The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SAXTON) and the gentleman from California (Mr. MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SAXTON).

(Mr. SAXTON asked and was given permission to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of S. 391, the proposed Mississippi Sioux Tribe's Judgment Fund Distribution Act of 1998. S. 391 would provide for the disposition of judgment funds appropriated by Congress in 1968, plus accrued interest to pay the Mississippi Sioux Indians for 27 million acres of ancestral lands which the Indian Claims Commission ruled were taken without justification.

Mr. Speaker, I recommend that S. 391 be passed by the House and be sent to the President. I would also just like to commend RICK HILL for his hard work on this bill.

Mr. Speaker, I reserve the balance of my time.

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a noncontroversial measure that was originally passed out of the House last year. The bill resolves the competing claims of the Sisseton-Wahpeton Sioux Tribe and the lineal descendants to the 1968 Judgment Fund award to the tribe for the lands taken in violation of their treaty rights. The 1968 amount was approximately $5.8 million, but was never distributed because of a dispute over the allocation of the award.

The House-passed legislation, H.R. 976, redistributed the remaining $15 million by awarding the lineal descendants the principal, $1.5 million, but giving the tribe the accumulated interest of $13.5 million. The Senate amends that plan by giving the lineal descendants the greater share of the award.

Basically, the Senate plan gives the lineal descendants $10.5 million and the tribes get $4.5 million. The Senate would also require that lineal descendants verify that they are, in fact, descended from a Sisseton-Wahpeton Sioux ancestor. Finally, the Senate bill allows for a legal challenge by lineal descendants of the distribution plan to the tribes, but gives the tribes the right to intervene.

I am concerned that there is such a vast difference in the amounts going to the tribes between the House and the Senate bills, and I want to express my reservations about whether or not this is fair to the tribes. I wish we had a chance to more fully review the Senate changes, but I understand that the tribes are willing to take this amount. I also understand that the administration now support this proposal.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SAXTON) that the House suspend the rules and pass the Senate bill, S. 391, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAXTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the 3 bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

SUBMISSION OF EXTRANEOUS MATTER EXCEEDING 2 PAGES OF THE CONGRESSIONAL RECORD

Mr. SHUSTER. Mr. Speaker, I ask unanimous consent to insert in the RECORD updated explanatory materials relating to the Transportation Equity Act for the 21st Century, commonly known as ISTEA, and to extend my remarks in the RECORD and to include therein extraneous material not withstanding the fact that it exceeds 2 pages and is estimated by the Public Printer to cost $9,376. This material will serve as a useful record for interpreting this important legislation.

The SPEAKER pro tempore (Mr. CALVERT). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Without objection, and notwithstanding the cost, the gentleman may insert extraneous material in the RECORD, but that material does not constitute a revised joint statement of managers to accompany a conference report previously filed.

There was no objection.

INTRODUCTORY NOTE TO UPDATED EXPLANATORY MATERIALS

The House Conferees from the Committee on Transportation and Infrastructure on the Transportation Equity Act for the 21st Century (TEA 21) are pleased to published the accompanying updated explanatory materials related to TEA 21. These materials reflect what we intended the legislative history of TEA 21 to be, had there been adequate time to develop a complete report.

TEA 21 is comprehensive surface transportation legislation that reauthorized the Federal highway, transit, highway safety grant and surface transportation research programs for Fiscal Years 1998 through 2003. It also contains legislation extending the Highway Trust Fund and its taxes, changes to the Balanced Budget and Emergency Deficit Control Act of 1985 that ensure the trust fund revenues are spent, budgetary offsets to pay for the increased levels of funding authorized, provisions related to ozone and particulate matter standards, the National Highway Traffic Safety Administration Act of 1998, provisions related to rail programs, comprehensive ''one-call'' notification programs, and the Sportfishing and Boating Safety Act of 1998.

The Conference Report on TEA 21 (House Report 105–550) passed the House of Representatives and the Senate on May 22, 1998, and was signed into law by the President on June 9, 1998, as Public Law 105–178.

Several important provisions agreed to by the House and Senate Conferees were inadvertently omitted from the version of TEA 21 that passed the Congress and that was signed into law. It also contained several technical errors. To restore these omissions and correct the errors, Congress subsequently passed the TEA 21 Restoration Act as Title IX of the Internal Revenue Service Restructuring and Reform Act of 1998. The President signed it into law on July 22, 1998, as Public Law 105–206. The attached version of TEA 21 reflects the changes made by the TEA 21 Restoration Act.

Due to the tight schedule for finalizing the TEA 21 Conference, the Statement of Managers accompanying TEA 21 contained technical errors and omissions relating to Title I (Federal-aid Highways) and Title V (Transportation Research). The attached version corrects these errors and contains more extensive descriptions of many TEA 21 provisions.

We hope that upcoming Committee Print of TEA 21 and the accompanying explanatory materials will be a useful document for interpreting TEA 21 since it was extensively amended soon after being signed into law, and since the original Statement of Managers did not properly reflect the legislation that was signed into law.

TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

UPDATED EXPLANATORY MATERIALS

TITLE I—FEDERAL-AID HIGHWAYS

Subtitle A—Authorizations and Programs

SEC. 1. SHORT TITLE, TABLE OF CONTENTS

House bill

Section 1 provides that the title of the House bill is the ''Building Efficient Surface Transportation And Equity Act of 1998,'' or ''BESTEA.'' Section 1 also includes a table of contents.

Senate amendment

Section 1 provides that the title of the Senate bill is the ''Intermodal Surface Transportation Efficiency Act of 1998,'' or ''ISTEA II.'' Section 1 also includes a table of contents for the bill.

Conference substitute

The Conference adopts a substitute provision as the title of the Act. This title is ''Transportation Equity Act for the 21st Century'' or ''TEA 21.'' The subsection also includes a table of contents for the Act.

SEC. 2. DEFINITIONS

House bill

Secton 2 provides that, as used in the House bill, the term ''Interstate System'' has the meaning given the term by section 101 of title 23, United States Code, and the term ''Secretary'' means the Secretary of Transportation.

Senate amendment

Section 2 provides that, as used in the Senate bill, the term ''Secretary'' means the Secretary of Transportation.

Conference substitute

The Conference adopts the House provision.

SAVINGS CLAUSE

House bill

Section 3 provides that amendments made by this Act shall not affect any apportionment or allocation of any funds that occurred before the date of enactment of this

Act unless the bill specifically directs that the allocation or apportionment be modified.

Senate amendment

The Senate bill contained no comparable provision.

Conference substitute

The Conference does not adopt the House provision.

AMENDMENTS TO TITLE 23

House bill

Section 101 directs that each amendment in the bill, or repeal of a section or other provision of law, is an amendment to title 23 of the United States Code unless the bill states otherwise.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference does not adopt the House provision.

SHORT TITLE FOR TITLE I

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1001 includes a short title for the first title of the bill covering highway programs. This title may be cited as the ''Surface Transportation Act of 1998''.

Conference substitute

The Conference does not adopt the Senate provision.

SEC. 1101. AUTHORIZATION OF APPROPRIATIONS

House bill

Subsection 102(a) authorizes funds from the Highway Trust Fund (HTF) (other than the Mass Transit Account) for major Federal-aid highway programs and the Federal lands highways program for fiscal years 1998 through 2003.

Subsection 102(b) continues the Disadvantaged Business Enterprise program. It also allows an entity or person that is prevented under Federal court order from complying with the DBE provision to continue to be eligible to receive Federal funds. The Comptroller General is required to conduct a study of the DBE program within three years of the date of enactment of this Act. Recent court decisions have established new standards for review of the constitutionality of programs such as the DBE provisions enacted in prior surface transportation acts and the courts are now determining whether the DBE programs comply with those standards. The Department of Transportation is reviewing the DBE program in light of recent court rulings and has proposed new regulations to ensure that the program withstands constitutional muster. Subsection 102(b) of the reported bill makes no changes to these provisions, preferring to let the courts resolve these reviews. However, the Committee will continue to monitor DOT's administration of this program and gauge the impact of court decisions on these provisions.

This provision is intended to ensure that grant recipients under this Act will continue to be eligible to receive Federal funds even if a Federal court has entered a final order finding the DBE program to be unconstitutional.

The possibility of legal challenges may affect a limited number of States or transit agencies. This provision is intended to ensure that any affected recipients will not be unfairly penalized for complying with a final order of a Federal court finding the DBE program to be unconstitutional.

