secretary accepts such certification. It also includes an exemption for SP&R research funds from the assessment under the

Small Business Research and Development Act (Public Law 102–564).

Subsection (c) requires that the Federal share shall be 80 percent with discretion for the Secretary to adjust the non-Federal share if it is in the interests of the Federal-aid highway program, same as existing law.

Subsection (d) requires that, while the SP&R funds are derived from those program apportionments to each State specified in subsection (a)(1), the Secretary shall combine and administer the funds as single fund.

Sec. 6008. Use of BIA Administrative Funds

This section corrects a section reference.

PART B—INTELLIGENT TRANSPORTATION SYSTEMS ACT OF 1997

Sections 6051–6058 replace the sections 6051–6059 of Title VI, Part B of the Intermodal Surface Transportation Efficiency Act of 1991 (''ITS Act of 1991''), Public Law 102–240. Reference is made to provisions of these sections which are being retained, modified, or deleted.

Section 6051. Short title and Preamble

Subsection 6051(b) designates the name of title VI as the Intelligent Transportation systems Act of 1997 (ITS Act).

Subsection 6051(b) sets forth the purpose of the ITS Act of 1997: to provide for accelerated deployment of proven technologies and concepts and increased Federal commitment to improving surface transportation safety.

Section 6052. Definitions: Conforming Amendment

Consistent with new program directions, the definitions in section 6058 of the ITS Act of 1991 are continued and expanded to add the following newly-defined terms: Intelligent Transportation Infrastructure, National Architecture, NHS (National Highway System), National Program Plan, CVO (Commercial Vehicle Operations), CVISN (Commercial Vehicle Information Systems and Networks), ARTS (Advanced Rural Transportation Systems), and ITS Collision Avoidance Systems. This section also amends ISTEA to strike part B of title VI.

Section 6053. Scope of Program

Subsection 6053(a) in part extends the expiring provisions of the ITS Act of 1991 with respect to research, development and operational testing of intelligent transportation systems (ITS), and in part adds a new focus on deployment.

Subsection 6053(b) restates and updates the goals and related authorities of the ITS Act of 1991. The changes make explicit the existing authorities in titles 23 and 49 of the United States Code under which broad ITS program goals, including research and provision of technical and financial assistance, may be undertaken as part of the general programs. The subsection restates program goals to reflect current priorities, including optimizing existing facilities to meet future transportation needs, emphasizing safety, improving the economic efficiency of surface transportation systems, improving public accessibility to goods and services, and developing standards and protocols.

Section 6054. General Authorities and Requirements

Subsection 6054(a) modifies the provisions of the ITS Act of 1991 which seeks to foster cooperation between State and local governments and the private sector by increasing the emphasis on the widespread deployment of intelligent transportation systems (ITS), while continuing Federal leadership in research and technical assistance. A reference to involving Historically Black Colleges and Universities and other Minority Institutions of Higher Education in work undertaken by the program is added.

Subsection 6054(b) restates and extends the ITS Act of 1991 by directing the Secretary not only to continue to develop and implement national standards and protocols but also to act to secure permanent spectrum allocation for Dedicated Short Range Communications, recognizing the importance of ensuring availability of a common vehicle-to-wayside wireless communications capability for ITS applications.

Subsection 6054(c) directs the Secretary to provide independent and objective evaluation of field and related operational tests in order to ensure credible results and avoid actual or apparent conflicts-of-interest.

Subsections 6054(d) and 6054(e) continue the provisions of the ITS Act of 1991 as they relate to the Information Clearinghouse and Advisory Committees.

Subsection 6054(f) is added to make explicit the authority of States and eligible local entities to utilize funds authorized under certain existing sections of titles 23 and 49 of the United States Code to carry out implementation, modernization and operational activities involving intelligent transportation infrastructure and systems as mainstream program activities.

Subsection 6054(g) is added to require conformity with the National Architecture and ITS-related standards and protocols. It is envisioned that the Secretary will establish on an annual basis which standards and protocols are required to be used. This subsection also provides an exception from this requirement for DOT-sponsored research project, to enable the Department to explore and test a wide range of activities, including non-conforming approaches.

Subsection 6054(h) seeks to assure that flexibility provided under NEXTEA to allow Federal-aid funding of operations and maintenance costs for ITS projects is effectively used by requiring life-cycle cost analyses when Federal funds are to be used to reimburse operations and maintenance costs and the estimated initial cost of the project to public authorities exceeds $3,000,000.

Subsection 6054(i) directs the Secretary to develop guidance and technical assistance on appropriate procurement methods for ITS projects, including innovative and non-traditional methods.