Senate amendment

Section 1101(a) provides contract authority from the Highway Trust Fund for each of fiscal years 1998 through 2003 for the Interstate and National Highway System (NHS) Program, the Surface Transportation Program, the Congestion Mitigation and Air Quality Improvement Program, and the Federal lands highways program.

Section 1111 continues the provisions in current law regarding the disadvantaged business enterprise (DBE) program. The DBE program, which originated in the Surface Transportation Assistance Act of 1982, requires that 10 percent of the funds provided under titles I, II, and V of this Act 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.

In 1995, the Supreme Court decided Adarand v Pena, which heightened the standard of judicial review applicable to Federal affirmative action programs. The case involved a Caucasian subcontractor who submitted a low bid on a Federal lands highway construction contract, but lost to a company that was certified as ''disadvantaged.'' Adarand filed suit, alleging that he was denied the equal protection guaranteed by the Fifth amendment. The Court agreed in a 5–4 decision that Federal race classifications, such as the DBE program, must be subject to strict scrutiny. In other words, the program must: (1) serve a compelling government interest, and (2) be narrowly tailored to address that compelling interest, which in this case is fighting discrimination.

It is important to note that the Supreme Court did not strike down the DBE program or any other Federal affirmative action program. That means that if the program in question meets the new test outlined by the Court, it is Constitutional and may continue to exist. In the case of the DBE program, the Department of Transportation has determined that the Constitutional concerns can be addressed through changes in the Department's regulations. To that end, the Department has proposed a number of regulations intended to address the ''narrow tailoring'' requirements of ''strict scrutiny'' by (1) giving priority to race-neutral measures in meeting program goals, and (2) limiting the potential adverse effects of the program on other parties.

Conference substitute

Subsection 1101(a) authorizes funds from the Highway Trust Fund (other than the Mass Transit Account) for each of fiscal years 1998 through 2003 for the following programs and projects: the Interstate maintenance program, the National Highway System program, the bridge program, the surface transportation program, the congestion mitigation and air quality improvement program, the recreational trails program, the Federal lands highways program, the construction of ferry boats and ferry terminal facilities, the national scenic byways program, high priority projects, highway use tax evasion projects, and the highway program of the Commonwealth of Puerto Rico. Subsection 1101(a) also authorizes funds from the Highway Trust Fund (other than the Mass Transit Account) for each of fiscal years 1999 through 2003 for the following programs: the Appalachian development highway system, the national corridor planning and development and coordinated border infrastructure programs, and the value pricing pilot program.

The Conference contains the Senate provision continuing the Disadvantaged Business Enterprise program in TEA 21. This provision is substantially identical to the existing DBE provision contained in the ISTEA bill. The provision adopted by the conference is also operationally identical to the provision contained in the House bill. The Conference has continued the program without change from prior law. Courts will make a final determination as to whether the statute, as implemented by the Department of Transportation, is constitutional under the Supreme Court's Adarand decision.

The possibility of legal challenges to the DBE program was of concern to the Conferees. Therefore, the provision is intended to ensure that grant recipients under this Act will continue to receive Federal funds even if a Federal court has entered a final order finding the DBE program to be unconstitutional.

SEC. 1102. OBLIGATION CEILING

House bill

Subsection 103(a) sets the annual obligation limitation for the Federal-aid highway program for fiscal years 1998 through 2003.

Subsection 103(b) lists the programs that are exempt from the annual obligation ceiling for the Federal-aid highway program. These programs are emergency relief, minimum allocation, demonstration projects authorized in prior surface transportation bills, and high priority projects.

Subsection 103(c) directs the Secretary to distribute the annual obligation authority to the States in the manner specified. All formula and allocated programs share proportionally in the obligation authority.

Subsection 103(d) directs the Secretary to redistribute, after August 1 of each fiscal year, the obligation authority made available under subsection (c) from States that will be unable to use their obligation authority by the end of the fiscal year to those States able to obligate the unused obligation authority.

Subsection 103(c) clarifies that the programs carried out under chapter 3 of title 23, United States Code, and title VI of this Act are subject to the obligation limitation.

Subsection 103(f) directs that funds that will not be allocated to the States and that are unavailable in any fiscal year due to the imposition of an obligation limitation be distributed to the States.

Senate amendment

Section 1103 sets the annual obligation limitation for the Federal-aid highway program, specifies the programs that are exempt from the obligation limitation, and sets forth the process for distributing the annual obligation limitation.

Consistent with current law, this section continues the exemptions for programs that were exempt from the obligation limitation under ISTEA. This exemption includes the emergency relief program, unobligated balances for demonstration projects that were already exempt from the limitation in ISTEA, and funds apportioned under subsection (a) of the minimum guarantee adjustment.

This section also continues the practices that directs the Secretary to distribute the annual obligation limitation imposed on the Federal-aid highway program. Consistent with current law, the Secretary shall distribute the annual obligation authority to the States in the ratio that the total of Federal-aid highway funds and highway safety funds for each State bears to the total of Federal-aid highway funds and highway safety funds for all the States. After August 1 of each fiscal year, the Secretary is required to distribute the additional obligation authority from States unable to use their obligation authority by the end of the fiscal year to those States able to obligate the unused obligation authority.

Conference substitute

The Conference adopts the House provision, with the following modifications.

Subsection 1102(a) sets the annual obligation limitation for Federal-aid highway and highway safety construction programs for each of fiscal years 1998 through 2003. The annual obligation limitations is tied to Highway Trust Fund tax revenues for the previous fiscal year and will change as such revenues change, in accordance with subsection 1102(h).

Subsection 1102(b) of the Conference provision modifies the list of programs that are exempt from the annual obligation ceiling for Federal-aid highways and highway safety construction programs. Exempt programs are emergency relief, demonstration projects authorized in prior surface transportation bills, minimum allocation funds, and a portion of minimum guarantee funds.

Paragraph 1102(c)(1) of the Conference provision provides that the Secretary not distribute obligation authority for certain programs, including administrative expenses.

Paragraph 1102(c)(2) of the Conference provision provides an amount of obligation authority equal to the amount of the unobligated balance of amounts made available in previous fiscal years for those Federal-aid highway and highway safety programs for which funds are allocated by the Secretary.

Paragraph 1102(c)(3) of the Conference provision establishes how the Secretary is to calculate certain ratios used to distribute the obligation authority.

Paragraph 1102(c)(4) of the Conference provision states that each high priority project, the Appalachian development highway system, and funding for the Woodrow Wilson Memorial Bridge Authority Act under this Act shall receive the same proportional distribution of obligation authority to budget authority as virtually all other Federal-aid highway programs do under section 1102, and that $2 billion of minimum guarantee funds shall receive an equal amount of obligation limitation. Sections 1601 (codified at 23 U.S.C. 117) and 1602, which authorize the high priority projects, reinforce the intent of the Conferees in paragraph 1102(c)(4) that each high priority project receive the same proportion of obligation authority to budget authority as every other Federal-aid highway program, and that such obligation authority is tied to each individual project. Subsection 117(g) directs that '[o]bligation authority attributable to funds made available to carry out this section shall only be available for the purposes of this section. . . .'' Subsection 117(a) directs the Secretary to make available budget authority 'to carry out each project [authorized in TEA 21 in] the amount listed for such project in such section.'' The effect of these two provisions in section 117 is to require that obligation authority attributable to the budget authority provided for each project shall only be available for each such project. Section 117, in expressly stating that the budget authority for high priority projects is made available only for individual projects, articulates Congress' intent that each individual project be funded. In this respect, the provisions authorizing high priority projects are distinctly different that the provisions authorizing other Federal-aid highway programs for which States receive a lump sum of obligation authority each year.

Paragraphs 1102(c)(5) and (6) of the Conference provision describe how certain amounts of the obligation authority are to be distributed.

Subsection 1102(d) of the Conference provision provides for the redistribution of unused obligation authority at the end of the Fiscal Year. This provision is commonly called the ''August Redistribution.''

Subsection 1102(e) of the Conference provision provides that obligation authority set aside for the transportation research programs be available for three years.

Subsection 1102(f) directs the Secretary to annually redistribute any budget authority the Secretary determines will not be allocated and will not be available for obligation, due to the imposition of any obligation limitation. This distribution of budget authority to the States shall be made in the same ratio as the distribution of obligation authority under paragraph (c)(6), and such funds shall be available for any eligible purpose under 23 U.S.C. 133(b). The Secretary shall not redistribute any budget authority made available in this Act for high priority projects or for the Woodrow Wilson Memorial Bridge Authority Act.