Section 6055. ITS National Program Plan, Implementation and Report to Congress

Subsection 6055(a) mandates the updating of the ITS National Program Plan on an as-needed basis, and details the scope of the Plan, which reflects a new focus on deployment and monitoring, development of standards, and achieving desired surface transportation system performance levels.

Subsection 6055(b) provides for accelerated development and operational testing, in cooperation with industry, of demonstration advanced vehicle control systems and, in particular, for equipping one or more fleets for field evaluations of safety benefits and user acceptance by 2002.

Subsection 6055(c) requires an implementation report on the National Program Plan no later than one year after the date of the enactment of the ITS Act of 1997 and biennially thereafter. Two reports on the Nontechnical Constraints to the deployment of intelligent transportation systems called for by the ITS Act of 1991 have been completed and future updates can be incorporated as part of the National Program Plan Report, therefore separate reports on these issues are discontinued.

Section 6056. Technical, Training, Planning, Research and Operational Testing Project Assistance

Subsection 6056(a) permits the Secretary to provide technical assistance, including training, to state and local government agencies interested in effectively considering, planning, implementing, operating, and maintaining ITS technologies and services. Technical assistance may include guidance on incorporating ITS into Statewide and metropolitan area transportation plans, revising State and local laws and ordinances to enable ITS services, use of innovative financing and acquisition strategies, and a wide range of other activities designed to assist State and local government agencies to effectively deploy ITS in an integrated, interoperable fashion.

Subsection 6056(b) authorizes the Secretary to provide financial assistance and technical support for planning and consideration of metropolitan and statewide ITS operations and management issues.

Subsection 6056(c) continues eligibility of commercial vehicle regulatory agencies, traffic management entities, independent authorities, and other entities contracted by a State or local agency for ITS project work, to receive Federal assistance under this part.

Subsection 6056(d) ties operational testing to specific national research objectives and authorizes the Secretary to provide funding to Federal agencies as well as to non-Federal entities, including HBCU's and other Minority Institutions of Higher Education. The Secretary is to provide highest priority to projects that (A) contribute to the goals of the National Program Plan under Sec. 6055, (B) will minimize the relative percentage and total amount of Federal contributions, (C) conform to the National Architecture and ITS standards and protocols, (D) emphasize collision avoidance products, (E) demonstrate innovative public-private partnering arrangements, and (F) validate the effectiveness of ITS in enhancing the safety and efficiency of surface transportation in both rural and metropolitan areas.

Section 6057. Applications of Technology

Subsection 6057(a) discontinues the designated IVHS Corridors Program and replaces it with one-time, limited-term ITI Deployment Incentives to promote deployment of integrated, multi-modal transportation systems throughout the Nation. Currently designated Priority Corridors are eligible for the Deployment Incentives Program. In metropolitan areas, the funding provided under this section would be used primarily to fund activities designed to integrate existing intelligent transportation infrastructure elements or those installed with other sources of funds, including Federal-aid funds. For commercial vehicle projects and projects outside metropolitan areas, funding provided under this section could be used to also install, as well as integrate, intelligent transportation infrastructure elements.

Subsection 6057(b) establishes priorities for funding projects under this section. At least 25 percent of the funds made available are to be allocated for implementation of border crossing applications and commercial vehicle information systems; and at least 10% is to be made available for ITI deployment outside metropolitan areas. Projects are to accelerate deployment and commercialization of ITS, realize the benefits of regionally integrated, intermodal applications, including commercial vehicle operations and electronic border crossing applications, and demonstrate innovative approaches to overcoming nontechnical constraints.

Subsection 6057(c) mandates that projects designated for funding under this section shall (1) contribute to national goals outlined in the ITS National Program Plan, (2) demonstrate through written agreements a commitment to cooperation among public agencies, multiple jurisdictions and the private sector, (3) demonstrate commitment to a comprehensive plan of fully integrated ITS deployment in accordance with the national ITS architecture and established ITS standards and protocols, (4) be part of approved

State and metropolitan plans for transportation and air quality implementation, (5) catalyze private investment and minimize Federal contributions under this section, (6) include a sound financial plan for continued long-term operations and maintenance, without continued reliance on Federal ITS funds, and (7) demonstrate the capability or planned acquisition of capability to effectively operate and maintain the systems implemented.

Subsection 6057(d) establishes annual award funding limitations as follows: $15 million per metropolitan area; $2 million per rural project; $5 million per CVISN project; and no more than $35 million within any State.

Section 6058. Funding

The requirement for reports in section 6058 of the ITS Act of 1991 has been fulfilled and is not extended.

Section 6058 authorizes funding and provides under contract authority for fiscal years 1998 through 2003:

(1) subsection 6058(a), for the ITI Deployment Incentives Program, $100 million per year from the Highway Trust Fund for fiscal years 1998–2003;

(2) subsection 6058(b) for ITS Research and Program Support Activities - $96 million per year from the Highway Trust Fund for fiscal years 1998–2000, $130 million per year thereafter.

Of the funds made available for Research and Program Support Activities, the Secretary should use $25 million for purposes of 6055(b) (demonstration and evaluation of intelligent vehicle systems).

These replace the requirements of the ITS Act of 1991 under which 5 percent of the funds were to be available only for high-risk innovative tests with significant potential to accomplished long-term goals, which did not attract substantial non-Federal commitments.

Subsection 6058(c) continues the limitation in the ITS Act of 1991 that the Federal share on account of activities carried out under this part shall not exceed 80 percent of the cost of the activities, except that the Secretary may waive this limit for innovative activities under subsection 6058(b). In addition, the Federal share payable under the new Deployment Incentives Program in subsection 6058(a) is limited to 50 percent of the project cost, although the matching funds can include funds from other Federal sources. Subsection 6058(c) also provides that, for long range research activities with private entities concerning the demonstration of integrated intelligent vehicle systems under subsection 6055(b) of this part, the Federal share is limited to 50 percent of project costs.

Subsection 6058(d) extends an expiring provision of the ITS Act of 1991 confirming applicability of title 23 to funds authorized under this part, and providing that the funds authorized under this part shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which such funds were authorized.

TITLE VII—REVENUE

Sec. 7001. Short Title: Amendment of 1986 Code

This section designates this title as the Surface Transportation Revenue Act of 1997 and provides that references in this title to a section or other provision are references to the Internal Revenue Code of 1986 (title 26, United States Code).

Sec. 7002. Extension of Highway Related Use Taxes, Exemptions, and Trust Fund

This section provides a 6-year extension, through September 30, 2005, of Highway Trust Fund fuel taxes at their current rates: 18.3 cents per gallon for gasoline and special fuel and 24.3 cents per gallon for diesel fuel. Truck related taxes—heavy vehicle use tax, truck tire tax, and retail tax on heavy trucks and trailers are also extended at their current rates.

All existing refunds and exemption provisions are extended through September 30, 2005. These include reduced rates for intercity bus fuel, gasohol, and other alcohol fuels. The exemption provision for gasohol and other alcohol fuels were extended so that their expiration dates would conform with all other fuel tax provisions. Note that most refund or exemption provisions such as farm gasoline, off-road business gasoline, nonhighway diesel fuel, transit use, and State and local government use have no expiration dates and do not require extension.

Authority for the transfer from the general fund to the Highway Trust Fund of amounts equivalent to the Highway Trust Fund share of the highway fuel and truck taxes is extended through September 30, 2005. Amounts equivalent to tax liabilities incurred before October 1, 2005, may be transferred into the Trust Fund through June 30, 2006.

Authorization to expend funds from the Highway Trust Fund for to meet obligations incurred authorized in National Economic Crossroads Transportation Efficiency Act of 1997 or earlier highway authorization acts is extended through September 30, 2003.

The provision for charging the Highway Trust Fund for its share of fuel tax refunds and credits and for all truck tax refunds and credits is extended through June 30, 2006.

Transfers of receipts from motorboat fuel taxes to the Aquatic Resources Trust Fund and the Land and Water Conservation Fund are extended through September 30, 2003.

Subsection (c) of this section amends the Internal Revenue Code to eliminate section 9511, which establishes the National Recreational Trails Trust Fund. While section 9511 was enacted in 1991, no funds have ever been credited to this fund. Therefore this legislation has been stricken as unnecessary.

Subsection (d) addresses the use of motorboat fuel taxes transferred from the Highway Trust Fund to the Boat Safety Account (BSA) in the Aquatic Resources Trust Fund, which provides funds for the State Recreational Boating Safety grant program administered by the Coast Guard. The statutory authority for making expenditures from the BSA, which expires March 31, 1998, is extended to October 1, 2004.

For fiscal year 1998, the amount that would be transferred into the BSA is $35,000,000. This assumes that $20,000,000 will be furnished under the Clean Vessel Act for Fiscal Year 1998, for a total of $55,000,000. Thereafter, the amount of motorboat fuel taxes transferred to the BSA would be $55,000,000, annually.

Under the legislation, the entire amount transferred would be available for expenditure to carry out the State Recreational Boating Safety grant program. Permanent budget authority is provided, so that the amounts transferred each year are available without further appropriation.

Currently, one-half of the amount transferred each year to the Boat Safety Account is available for expenditures of the Coast Guard for recreational boating safety services. The conforming amendment would strike this distribution formula.