Subsection 1102(g) states that the obligation limitation provided in paragraph (c)(4) for high priority projects, the Appalachian development highway system, the Woodrow Wilson Memorial Bridge Authority Act, and $2 billion in minimum guarantee funds is available until used and is in addition to the amount of any obligation limitation imposed for Federal-aid highway and highway safety construction programs in future fiscal years.

Subsection 1102(h) provides that the obligation limitation imposed in subsection (a) shall be increased by an amount equal to the amount of funds determined pursuant to section 251(b)(1)(B)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 for such fiscal year, and such increase in obligation authority shall be distributed in accordance with this section.

In subsection 1102(i), the Conference adopts the Senate provision imposing a separate limitation on obligations for the expenses of administering the provisions of law for Federal-aid highway and highway safety construction programs and the Appalachian development highway system.

SEC. 1103. APPORTIONMENTS

House bill

Subsection 104(a) directs the Secretary to deduct, from funds authorized to be appropriated for certain major Federal-aid highway programs and the Federal lands highways program, a sum not to exceed 1 percent of such funds for the purpose of administering the Federal-aid highway program.

Subsection 104(b) directs the Secretary to apportion amounts available to the States for the National Highway System, congestion mitigation and air quality improvement program, surface transportation program, high risk road safety improvement program, and Interstate maintenance according to specified formulas.

Subsection 104(c) increases funding for Operation Lifesaver and the High Speed Rail Corridors grade crossing program. Funding for Operation Lifesaver is increased from $300,000 to $500,000 annually. Funding for the High Speed Rail Corridors grade crossing program is increased to $5.25 million per year. In addition, the subsection specifically designates the Minneapolis/St. Paul, Minnesota, to Chicago, Illinois, segment as a part of the Midwest High Speed Rail Corridor (also known as the Chicago Hub). The Minnesota, Wisconsin, and Illinois Departments of Transportation have completed preliminary feasibility studies on the Minneapolis/St. Paul-Chicago segment and the Federal Railroad Administration has provided funding for the segment under the Next Generation High Speed Rail Corridor Program.

Regarding the High Speed Rail Corridors Program established in section 1010 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), the Committee would draw attention to an additional corridor it believes worthy of inclusion. This rail corridor, in Pennsylvania, extends from Philadelphia through Harrisburg to Pittsburgh. It is a logical connecting route between the high speed northeast corridor and points west in Pennsylvania, offering significant mobility and economic benefits. There is a substantial and rapidly growing exchange of passengers between the northeast corridor and this cross-state corridor, particularly on the ''Keystone'' portion from Philadelphia to Harrisburg. The Committee recommends assistance to this corridor under this section as a prelude to consideration of eligibility for costs related to feasibility studies, design, and construction of this corridor for high speed rail.

Subsection 104(d) makes technical corrections to 23 U.S.C. 104(e) and directs the Secretary to transmit to Congress within the first 21 days of each fiscal year a written statement setting forth the reason for not making an apportionment in a timely manner. This subsection has been included in response to the withholding of apportionments in fiscal year 1997. The apportionments were held up for several months due to an error in crediting receipts into the Highway Trust Fund. Ultimately, a correction was made resulting in the redistribution of nearly $1 billion in Federal-aid highway funds. The withholding was done administratively. This amendment would require a written explanation of any withholding in the future.

Subsection 104(e) amends the metropolitan planning set-aside provision in 23 U.S.C. 104(f) by deleting the references to outdated funding programs and providing that the set-aside shall not be deducted from funds made available for the recreational trails program.

Subsection 104(f) directs the Secretary to apportion to the States the sums authorized for the recreational trails program as follows: 50 percent equally among eligible States and 50 percent in amounts proportionate to the degree of non-highway recreational fuel use in each such eligible State. This subsection also directs the Secretary to set-aside 3 percent of recreational trails program funds for the administrative and research costs of the program.

Subsection 104(g) makes several corrections to cross references in title 23 to conform to this section.

Subsection 104(h) provides the table referenced in the NHS apportionment formula.

Subsection 104(i) requires that up-to-date data be used for formulas.

Subsection 104(j) provides the mechanism for adjustments to programs in fiscal year 1998 to take into consideration the Surface Transportation Extension Act of 1997 (STEA) which provided funds from the Highway Trust Fund for a portion of fiscal year 1998. The STEA requires that the Secretary deduct any funds received under that Act from any apportionments made by this Act for fiscal year 1998. Subsection (j) also requires that the Secretary ensure that the total apportionments to each State under this Act be reduced by the amount apportioned to each such State under the STEA.

Senate amendment

Subsection 1101(b) sets forth the process by which the Secretary is required to reduce the amounts made available under this Act for fiscal year 1998 by the amounts made available under the Surface Transportation Extension Act of 1997.

Section 1102 provides the basis for distributing apportioned funds among the States. It includes provisions for apportioning funds to the following programs: Interstate and National Highway System, the congestion mitigation and air quality improvement program, the surface transportation program, and other apportionment adjustments, using current indicators to measure the needs, extent, use, and condition of the Federal-aid highway system, and air quality severity in nonattainment and maintenance areas.

Subsection 1102(a) replaces the apportionment formulas provided in ISTEA with apportionments based on current transportation measurements in each state. By contrast, ISTEA apportioned a majority of funds to the States based on each State's historical share of apportionments received in 1987 through 1991.

To ensure an efficient and competitive transportation system into the 21st century, this section provides for the use of indicators that measure the needs, condition, extent, and use of the Nation's transportation network today. Many apportionment factors used in this section draw upon the suggested alternatives of the General Accounting Office report, ''Highway Funding, Alternatives for Distributing Federal Funds,'' November 1995.

The Interstate and National Highway System (INHS) program funds are apportioned in three components. The Interstate maintenance component of INHS is apportioned based on a State's share of total Interstate land miles and total Interstate vehicle miles traveled within the State. The Interstate bridge component is distributed according to the State's share of total square footage of structurally deficient and functionally obsolete Interstate bridges within the State. The National Highway System component is distributed based on a State's share of: (1) total lane miles of principal arterial routes (excluding Interstate lane miles), (2) total vehicle miles traveled on principal arterials (excluding Interstate lane miles), (3) total square footage of deficient bridges on principal arterials (excluding Interstate routes), (4) diesel fuel use, and (5) total lane miles of principal arterials per capita. Each State is guaranteed a minimum of ½ of 1 percent of funds apportioned under the INHS program.

This section also preserves the basic structure of the current formula for the congestion mitigation and air quality improvement (CMAQ) program, using population and the severity of air pollution as the apportionment factors. The apportionment formula for CMAQ adds a weighting for carbon monoxide nonattainment and maintenance areas, ozone maintenance areas, and submarginal ozone nonattainment areas. These areas were added because they are required under the Clean Air Act to adhere to maintenance plans in meeting air quality requirements. As in current law, each state is guaranteed a minimum share of ½ of 1 percent of total annual CMAQ apportionments.

The surface transportation program (STP) funds are apportioned based on a State's share of the following: (1) total Federal-aid highway lane miles, (2) total vehicle miles traveled on Federal-aid highways, (3) total square footage of deficient bridges on Federal-aid highways (excluding deficient bridges on the Interstate and other principal arterials); and (4) contributions into the Highway Account of the Highway Trust Fund. Each State is guaranteed a minimum of ½ of 1 percent of funds apportioned under the STP program.

Subsection 1102(b) provides that deposits into the Highway Trust Fund as a result of section 901(e) of the Taxpayer Relief Act of 1997 shall not be taken into account in determining any State's apportionments or allocations under title 23, United States Code, or this Act.

In all cases, the factors to be used in the apportionment formulas are to be based on the latest available data and are to be updated each year.

Subsection 1102(e) amends 23 U.S.C. 104(i) to authorize the Secretary to use administrative funds to reimburse the Office of the Inspector General of the Department of Transportation for annual audits of financial statements in accordance with 31 U.S.C. 3521.

Subsection 1102(f) makes technical changes to 23 U.S.C. 104(e) concerning notification to States and to 23 U.S.C. 104(f) concerning the metropolitan planning set-aside. The purpose of the set-aside for metropolitan planning is to assist metropolitan areas with the metropolitan planning requirements continued from current law.

Subsection 1102(g) makes numerous conforming amendments to title 23, United States Code to correct references therein to 23 U.S.C. 104, and to delete several outdated sections in title 23.