Subsection (e) makes a necessary technical amendment of section 4041(a)(1)(D)(i) to preserve the existing 1999 expiration date for motorboat diesel fuel taxes. Without this amendment, the changes made to extend highway taxes in section 4081 of the Code would, due to a cross-reference, inadvertently extend the motorboat diesel fuel tax as well.

Sec. 7003. Commuter Benefit

26 U.S.C. section 132(f) exempts up to $165 per month for parking and up to $65 per month for transit benefits or commercial vanpool services from Federal and most State income and payroll taxes, provided the employer offers only these benefits and nothing else, such as taxable cash salary, in lieu of the benefit. To qualify for the exemption, parking must be provided by the employer, either accepted or not by the employee, with no other options, including any taxable options. This amendment would limit the choice to parking or other taxable compensation.

Sec. 7004. Mass Transit Account

Section 7004 would amend 26 U.S.C. section 9503(e) to extend the Mass Transit Account through September 30, 2003, and to permit funding of all eligible purposes under the Federal Transit assistance program, not just capital projects, to receive funding from the Mass Transit Account. In addition, it would change the test of Mass Transit Account liquidity to the same test as is applied to the Highway Account. At present the Mass Transit Account must meet a more stringent test.

Sec. 7005. Motor Vehicle Safety and Cost Savings Programs

This section provides for Highway Trust Fund expenditures for qualified projects and for motor vehicle safety and cost savings programs.

Sec. 7006. General Fund Transfers for Transportation-Related Programs in Fiscal Years 1998–2003

This section sets forth directions to the Secretary of the Treasury to transfer amounts from the Highway Trust Fund (other than the Mass Transit Account) to the general fund as reimbursement for annual appropriations made for selected transportation-related programs. The amount transfered each year would equal the amount that Congress appropriates for the listed accounts (transportation-related portion only). The programs involved are: Department of Energy, ''Energy Conservation'' account; Department of the Interior, U.S. Park Service, ''Construction'' account; Department of the Interior, Bureau of Indian Affairs, ''Construction'' account; Department of Agriculture, U.S. Forest Service, ''Reconstruction and Construction'' account, Department of Agriculture, U.S. Forest Service, ''National Forest System'' account; Department of Housing and Urban Development, ''Community Development Block Grant''; Environmental Protection Agency, ''Environmental Programs and Management'' account; Appalachian Regional Commission, ''Appalachian Regional Commission'' account; and costs associated with the procurement of Federal Alternative Fuels Acquisition.

The consolidated annual amounts sought by the President's FY 1998 Budget Request for transportation-related portions of these programs are: FY98—$646 million; FY99—$583 million; FY00—$583 million; FY01—$467 million; FY02—$467 million; FY03—$467 million.

TITLE VIII—RAIL PASSENGER PROGRAMS

Sec. 8001. Authorization of Appropriations

This section revises section 24104 of the title 49, United States Code, which authorizes appropriations to support the various activities undertaken by Amtrak. Subsection (a) authorizes appropriations for Amtrak's operating grants for fiscal years 1998 through 2003 which will be derived from the Highway Trust Fund (other than from the Mass Transit Account). These authorizations reflect decreasing Federal financial support for Amtrak's operating expenses. After 2001, the operating grant would no longer be available to offset Amtrak's operating losses

other than for certain payments into the railroad retirement and railroad unemployment trust fund.

Subsection (b) authorizes appropriations for Amtrak's capital programs (including the Northeast Corridor Improvement Project) in the amount of $423,450,000 for each of the fiscal years 1998 through 2003. Capital grant funds would also be derived from the Highway Trust Fund (other than the Mass Transit Account). Sufficient capital funding is a key component of Amtrak's program to eliminate its dependence on Federal operating subsidies after fiscal year 2001.

Subsection (c) contains a new authorization for supplemental capital funding which represents additional capital funding that would be made available to Amtrak through the Secretary if the Secretary determines that Amtrak is managing the corporation so as to operate within available resources, including revenues, state, local and private sector contributions, and Federal operating subsidies (in the years for which a Federal operating subsidy is authorized). The purpose of this program is to provide a strong incentive for Amtrak to take the necessary actions to reduce spending, increase revenues and operate in the most efficient and effective manner. Amtrak could use the supplemental capital funding to continue to make improvements in the capital plant. The availability of the supplemental capital funding would be tied to two specific tests. For the first year of the program, fiscal year 1999, the funding would become available only if the Secretary determined that Amtrak has taken specific and measurable actions to reduce expenses and increase revenues consistent with a plan to achieve the operating subsidy reductions contemplated by the authorizations for operating expenses included in subsection (a) above. For fiscal years 2000–2003, the test would involve a determination, based upon a report from Amtrak's independent auditor, that during the penultimate fiscal year, Amtrak's revenues plus the amount of operating assistance authorized for that year equals or exceeds Amtrak's operating expenses for that year. Therefore, the test of whether Amtrak receives the funds in fiscal year 2000 would be based upon its performance in fiscal year 1998. This two year lag is made necessary because of the cycle of the appropriations process. Fiscal year 1998 would be the last year for which complete financial records are available during the consideration of the fiscal year 2000 budget request by the President and the Congress.

Subsection (d) provides an avenue for determining the appropriate expenditures that are included within the definition of capital investment. With the exception of the inclusion of specific statutory authority to use capital funds to cover debt service associated with long-term capital investments, the terms ''operating expenses'' and ''capital investments'' are to be defined and applied by Amtrak and the Secretary in a manner consistent with the traditional practices of the railroad industry as provided for in the findings of the Financial Accounting Standards Board.

Subsection (e) provides contract authority for the Amtrak operating, railroad retirement/unemployment payments, capital investment, and supplemental capital investment accounts by specifically providing that the approval by the Secretary of a grant or contract with funds made available for Amtrak is to be deemed a contractual obligation of the United States.

Subsection (f) provides that appropriated amounts remain available until expended.

Subsection (g) states that funds provided to Amtrak for intercity rail passenger service may not be used to fund operating losses for rail freight services or commuter rail services.

Mr. MOYNIHAN. Mr. President, I rise with my colleague from Rhode Island, Mr. CHAFEE, to introduce the Clinton administration's legislation to re-authorize the Intermodal Surface Transportation Efficiency Act of 1991, or ISTEA.

I applaud the administration's proposal as a sincere effort to reauthorize ISTEA under the principles of intermodalism, environmental protection, sound community planning, and safety, that have made this innovative transportation act work so well these past 6 years. I do not agree with all of the details of administration plan—the formulas used to distribute funds to each State based on the Federal fuel taxes collected in that State are an unfortunate departure from the need-based formulas in all other Federal programs. The President's proposal, however, preserves the basic ISTEA framework and represents a good starting point as we begin considering the reauthorization of ISTEA.

I also intend to join with a bipartisan group of colleagues later this month to introduce our own proposal to re-authorize ISTEA. This proposal would reauthorize the key provisions of ISTEA—which was crafted to promote intermodal, economically efficient, and environmentally sound incentives in Federal transportation policy—through more fully needs-based formulas.

ISTEA has worked, and its reauthorization will be more important for the economy than any other transportation bill since the Federal-Aid Highway Act of 1956. Our goal should be now to make a good law better.

By Mr. KERRY (for himself and Mr. KENNEDY):

S. 469. A bill to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic River System; to the Committee on Energy and Natural Resources.

SUDBURY, ASSABET, AND CONCORD WILD AND SCENIC RIVERS ACT

Mr. KERRY. Mr. President, I am pleased to join with the senior Senator from Massachusetts, Senator KENNEDY, in introducing the Sudbury, Assabet and Concord [SuAsCo] Wild and Scenic Rivers Act. Congressman MARTY MEEHAN will introduce the companion bill today in the House. His bill will be cosponsored by the entire Massachusetts delegation as well as colleagues from New Hampshire and Connecticut.

The Sudbury, Assabet, and Concord Rivers area is rich in history and literary significance. It has been the location of many historical events, most notably the Battle of Concord in the Revolutionary War, that gave our great Nation its independence. The Concord River flows under the North Bridge in Concord, MA where, on April 18, 1775, colonial farmers fired the legendary ''shot heard around the world'' which signaled the start of the Revolutionary War.

In later years, this scenic area was also home to many of our literary heroes including Ralph Waldo Emerson, Henry David Thoreau, and Louisa May Alcott; their writing often focused on these bucolic rivers. Thoreau spent most of his life in Concord, MA where he passed his days immersed in his writing and enjoying the natural surroundings. He spoke of the Concord River when he wrote ''the wild river valley and the woods were bathed in so pure and bright a light as would have waked the dead, if they had been slumbering in their graves, as some suppose. There needs no strong proof of immortality.'' This area was held close to many an author's heart. It was a place of relaxation and inspiration for many.

The SuAsCo bill would amend the Wild and Scenic Rivers Act to include a 29-mile segment of the Assabet, Concord, and Sudbury Rivers. Based on a report authorized by Congress in 1990 and issued by the National Park Service in 1995, these river segments were determined worthy of inclusion in the Wild and Scenic Rivers Program. In its report, the SuAsCo Wild and Scenic Study Committee showed that this area has not only the necessary scenic, recreational and ecological value, but also the historical and literary value to merit the wild and scenic river designation. All eight communities in the area traversed by these river segments are supporting this important legislation.