In section 1107, which recodifies the recreational trails program, subsection 23 U.S.C. 206(i) directs the Secretary to apportion to the States the sums authorized for the Recreational Trails program as follows: 50 percent equally among eligible States and 50 percent in amounts proportionate to the degree of non-highway recreational fuel use in each such eligible State. This subsection also provides that the amount the Secretary may deduct to pay the costs for administration of the program is reduced from three percent to one percent.

Paragraph 1112(b)(2) makes a conforming amendment to 23 U.S.C. 104(f)(3) concerning the Federal share of project costs for metropolitan planning projects.

Subsection 1113(c) requires the Secretary to report annually on the rates of obligation of funds for programs for which funds are apportioned or set-aside under 23 U.S.C. 104 and 133. The reports shall include information regarding funding category or subcategory, type of improvement, and substate geographic area. Section 1207 amends 23 U.S.C. 104(m) to require the Secretary to submit to Congress an annual, rather than monthly, report on States' obligation amounts and unobligated balances for Federal-aid highway and highway safety construction programs.

Section 1131 authorizes an amount not to exceed $16 million per year for fiscal year 1998 through 2003 from the Interstate maintenance component for the reconstruction of a highway or portion of highway outside of the United States that is important to national defense.

Section 1201 amends subsection 23 U.S.C. 104(a) by reducing the maximum percentage of certain Federal-aid highway apportionments the Secretary is authorized to deduct to administer the Federal-aid highway program from 3¾ percent to 1½ percent. The reduction reflects that this Act provides funding from other sources for certain non-administrative items, such as research and intelligent transportation system activities, that were formerly funded from the administrative takedown.

Section 1207 amends 23 U.S.C. 104 to require the Secretary to submit to Congress an annual, rather than monthly, report on States' obligations and unobligated balances of funds authorized for Federal-aid highway and highway safety construction programs.

Section 1221 adds a new subsection to 23 U.S.C. 104 to provide for the program-wide, rather than project-by-project, transfer and administration of transit funds made available for highway projects and highway funds made available for transit projects. This revision will streamline the administration of highway and transit funds by State departments of transportation. This provision also requires the Secretary to administer funds made available under title 23 or chapter 53 of title 49 and transferred to Amtrak in accordance with Subtitle V of title 49. Funds made available under title 23 or chapter 53 of title 49 and transferred to other eligible passenger rail projects and activities shall be administered as the Secretary determines appropriate. The non-Federal share provisions in title 23 or chapter 53 of title 49 will continue to apply to the transferred funds.

Section 1401 amends 23 U.S.C. 104(d) to fund Operation Lifesaver as a set-aside from the surface transportation program, rather than from the administrative takedown for the Federal-aid highway program. This section also increases the funding for Operation Lifesaver from $300,000 to $500,000 for each of fiscal years 1998 through 2003. The funds shall be used for public education programs designed to reduce the number of accidents, deaths and injuries at highway-rail intersections and with railroad rights-of-way.

Section 1402 authorizes $5 million to be set aside from surface transportation program funds in each of fiscal years 1998 to 2003 to be allocated by the Secretary to address railway-highway crossing hazards in five existing high speed rail passenger corridors and authorizes the Secretary to select three additional corridors. The Secretary is to consider ridership volume, maximum speeds, benefits to nonriders such as congestion relief, State and local financial support, and the cooperation of the owner of the right-of-way.

The previously selected rail corridors under the program are: (1) San Diego to Sacramento, CA; (2) Detroit, MI to Milwaukee, WI; (3) Miami to Tampa, FL; (4) Washington, D.C. to Charlotte, NC; (5) Vancouver, B.C. to Eugene, OR. The New York City-Albany-Buffalo high speed Empire Corridor is an example of a project that meets the intent of this section because of its current travel at high rates of speed and its level of ridership. Section 1402 also requires the Secretary to expend funds under the railway-highway crossing hazard elimination in high speed rail corridors program for a Gulf Cost high speed railway corridor.

Conference substitute

In subsection 1103(a), the Conference adopts the Senate provision concerning the percentage of the administrative takedown for the Federal-aid highway program.

In subsection 1103(b), the Conference adopts a substitute provision which contains portions of both the House and Senate apportionment formulas, with several modifications. The Conference adopts a combination of the House formula and a modified Senate formula for apportioning National Highway System funds. After setting aside $36.4 million for each of fiscal years 1998 through 2003 for the territories and $18.8 million for each of fiscal years 1999 through 2003 for the Alaska Highway, the remaining NHS funds shall be apportioned as follows: 25 percent based on each State's share of total lane miles of principal arterials, excluding Interstate routes; 35 percent based on each State's share of total vehicle miles traveled on lanes of principal arterials, excluding Interstate routes; 30 percent based on each State's share of total diesel fuel used on highways; and 10 percent based on each State's share of: total lane miles on principal arterials in the State divided by the State's total population. The conference adopts the Senate formula for apportioning congestion mitigation and air quality improvement program funds, apportioning such funds based on each State's share of the total of all weighted nonattainment and maintenance area populations. The Conference adopts the House formula for apportioning surface transportation program funds, apportioning such funds as follows: 25 percent based on each State's share of total lane miles of Federal-aid highways, 40 percent based on each State's share of total vehicle miles traveled on lanes on Federal-aid highways, and 35 percent based on each State's share of estimated tax payments attributable to highway users paid into the Highway Trust Fund (other than the Mass Transit Account). The Conference adopts a combination of the

House and Senate formulas for apportioning Interstate maintenance (IM) funds (retaining a separate IM formulas, as in the House bill) and apportions such funds as follows: 33⅓ percent based on each State's share of total lane miles on Interstate routes open to traffic, 33⅓ percent based on each State's share of vehicle miles traveled on certain designated Interstate System routes, and 33⅓ percent based on each State's share of annual contributions to the Highway Trust Fund (other than the Mass Transit Account) attributable to commercial vehicles.

In subsection 1103(c), the Conference adopts the Senate provision and most of the House provision on Operation Lifesaver and High Speed Rail Corridors. The conference adopts the House's $5.25 million funding level for the High Speed Rail Corridors program, includes funding under the program for site-specific corridors that were included in both the Senate and the House bills and reports, includes the Senate bill's criteria for the Secretary to consider in selecting corridors, and authorizes $15 million to be appropriated for each of fiscal years 1999 through 2003 to carry out this subsection. The conference substitute also includes the House provision of $250,000 in funding improvements to the Minneapolis/St. Paul-Chicago segment to the Midwest High Speed Rail Corridor.

In subsection 1103(d), the Conference adopts the House provision concerning certification of apportionments and notice to the House and Senate by the Secretary when apportionments are not made in a timely manner.

In subsection 1103(e), the Conference adopts the House provision amending the exception clause in the metropolitan planning set-aside provision in 23 U.S.C. 104(f) and the Senate provision technically amending 104(f)(3) concerning the Federal share.

In subsection 1103(f), the Conference adopts the House provision authorizing an administrative takedown for the recreational trails program, with a modification. The Conference provision changes the maximum permissible percentage the Secretary can deduct for administration, research, and technical assistance costs from 3 percent to 1½ percent. The House and Senate provisions apportioning Recreational Trails program funds are the same, and this apportionment formula is adopted in subsection 1103(f).

In subsection 1103(g), the Conference adopts the Senate provision concerning audits of the Highway Trust Fund.

In subsection 1103(h), the Conference adopts the two Senate provisions concerning reports on obligations, with a modification to combine both provisions in a single subsection in 23 U.S.C. 104.

In subsection 1103(i), the Conference adopts the Senate provision concerning the transfer of highway and transit funds, with a modification. Transferability to Amtrak or to any publicly-owned intercity or intracity passenger rail line is not adopted.

In subsection 1103(j), the Conference adopts the Senate provision concerning the effect of certain delay in deposits into the Highway Trust Fund.

In subsection 1103(k), the Conference adopts the Senate provision making technical amendments to 23 U.S.C. 104(f), with a modification striking the clause in 104(f) excluding certain programs from the metropolitan planning set-aside.

In subsection 1103(l), the Conference adopts the majority of the Senate provisions making conforming amendments to title 23, United States Code, to correct references therein to 23 U.S.C. 104 and the Senate provision repealing 23 U.S.C. 150, which is out of date.