Our legislation is of minimal cost to the Federal Government, but by using limited Federal resources we can leverage significant local and State effort. Provisions in the bill limit the Federal Government's contribution to just $100,000 annually, with no more than a 50 percent share of any given activity. This is a concept that merits the support of Congress. Should our bill become law, the SuAsCo River Stewardship Council, in cooperation with Federal, State, and local governments would manage the land.

We now have the opportunity to protect the precious 29-mile section of the Assabet, Sudbury, and Concord Rivers. This area is not only rich in ecological value but also in historical and literary value. I urge my colleagues to support this bill and through it to preserve this wild river valley for the enjoyment and instruction of all who live and work there, for visitors from throughout the Nation and, perhaps most importantly, for generations yet to come.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator KERRY today in sponsoring legislation to designate a 29-mile segment of the Sudbury, Assabet, and Concord Rivers in Massachusetts as a component of the National Wild and Scenic Rivers System. This proposal has the bipartisan support of the full Massachusetts congressional delegation—Congressmen MARTIN T. MEEHAN, JOHN F. TIERNEY, EDWARD J. MARKEY, J. JOSEPH MOAKLEY, JOSEPH P. KENNEDY II, WILLIAM D. DELAHUNT, RICHARD E. NEAL, JAMES P. MCGOVERN, BARNEY FRANK, and JOHN

W. OLVER—as well as Representatives CHRISTOPHER SHAYS and NANCY L. JOHNSON of Connecticut and CHARLES F. BASS and JOHN E. SUNUNU of New Hampshire, who are introducing an identical bill in the House of Representatives today.

The Sudbury, Assabet, and Concord Rivers have witnessed many important events in the Nation's history. Stone's Bridge and Four Arched Bridge over the Sudbury River date from pre-Revolutionary War days. On Old North Bridge over the Concord River, the ''shot heard 'round the world'' was fired on April 19, 1775, to begin the Revolutionary War. At Lexington and Concord, the colonists began their armed resistance against British rule, and the first American Revolutionary War soldiers fell in battle.

In the nineteenth century, the Sudbury, Assabet, and Concord Rivers earned their lasting fame in the works of Ralph Waldo Emerson, Nathaniel Hawthorne, and Henry David Thoreau, all of whom lived in this area and spent a great deal of time on the rivers. Emerson cherished the Concord River as a place to leave ''the world of villages and personalities behind, and pass into a delicate realm of sunset and moonlight.''

Hawthorne wrote ''The Scarlet Letter'' and ''Mosses from an Old Manse'' in an upstairs study overlooking the Concord River. He also enjoyed boating on the Assabet River, of which he said that ''a more lovely stream than this, for a mile above its junction with the Concord, has never flowed on Earth.''

Thoreau delighted in long, solitary walks along the banks of the rivers amidst the ''straggling pines, shrub oaks, grape vines, ivy, bats, fireflies, and alders,'' contemplating humanity's relationship to nature. His journals describing his detailed observations of the flora and fauna in the area have inspired poets and naturalists to the present day, and helped to give birth to the modern environmental movement. By protecting the rivers, a future Thoreau, Emerson, or Hawthorne may one day walk along their shores and gain new inspiration from these priceless natural resources.

In 1990, Congress authorized the National Park Service to issue a report to determine whether the three rivers are eligible for designation as wild and scenic rivers. Under the National Park Service's guidelines, a river is considered eligible for the designation if it possesses at least one ''outstanding remarkable resource value.'' In fact, the three rivers were found to possess five outstanding resource values—scenic, recreational, ecological, historical, and literary. The report also concluded that the rivers are suitable for designation based upon the existing local protection of their resources and the strong local support for their preservation.

Our bill will protect a 29-mile segment of the Sudbury, Assabet, and Concord Rivers that runs through or along the borders of eight Massachusetts towns—Framingham, Sudbury, Wayland, Concord, Lincoln, Bedford, Carlisle, and Billerica. A River Stewardship Council will be established to coordinate the effort of all levels of government to strengthen protections for the river and address future threats to the environment. The legislation also requires at least a one-to-one non-Federal match for any Federal expenditures, and contains provisions which preclude Federal takings of private lands. It is designed not to result in any additional Federal regulatory burden to private property owners along the protected river segments.