In subsection 1103(m), the Conference adopts the House provision on adjustments for the Surface Transportation Extension Act of 1997 (STEA), with a modification providing that STEA obligation authority shall be considered to be an amount of obligation authority made available for fiscal year 1998 under this Act, and excluding Massachusetts from the provision offsetting the State's STEA funds from the State's fiscal year 1998 authorizations under this Act.

Subsection 1103(n), provides that for purposes of apportioning funds for Federal-aid highway programs under 23 U.S.C. 104, 105, 144, and 206, the term ''State'' means any of the 50 States and the District of Columbia. This definition differs from the definition used in U.S.C. 23 in that it does not include the Commonwealth of Puerto Rico.

Subsection 1103(o) makes several technical corrections to 23 U.S.C. 104.

SEC. 1104. MINIMUM GUARANTEE

House bill

Subsection 111(a) amends 23 U.S.C. 157 to direct the Secretary to allocate minimum allocation funds for fiscal year 1998 and thereafter, and it specifies the programs that are subject to the minimum allocation calculation in such fiscal years. It also provides that a State is guaranteed a ninety-five percent return in its formula program funds compared to its percentage contribution to the Highway Trust Fund, rather than the current ninety percent.

Subsection 111(b) provides that a State may use funds it receives under the minimum allocation program for any purpose eligible under the surface transportation program.

Subsection 111(c) makes conforming amendments to 23 U.S.C. 157.

Subsection 111(d) ensures that no State that is a net donor to the Highway Trust Fund receives a percentage of total Federal-aid highway program funds that is less than the percentage it received in the last year of ISTEA.

Subsection 111(e) ensures that after making all the prior calculations under 23 U.S.C. 157, no State shall receive a final Highway Trust Fund return of less than ninety percent.

Senate amendment

Subsections 1102 (c) and (d) replace the existing five apportionment adjustments with two apportionment adjustments, the ISTEA transition and the minimum guarantee. The ISTEA transition adjustment provides a ceiling (a ''maximum transition'') and a floor (a ''minimum transition'') for this adjustment. The maximum transition provides that a State's apportionments under this section may not increase by more than a specified percentage (e.g., 45 percent in 1998) over its ISTEA average funding level. The minimum transition adjustment ensures that a State's apportioned funds will either: (1) increase by a specified percentage (e.g., at least 7 percent in fiscal year 1998) from the average of its apportioned programs under ISTEA (excluding funds apportioned for Interstate Construction, Interstate Substitution, the so-called ''Hold Harmless'' program, and the Federal lands highways program), or (2) be equal to at least the amount that a State received in fiscal year 1997 from all apportioned programs in ISTEA, excluding Hold Harmless and demonstration projects.

The other apportionment adjustment provides a minimum guarantee based on total apportioned funds. This minimum guarantee is divided into two components. The first component provides that a State will receive a minimum share of total apportioned funds equal to 90 percent of its share of contributions into the Highway Account of the Highway Trust Fund. Although similar to the 90 percent minimum allocation program under current law, it differs in several significant ways from current law.

First, the minimum guarantee applies to 100 percent of apportioned funds rather than to only a portion of apportioned funds. The minimum allocation under current law only applied to less than 80 percent of apportioned funds in ISTEA, leaving some States to receive a percentage equal to 70–80 percent of their share of contributions. Second, the calculation is reformed so that the 90 percent guarantee is actually achieved. Even if the current minimum allocation calculation was modified to apply to all apportioned funds, States will come close to reaching a 90 percent guarantee, but will not reach a 90 percent guarantee, because the 90 percent minimum allocation received by one State dilutes the percentage for all other States. The 90 percent guarantee calculation in ISTEA II eliminates this problem and achieves at least a 90 percent guarantee for all States.

The amount apportioned to each State under the first component of the minimum guarantee calculation will vary as each State's share of contributions varies from year to year.

The second component of the minimum guarantee provides a minimum share for States listed in the table in the new section 105(a)(2) of title 23, United States Code. This calculation applies to States with unique characteristics such as low population density or small land areas.

Conference substitute

In section 1104, the Conference adopts the Senate's minimum guarantee provision, with several modifications. First, the Conference substitute contains a single minimum guarantee component, which provides additional funds to ensure that each State's percentage of total apportionments for the Interstate maintenance program, the National Highway System, the bridge program, the congestion mitigation and air quality improvement program, the surface transportation program, metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs shall be at least 90.5 percent and shall equal the percentage for each such State listed in the table in 23 U.S.C. 105(b). Beginning in FY 1999, these percentages in the table shall be adjusted annually to ensure that each State's percentage return on its percentage contributions to the Highway Trust Fund in the latest fiscal year for which data is available is at least 90.5 percent. After adjusting the percentage for any State falling below 90.5 percent, the Secretary shall normalize the remaining percentages to ensure that the total of the percentages is equal to 100 percent. No State shall receive less than $1 million annually in minimum guarantee funding.

Second, the Conference provision states that the first $2.8 billion of minimum guarantee funds shall be available to the States for any project eligible under the surface transportation. The amount of minimum guarantee funds in excess of $2.8 billion flow back to the States as Interstate maintenance, National Highway System, surface transportation program, bridge, and congestion mitigation and air quality improvement program funds in amounts proportional to the each program's share of the total apportionments to each State for each fiscal year and are added to each State's formula apportionment for such program.

The new minimum guarantee provision is codified at 23 U.S.C. 105, replacing the current section 105.

SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY

House bill

The House bill contains no comparable provision.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

In section 1105, the Conference adopts a provision that adds a new section 110 to title 23, United States Code, (thereby repealing current section 110, relating to project agreements) to annually adjust highway funding up or down to correspond with the latest data on Highway Trust Fund receipts. Subsection 110(a) provides that, in fiscal year 2000 and each fiscal year thereafter, the Secretary shall allocate an amount of funds equal to any additional amount of discretionary highway spending made available under section 8101 of this Act related to the budget firewall for HTF spending. If the annual discretionary highway spending limit decreases under section 8101 for fiscal year 2000 or any fiscal year thereafter, the Secretary, in the succeeding fiscal year, shall proportionately reduce the amounts authorized to carry out the Federal-aid highway and highway safety construction programs (other than the emergency relief program) by an amount equal to the amount of such spending decrease.

Under subsection 110(b), any additional funds made available under this section shall be distributed in two parts: one to allocated programs and the other to apportioned programs. As to allocated programs, the amount to be distributed is determined by multiplying the total amount of additional funds made available under this section by the ratio of funds authorized for all allocated programs to funds authorized to be appropriated from the Highway Trust Fund for all Federal-aid highway and highway safety construction programs. Such amount shall then be distributed to each allocated program in proportion to each program's share of total HTF authorizations. The remaining amount shall be distributed to each State in proportion to each such State's share of total HTF apportionments. Subsection 110(c) provides that the amount made available for apportioned programs shall be distributed to each State for its Interstate and NHS, bridge, STP, and CMAQ programs in the same ratio that each State is apportioned funds for such programs.

SEC. 1106. FEDERAL-AID SYSTEMS

House bill

Subsection 106(a) amends 23 U.S.C. 103 to strike existing provisions for the interim eligibility and approval of the National Highway System made unnecessary after its adoption in the National Highway System Designation Act of 1995.

Subsection 106(b) strikes language for the designation of the National Highway System made unnecessary after its adoption in 1995. The total mileage of National Highway System may not exceed 155,000 miles, except that the Secretary may increase or decrease the mileage by no more than 15 percent.

Subsection 106(c) modifies the National Highway System to include intermodal connectors on the map submitted to Congress by the Secretary on May 24, 1996.

Subsection 106(d) allows the National Highway System to be modified to accommodate changes in the Strategic Highway Network (STRAHNET).

Subsection 106(e) makes several technical and conforming amendments to section 103(b) of title 23, United States Code.

Subsection 106(f) makes technical amendments to 22 U.S.C. 103.

Subsection 106(g) states that amendments made by this section shall not affect apportionments made under 23 U.S.C. 104 before the date of enactment of this Act.

Subsection 106(h) directs the Secretary to report to Congress not later than 24 months after the date of enactment of this Act on the condition of and the improvements made to connectors on the National Highway System that serve intermodal freight transportation facilities.

Subsection 106(i) directs the Secretary to conduct a national competition among children under the age of 14 to design a logo sign for the National Highway System.

Subsection 106(j) designates certain routes as part of the National Highway System.

The House bill makes no changes to existing NHS eligibility.

The Committee encourages the Commonwealth of Virginia to work with Fairfax County, Virginia, to fund right-of-way and preliminary engineering costs associated with the NHS segment for the Fairfax County Parkway. In addition, the Commonwealth should work with the County to ensure that funding for the Fairfax County Parkway does not adversely affect other County projects under the secondary six-year plan.

The Committee encourages the State of Michigan to designate State Route M-6, commonly known as the South Belt Freeway, as the Paul B. Henry freeway. This designation would acknowledge the contribution that former Congressman Paul B. Henry made to this project and others while serving the Grand Rapids, Michigan, area as a county official, state legislator, and U.S. Representative.

The Committee encourages the State of California to designate an appropriate State Route in honor of the late Congressman Walter H. Capps.

There has been strong Federal support for the access road to the Northwest Arkansas Regional Airport, as recently demonstrated with the enactment of section 310(d) of the National Highway System Designation Act of 1995, and the Committee urges the State to advance the project as expeditiously as possible.

The Committee has approved funds under this Act to continue the Lafayette, Indiana Railroad Relocation Project. The Committee encourages the Indiana Department of Transportation to work with the local sponsors in identifying innovative financing opportunities to complete this project in an expeditious manner.

Senate amendment

Section 1121 provides that the National Highway System consists of those routes and transportation facilities depicted on maps submitted by the Secretary with the report ''Pulling Together: The National Highway System and its Connections to Major Terminals.''

Section 1234 amends 23 U.S.C. 103 to include publicly owned intracity or intercity passenger rail capital projects, including Amtrak, as an eligible activity for National Highway System program funds under the same criteria that apply currently to transit and non-NHS highway projects. NHS funding eligibility is amended also to include natural habitat mitigation and encourage the use of approved private-sector mitigation banks for wetlands lost through highway construction. Preference is given, to the extent practicable, to banks if they are in accordance with Federal guidelines on mitigation banking and are within the service area of the impacted wetland.

This section also adds the following new items to the list of projects eligible for NHS funding: (1) publicly owned intracity or intercity passenger rail or bus terminals, including those owned by Amtrak; (2) publicly owned intermodal surface freight transfer facilities, other than seaports and airports located at, or adjacent to, the NHS or connections to the NHS; (3) infrastructure-based Intelligent Transportation Systems capital improvements; and (4) publicly owned components of magnetic levitation (MAGLEV) systems.

This section 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, permitting these territories to use their NHS apportionments for any STP-eligible project, any airport, and any seaport.

Subsection 1001(a) amends 23 U.S.C. 103 to reflect that the National Highway System has been designated by Congress. It consolidates several sections of title 23 regarding Interstate system designations and the process for adding segments to the Interstate. This section addresses Interstate construction funds and unobligated balances of Interstate substitute funds, as these programs no longer exist.

The NHS consists of an interconnected system of principal arterial routes that serve major population centers and intermodal transportation facilities. Its components include the Interstate System and other urban and rural principal arterials and highways (including toll facilities) that provide motor vehicle access between major population centers, border crossings, intermodal transportation facilities, and routes important to defense within the United States. The mileage of the NHS is limited to 178,250 miles. This mileage is equal to the base amount of 155,000 miles, established in current law, plus the 15 percent increase permitted under current law. The Secretary may make modifications to the NHS routes proposed by a State if the Secretary determines that the modification meets the same criteria established under current law. Modification proposals must be coordinated among the State, local, and regional officials.

An Interstate System route is to be selected by joint action of the State transportation agencies of the State in which the route is located and the adjoining States in cooperation with local and regional officials, and subject to the approval of the Secretary. The mileage of the Interstate System is limited to 43,000, an increase from the 41,000 mile limit under current law.

Conference substitute

In subsection 1106(a), the Conference directs the Secretary to implement the National Highway System program and the Interstate maintenance program as a combined program, for the purpose of providing States with optimal flexibility in implementing these provisions.

In subsection 1106(b), [note: there are two subsections 1106(b)] the Conference adopts the Senate provisions amending 23 U.S.C. 103 concerning (1) the description, components, maximum mileage of and modifications to the National Highway System; (2) the description, design, maximum mileage, and designations of and modifications to the Interstate System; and (3) the treatment of Interstate construction and Interstate substitute funds, with a few modifications. The Conference modifies the Senate provision concerning the description of the NHS to make clear that the system includes the highway routes and connections to transportation facilities, rather than the facilities themselves. The Conference adopts the Senate provision concerning NHS eligibility, with a modification. The substitute does not include eligibility for intracity and intercity passenger rail under this program.

In subsection 1106(b), [note: the second subsection 1106(b)] the Conference adopts a provision allowing to use Interstate Substitute funds under the rules in effect on the day before the enactment of TEA 21.

In subsection 1106(c), the Conference makes amendments to several sections in title 23,

United States Code, to conform those sections to the changes made by section 1106.

In subsection 1106(d), the Conference adopts the House provision on the intermodal freight connectors study with modifications to clarify that the purpose of the report is to identify impediments to improving intermodal connectors including impediments related to the planning process, availability of funding, and other issues identified by the Secretary.

SEC. 1107. INTERSTATE MAINTENANCE PROGRAM

House bill

Section 105 of the House bill amends 23 U.S.C. 119 to modify the Interstate maintenance program to restore reconstruction of segments of the Interstate as an eligible activity. It also eliminates the annual certification requirement, and it updates the listing of routes eligible for funding under the program.

Section 113 establishes a new program to fund major reconstruction or improvement projects on the Interstate system. In order to be eligible, a project must cost over $200 million or cost more than 50 percent of a State's Federal-aid highway apportionments; it must be ready to go to construction; the State must agree to not transfer funds apportioned under the Interstate maintenance program; and the funds must be obligated within one year. Two thirds of the funds are allocated to the States in the ratio that each State's cost of eligible projects bears to the total national cost of eligible projects. For the years 1998 through 2003, however, those funds are to be distributed based on the Interstate maintenance program formula. The remainder of the funds are allocated on a discretionary basis. If funds cannot be used in any given fiscal year, the extra funds are apportioned to all States as Interstate maintenance funds. Projects must be included within the planning process. The Secretary is required to report on the expected future need to reconstruct the Interstate System and to recommend methods for apportioning the funds.

Senate amendment

Section 1118 amends 23 U.S.C. 104 to direct the Secretary to set aside a total of $140 million from the Interstate maintenance and Interstate bridge components of the INHS apportionment, to be obligated at the discretion of the Secretary to States for the resurfacing, restoration, rehabilitation, or reconstruction of any route on the Interstate system or for the replacement, rehabilitation, or seismic retrofit of a highway bridge.

Section 1118 adds a new paragraph 104(k)(3) to title 23, United States Code, which provides that the Secretary may award funds under this program for Interstate 4R projects to those States the Secretary determines (1) will obligate funds provided under the Interstate maintenance and Interstate bridge components of the INHS apportionment in the fiscal year for which a grant application is submitted, and (2) are willing and able to obligate such funds within a year, apply the funds to a ready-to-commence project, and begin construction work within 90 days after obligation of the funds.

Section 1118 adds a new paragraph 104(k)(5), in which the Secretary is directed to allocate $10 million in Interstate maintenance component funds set aside under this section to eligible States for Interstate 4R and bridge projects. An eligible State is a State (1) that ranks among the lowest 10 percent of all States in per capita personal income, (2) where the ratio of its percentage of total Federal-aid highway program apportionments for fiscal years 1998 through 2003 to its percentage of estimated contributions to the highway account of the Highway Trust Fund for the same period is less than 1.00, and (3) where its percentage of total Federal-aid highway program apportionments for fiscal years 1998 through 2003 is less than its percentage of total Federal-aid highway program apportionments and allocations under sections 1103 through 1108 of ISTEA and under the Federal lands highways program for fiscal years 1992 through 1997.

Section 1209 amends 23 U.S.C. 119 to (1) change the eligible uses of funds apportioned for the Interstate maintenance component of the INHS program and (2) change the rules regarding the ability to transfer these funds to other Federal-aid highway programs and to use a portion of these funds for the construction of single occupant vehicle lanes.

Current law allows a State to transfer up to 20 percent of its Interstate Maintenance apportionment to other program categories without the Secretary's approval. Transfers above the 20 percent amount need to be approved by the Secretary. Section 1209 would increase the percentage of funds that a State may transfer from the Interstate components of the INHS program to 30 percent. Section 1209 also provides that if a State certifies to the Secretary that the sums apportioned to it for the Interstate maintenance and Interstate bridge components of the INHS program are in excess of its Interstate needs, it may transfer an additional 20 percent of these Interstate component funds to its apportionments under the NHS or STP program.