Thoreau wrote in 1847 that rivers ''are the constant lure, when they flow by our doors, to distant enterprise and adventure* * * . They are the natural highways of all nations, not only levelling the ground and removing obstacles from the path of the traveller, but conducting him through the most interesting scenery.'' Standing on the banks of the Sudbury, Assabet, and Concord Rivers, as Thoreau often did, citizens today gain a greater sense of the ebb and flow of the Nation's history and enjoy the benefit of some of the most beautiful scenery in all of America. I urge my colleagues to support this legislation, so that these three proud rivers will be protected for the enjoyment and contemplation of future generations.

By Mr. ROTH (for himself and Mr. MOYNIHAN):

S. 470. A bill to amend the Internal Revenue Code of 1986 to make a technical correction relating to the depreciation on property used within an Indian reservation; to the Committee on Finance.

TECHNICAL CORRECTION LEGISLATION

Mr. ROTH. Mr. President, today I rise on behalf of Senator MOYNIHAN and myself to introduce a bill that would correct a technical error originally contained in the Omnibus Budget Reconciliation Act of 1993. Specifically, the bill would correct the definition of the term ''Indian reservation'' under section 168(j)(6) of the Internal Revenue Code. This definition of the term ''Indian reservation'' applies for purposes of determining the geographic areas within which businesses are eligible for special accelerated depreciation (sec. 168(j)) and the so-called Indian employment tax credit (sec. 45A) enacted in 1993. As I explain in further detail below, the bill corrects the definition of ''Indian reservation'' for purposes of these special tax incentives so that, as Congress originally intended, the incentives are available only to businesses that operate on Indian reservations and similar lands that continue to be held in trust for Indian tribes and their members. It is my intent to incorporate the provisions of this bill into a larger bill, which I plan to introduce later this session, containing technical corrections to other recently enacted tax legislation.

Section 168(j)(6) of the Internal Revenue Code provides that the term ''Indian reservation'' means a reservation as defined in either (a) section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d)), or (b) section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)). The cross-reference to section 3(d) of the Indian Financing Act of 1974 includes not only officially designated Indian reservations and public domain Indian allotments, but also all ''former Indian reservations in Oklahoma'' and all land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act. Thus, contrary to Congress' intent in enacting the special tax incentives for Indian lands in 1993, the reference to ''former Indian reservations in Oklahoma'' in the Indian Financing Act of 1974 results in most of the State of Oklahoma being eligible for the special tax incentives, even though parts of such ''former Indian reservations'' no longer have a significant nexus to any Indian tribe. For instance, it is my understanding that the entire city of Tulsa may be located within a ''former Indian reservation,'' such that any business operating in Tulsa qualifies for accelerated depreciation under present-law section 168(j). Providing such a tax benefit to commercial activities with no nexus to a tribal community would frustrate Congress' intent to target special tax incentives to official reservations and similar lands that continue to be held in trust for Indians. Businesses located on official reservations and similar lands held in trust for Indians were provided special business tax incentives in order to counter the disadvantages historically associated with conducting commercial operations in such areas, which were expressly excluded from eligibility as empowerment zones or enterprise communities under the 1993 act legislation (see Internal Revenue Code sec. 1393(a)(4)).

The bill I am introducing today would modify the definition of ''Indian reservation'' under section 168(j)(6) of the Internal Revenue Code by deleting the reference to section 3(d) of the Indian Financing Act of 1974. Consequently, the term ''Indian reservation'' would be defined under section 168(j)(6) solely by reference to section 4(10) of the Indian Child Welfare Act of 1978, which provides that the term ''reservation'' means ''Indian country as defined in section 1151 of Title 18 and any lands, not covered under [section 1151], title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by an Indian tribe or individual subject to a restriction by the United States against alienation'' (25 U.S.C. 1903(10)). Section 1151 of Title 18, in turn, defines the term ''Indian country'' as meaning ''(a) all land within the limits of any Indian reservation under the jurisdiction of the United

States Government, 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 the same'' (18 U.S.C. 1151).

Accordingly, amending section 168(j)(6) of the Internal Revenue Code to define the term ''Indian reservation'' solely by reference to the Indian Child Welfare Act of 1978 would carry out Congress' original intent in enacting the special Indian tax incentives in 1993 by eliminating from eligibility those areas in Oklahoma which formerly were reservations but no longer satisfy the definition of a ''reservation'' under the Indian Child Welfare Act of 1978. It is my understanding that, even after amending section 168(j)(6) in this manner, numerous areas within Oklahoma will remain eligible for the special tax incentives because, even though such areas are not officially designated reservations, such areas nonetheless qualify as ''Indian country'' under section 1151 of Title 18. Similarly, it is my understanding that lands held by Native groups under the provisions of the Alaska Native Claims Settlement Act also would qualify as ''Indian country″ under section 1151 of Title 18. Thus, if section 168(j)(6) were amended to define ''Indian reservation'' solely by reference to the Indian Child Welfare Act of 1978, lands held under the Alaska Native Claims Settlement Act would continue to be eligible for the special Indian tax incentives. In this regard, it is my intent that, if it is brought to the attention of the tax-writing committees that there are any Indian lands that technically do not fall within the definition of ''Indian reservation'' under the Indian Child Welfare Act of 1978 but which could be made eligible for the special Indian tax incentives consistent with Congress' intent in 1993, then consideration will be given to further modifying the bill I am introducing today when it is incorporated into a larger technical corrections bill.