This section lists the activities eligible for funds apportioned under the Interstate maintenance and Interstate bridge components of the INHS formula, which include intelligent transportation systems (ITS) capital improvements.

In general, this section continues the prohibition against using apportionments provided under the Interstate components of the INHS program for the construction of new travel lanes that are not high occupancy vehicle (HOV) lanes. This section does allow, however, a State to use 30 percent of its funds apportioned on single-occupant vehicle capacity expansion. States are permitted to use a total of 30 percent of their funds apportioned under the Interstate components of the INHS program for new capacity projects, or these funds may be transferred to other program categories. This provision was added to allow Interstate reconstruction projects that may involve increased capacity to be managed as one contract rather than as two separate contracts, as may be required under some cases in current law.

Conference substitute

In subsection 1107(a), the Conference provision adopts language that was included in both the House and Senate bills to expand IM program eligibility to include projects to reconstruct routes on the Interstate system. The Conference also adopts the House provisions updating the listing of routes eligible for Interstate maintenance funds and eliminating the annual certification requirement.

In subsection 1107(b), the Conference provision amends 23 U.S.C. 118 to revise and update the current Interstate discretionary program. Subsection 1107(b) directs the Secretary to set aside $50 million for fiscal year 1998 and $100 million for each of fiscal years 1999 through 2003 before apportioning Interstate maintenance funds for resurfacing, restoring, rehabilitating, and reconstructing Interstate routes and toll roads on the Interstate. The provision retains the current provisions in section 118 concerning selection criteria, priority consideration for certain routes, and period of availability of discretionary funds.

Subsection 1107(c) directs the Secretary to work with States and affected metropolitan planning organizations (MPOs) to study the expected condition of the Interstate system over the next 10 years, the needs of States and MPOs in reconstructing and improving their Interstates, and the resources and means to address these needs.

Subsection 1107(d) makes technical amendments to 23 U.S.C. 119.

The Conference does not adopt the House provision establishing a High Cost Interstate Program.

SEC. 1108. SURFACE TRANSPORTATION PROGRAM

House bill

Subsection 108(a) clarifies that the Secretary is to implement the surface transportation program.

Subsection 108(b) makes certain anti-icing and de-icing compositions used on bridges eligible under the surface transportation program.

Subsection 108(c) makes programs that reduce motor vehicle emissions that are caused by extreme cold start conditions eligible under the surface transportation program.

Subsection 108(d) makes certain environmental and pollution abatement projects as part of a highway project eligible under the surface transportation program.

Subsection 108(e) allows up to 15 percent of surface transportation program funds apportioned for areas of less than 5,000 in population to be used on minor collectors.

Subsection 108(f) changes the program approval process for the surface transportation program from a quarterly to an annual basis.

Subsection 108(g) extends the current provision requiring the proportional obligation of funds made available for urban areas over the 6-year term of the bill.

Subsection 108(h) encourages the use of youth corps to perform transportation enhancement projects.

Senate amendment

Section 1104 continues the current procedure in subsection 23 U.S.C. 133(f) regarding the suballocation of STP funds to urbanized areas. The purpose of this requirement is to ensure that the obligation rate of STP funds for urbanized areas within a State is consistent with the larger obligation rate for all Federal-aid highway apportionments within the State. This section amends current law to require States to comply with obligation rates over two equal 3-year periods, as opposed to the existing requirement of complying over a single 6-year period.

Subsection 1223(a) amends 23 U.S.C. 133 to require States to set aside 8 percent of their STP funds for transportation enhancement activities. This is a reduction from current law which requires a 10 percent set-aside. This subsection also allows the Secretary to advance transportation enhancement funds without a State's certification of its public outreach involvement process associated with transportation enhancement projects. This provision codifies the Department of Transportation's current administrative policy regarding innovative financing mechanisms applicable to transportation enhancement projects. It gives States additional flexibility by allowing them to calculate the non-Federal share for enhancements projects in several ways: on a project, multiple project, or program basis. A State's average annual non-Federal share of transportation enhancement projects must be at least 20 percent; however, because of the new provision, it is feasible for a single project to have a 100 percent Federal share.

Subsection 1223(b) reduces the current quarterly, project-by-project State certification and notification requirements to annual, program-wide approval of each State's project agreement.

Subsection 1223(c) eliminates the current requirement in 23 U.S.C. 133(e)(3)(A) that payments made by the Secretary to the States under section 133 cannot exceed the Federal share of costs incurred as of the date the State requested payment. Striking this requirement (1) conforms the current provisions of section 133 to the changes made to section 133 by subsection 1223(a) to increase States' flexibility in calculating the non-Federal share of transportation enhancements projects, and (2) permits States to use the same type of flexible non-Federal matching share for STP projects as they are currently permitted to use for Federal transit projects.

Section 1235 amends 23 U.S.C. 133 to clarify that the eligibility for publicly or 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 chapter 53 of title 49, U.S.C. as revised by this Act. It clarifies that the current eligibility under the STP program of highway and transit safety improvements includes noninfrastructure highway safety improvements. This section 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.

Section 1235 also adds the following new items to the list of projects eligible for STP funds: (1) publicly owned intercity passenger rail infrastructure, including Amtrak; (2) publicly or privately owned passenger rail vehicles, including Amtrak; (3) infrastructure-based intelligent transportation systems capital improvements; (4) programs to address extreme cold starts; (5) publicly owned magnetic levitation transportation systems; and, (6) environmental restoration and pollution abatement projects carried out as part of transportation projects. This section also expands STP funding eligibility to include natural habitat mitigation under the same circumstances in which wetlands mitigation is currently eligible for STP funds, and establishes a preference for the use of mitigation banking.

ISTEA was a landmark law in that it gave the States unprecedented flexibility in spending their Federal-aid highway funds. This section increases the flexibility of the original ISTEA by allowing States to use their STP funds on publicly or privately owned passenger rail, including Amtrak, intermodal freight transfer facilities, natural habitat mitigation, capital costs of ITS improvements, and publicly owned components of magnetic levitation (MAGLEV) systems.

Section 1235 recognizes the diversity and uniqueness of the Nation and all of its transportation needs. The demands of the various regions throughout the United States are different. In the South and Southwest, the sharp growth in population continues to put a strain on that area's transportation infrastructure. In the Northwest United States, older infrastructure and acute congestion increases the need for non-highway modes such as transit and Amtrak. Many of the Western States, by contrast, with their low population density and the great distances involved in travel, rely on highways as their major mode of transportation. The flexibility provided in this section will permit States to use transportation funds to meet their diverse needs.

Subsection 1806(b) of the Senate bill makes the use on bridges of anti-icing and de-icing compositions that are agriculturally derived, environmentally acceptable, and minimally corrosive eligible for funding under the surface transportation program.

Conference substitute

In subsection 1108(a), the Conference provision expands STP eligibility by adopting the provision in both the House and Senate bills on anti-icing and deicing compositions (deleting the requirement that such compositions be agriculturally derived) and extreme cold starts, and adopting several Senate provisions expanding STP eligibility, with some modifications. With respect to the Senate provisions amending STP eligibility, the Conference adopts the provisions on publicly or privately owned vehicles and facilities used to provide intercity passenger service by bus, but excludes the Senate's rail and magnetic levitation system eligibility provisions. Subsection 1108(a) also includes the Senate provisions on modifications to public sidewalks, natural habitat mitigation, infrastructure-based ITS improvements, and environmental runoff and pollution. The Conference does not adopt the Senate's provisions expanding STP eligibility to include unspecified non-infrastructure highway safety improvements.

In subsection 1108(b), the Conference adopts the Senate provisions (1) allowing the Secretary to advance transportation enhancement funds without States certifying their public outreach involvement process for transportation enhancement projects, and (2) granting States additional flexibility in calculating the non-Federal share of transportation enhancement projects. Subsection 1108(b) also modifies the noncontiguous States exemption from the suballocation requirement of 23 U.S.C. 133(d)(3)(A).

The Conference finds that the House and Senate provisions that reduce the current quarterly, project-by-project approval process for the surface transportation program to an annual process are substantively equivalent, and the Conference adopts the Senate language on this subject in subsection 1108(c).

In subsection 1108(d), the Conference adopts the Senate provision eliminating the voucher-by-voucher 80/20 matching requirement and permitting a more flexible non-Federal match.