The technical correction made by the bill would be effective as if it had been included in the Omnibus Budget Reconciliation Act of 1993 (that is, the technical correction would apply to property placed in service and wages paid on or after January 1, 1994). As a general matter, I oppose retroactive changes to the Internal Revenue Code. However, technical corrections to fix drafting errors in previously enacted tax legislation traditionally refer back to the original effective date to prevent taxpayers from receiving an unintended windfall. This bill corrects such a drafting error.

Mr. MOYNIHAN. Mr. President, I am pleased today to be introducing legislation with the chairman of the Committee on Finance, Senator ROTH, to correct an unintended item contained in the Omnibus Budget Reconciliation Act of 1993. I want to thank the chairman for his leadership on this issue and associate myself with his statement.

Mr. President, it recently came to our attention that Internal Revenue Code section 168(j), a provision intended to help attract private industry investment to Indian reservations and similar lands that continue to be held in trust for Indian tribes and their members is benefitting private investment on ''former Indian reservations'' having no current connection to any Indian tribe. As a result, we are introducing legislation today that would correct the definition of ''Indian reservation,'' under Internal Revenue Code section 168(j)(6), so that these tax incentives are available only for businesses operating on Indian reservations and similar lands.

Mr. President, it is important to note, as Chairman ROTH did, that we wish to take into consideration any Indian lands that may technically not fall within the definition of ''Indian reservation,'' under the Indian Child Welfare Act of 1978, but which should be made eligible for these special investment incentives. Such situations should be brought to the attention of the tax-writing committees, and we will then consider further modifications as the bill moves through the legislative process.

ADDITIONAL COSPONSORS

S. 61

At the request of Mr. LOTT, the names of the Senator from Virginia [Mr. WARNER], the Senator from Utah [Mr. BENNETT], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Montana [Mr. BURNS] were added as cosponsors 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. 70

At the request of Mrs. BOXER, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 70, a bill to apply the same quality and safety standards to domestically manufactured handguns that are currently applied to imported handguns.

S. 102

At the request of Mr. BREAUX, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 102, a bill to amend title XVIII of the Social Security Act to improve medicare treatment and education for beneficiaries with diabetes by providing coverage of diabetes outpatient self-management training services and uniform coverage of blood-testing strips for individuals with diabetes.

S. 153

At the request of Mr. MOYNIHAN, the name of the Senator from Arkansas [Mr. HUTCHINSON] was added as a cosponsor of S. 153, a bill to amend the Age Discrimination in Employment Act of 1967 to allow institutions of higher education to offer faculty members who are serving under an arrangement providing for unlimited tenure, benefits on voluntary retirement that are reduced or eliminated on the basis of age, and for other purposes.

S. 202

At the request of Mr. LOTT, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 202, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 293

At the request of Mr. HATCH, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 293, a bill to amend the Internal Revenue Code of 1986 to make permanent the credit for clinical testing expenses for certain drugs for rare diseases or conditions.

S. 321

At the request of Mr. GREGG, the name of the Senator from Wyoming [Mr. ENZI] was added as a cosponsor of S. 321, a bill to amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee Social Security payroll deductions, to extend the solvency of the Old-Age, Survivors, and Disability Insurance Program, and for other purposes.

S. 325

At the request of Mr. BUMPERS, the name of the Senator from New Hampshire [Mr. GREGG] was added as a cosponsor of S. 325, a bill to repeal the percentage depletion allowance for certain hardrock mines.

S. 413

At the request of Mrs. HUTCHISON, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 413, a bill to amend the Food Stamp Act of 1977 to require States to verify that prisoners are not receiving food stamps.

S. 433

At the request of Mr. BROWNBACK, the names of the Senator from Alabama [Mr. SHELBY] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 433, a bill to require Congress and the President to fulfill their Constitutional duty to take personal responsibility for Federal laws.

SENATE JOINT RESOLUTION 18

At the request of Mr. HOLLINGS, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Joint Resolution 18, a joint resolution proposing an amendment to the Constitution of the United States relating to contributions and expenditures intended to affect elections.

SENATE RESOLUTION 57

At the request of Mr. DORGAN, the name of the Senator from Tennessee