In subsection 1108(e), the Conference adopts the Senate provision regarding surface transportation program allocations in urbanized areas.

In subsection 1108(f), the Conference adopts the House provision allowing up to 15 percent of STP funds to be used on minor collectors in rural areas, with the modification that the Secretary may suspend the application of this provision upon determining that it is being used excessively.

In subsection 1108(g), the Conference adopts the House provision encouraging the use of youth corps to perform transportation enhancement projects.

The Conference does not adopt the Senate provision reducing the percentage of STP funds set-aside for transportation enhancement activities.

SEC. 1109. HIGHWAY BRIDGE PROGRAM

House bill

Subsection 107(a) amends the bridge program apportionment formula to reduce apportionments by taking into account funds transferred from the bridge program to other purposes. This is a reform to help ensure that States do not receive funding to correct bridge deficiencies and then transfer those apportionments to another funding category, and continue to receive annual apportionments to correct such bridges.

Subsection 107(b) provides that the funds set aside for the discretionary bridge program under section 127(a)(1) of this Act for fiscal years 1998 through 2003 shall be available at the discretion of the Secretary, and that, for fiscal year 1998, 25 percent of the discretionary bridge program funds are required to be spent for the seismic retrofit of the Golden Gate Bridge in California, and that, for each of fiscal years 1999 through 2003, not to exceed 25 percent of such funds shall be available only for the seismic retrofit of bridges, including projects in the New Madrid fault region.

Although the Golden Gate Bridge in California is on the National Highway System, it has generally been the beneficiary of Federal highway assistance only on projects of an extraordinary cost. The seismic retrofit of the Bridge is one such project. The Committee retains its interest in completion of this project and provides funding for the seismic retrofit of the Golden Gate Bridge.

The Committee notes the catastrophic potential for earthquake damage in the multistate region affected by the New Madrid Fault and commends the States for intending to incorporate existing innovative, effective, and economical technologies, such as composite materials, in seismic retrofit projects in order to reduce costs and enhance performance.

The Committee notes the importance of the replacement of the nearly 75-year-old bridge over the Missouri River at Yankton, South Dakota, and encourages the Secretary to consider making funds available for this project under this section.

Subsection 107(c) extends the off-system bridge set-aside through fiscal year 2003.

Subsection 107(d) makes the use on bridges of agriculturally derived, environmentally acceptable, and minimally corrosive anti-icing and de-icing compositions eligible for funding under the bridge program.

Subsection 107(e) technically amends 23 U.S.C. 144(n) to conform to changes made by subsection 107(c).

The Committee has become aware of the need to increase technical knowledge about the environmental effects of paints and coatings used in transportation projects. It is concerned that limitations might be imposed to reduce the use of certain such paints and coating which would potentially have an adverse effect on the transportation infrastructure. The Secretary is encouraged to ensure that the transportation benefits of these paints and coatings be considered as regulatory actions are taken.

Senate amendment

Section 1118 amends 23 U.S.C. 104 to direct the Secretary to set aside a total of $140 million from the Interstate maintenance and Interstate bridge components of the INHS apportionment, to be obligated at the discretion of the Secretary of States for the resurfacing, restoration, rehabilitation, or reconstruction of any route on the Interstate system or for the replacement, rehabilitation, or seismic retrofit of a highway bridge.

Section 1118 adds a new paragraph 104(k)(1) to title 23, United States Code, which defines the eligible uses of the $140 million set-aside to include bridge projects that exceed $10 million in costs or represent costs that exceed twice the amount of funds that States are required to reserve under 23 U.S.C. 144(c).

Section 1118 also adds a new paragraph 104(k)(2), in which the Secretary is required to set aside $20 million each fiscal year from the I–4R program and allocate it to any State that (1) receives less funding under the bridge apportionment factors used in the Interstate and National Highway System program and the Surface Transportation Program compared with the funds the State received under the bridge program in 1997, and (2) was apportioned at least $125 million in bridge funds in 1997. These funds shall be available for highway bridge projects. States that have transferred more than 10 percent of the funds apportioned under the bridge

program in 1995 through 1997 to other Federal-aid transportation projects are not eligible for an allocation from this set-aside. New paragraph 104(k)(2) also requires the Secretary to set aside $15 million each fiscal year from the I–4R program and allocate it to any State with bridges having an average life exceeding 46 years as of the date of enactment of this Act.

Section 1118 also adds a new paragraph 104(k)(4), which provides that, notwithstanding any other provision of law, the Golden Gate Bridge in California is eligible for assistance under the Interstate 4R and bridge discretionary programs.

Under new paragraph 104(k)(5), as added by section 1118, the Secretary is also directed to allocate $10 million in Interstate maintenance component funds set aside under this section to eligible States for Interstate 4R and bridge projects. An eligible State is a State (1) that ranks among the lowest 10 percent of all States in per capita personal income, (2) where the ratio of its percentage of total Federal-aid highway program apportionments for fiscal years 1998 through 2003 to its percentage of estimated contributions to the highway account of the Highway Trust Fund for the same period is less than 1.00, and (3) where the State's percentage of total Federal-aid highway program apportionments for fiscal years 1998 through 2003 is less than its percentage of total Federal-aid highway program apportionments and allocations under section 1103 through 1108 of ISTEA and under the Federal lands highways program for fiscal years 1992 through 1997.

Section 1122 amends 23 U.S.C. 144 to address highway bridge replacement and rehabilitation requirements. While the bridge program authorized in ISTEA is eliminated in the bill, it is replaced with a requirement that States maintain their current funding levels for bridges on the Federal-aid system. States must spend at least an amount equivalent to the funding a State received under the bridge program in fiscal year 1997 for bridges on either the Interstate, the National Highway System, or other Federal-aid roads. States may meet this ''level-of-effort'' requirement annually or over a 4-year period. This requirement is extended to off-system bridges as well. An amount equivalent to at least 15 percent of a State's fiscal year 1997 bridge apportionment must be expended on bridges off the Federal-aid system.

This section also makes eligible the cost to convert an historic bridge for alternative transportation purposes.

This section defines bridge rehabilitation to include work necessary to address structural deficiencies, functional limitations, and safety defects, including seismic deficiencies.

Section 1122 also requires the Secretary, in consultation with the States, to inventory all bridges on public roads, including historic bridges on Indian reservation roads and park roads; classify bridges based on safety an serviceability; and assign each bridge a priority for replacement or rehabilitation.

Section 1122 provides that States are not required to meet the spending requirements of revised 23 U.S.C. 144 by expending certain levels on any particular functional classification of bridges other than the spending requirement for the bridges off the Federal-aid system. Funds expended by a State on Interstate, NHS or Federal-aid system bridges will be credited toward the State's level of effort requirement. States may meet this requirement on a cumulative basis, including the spending requirement for off-system bridges.

Subsection 1806(a) of the Senate bill makes the use on bridges of agriculturally derived, environmentally acceptable, and minimally corrosive anti-icing and de-icing compositions eligible for funding under the bridge program.

Conference substitute

In section 1109, the Conference adopts the House provision amending 23 U.S.C. 144, with the following modifications. For the discretionary bridge program in fiscal year 1998, the Conference substitute sets aside $25 million of bridge program apportionments and provides that such funds shall be available only for the seismic retrofit of the Golden Gate Bridge in California. For each of fiscal years 1999 through 2003, the Conference substitute sets aside $100 million of bridge program apportionments and provides that not to exceed $25 million of such funds shall only be available for projects for the seismic retrofit of bridges, including projects in the New Madrid fault region.

In expanding bridge program eligibility to include anti-icing and de-icing compositions, the Conference substitute deletes the reference to agriculturally-derived compositions; environmentally acceptable compositions in general are eligible.

The Conference does not adopt the Senate provisions in section 1118 further suballocating three specific amounts of funds set aside for I–4R and bridge discretionary projects to States meeting certain eligibility requirements.

SEC. 1110. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM

House bill

Subsection 110(a) of the House bill clarifies that the Secretary is to implement the CMAQ program.

Subsection 110(b) makes various changes to 23 U.S.C. 149(b) relating to eligible projects. It makes programs that reduce motor vehicle emissions that are caused by extreme cold start conditions eligible under the CMAQ program and it codifies currently eligible activities under the CMAQ program.

Subsection 110(c) permits States, metropolitan planning organizations, or other sponsors of CMAQ projects to enter into an agreement with any public, private, or nonprofit entity to cooperatively implement such projects, and to allocate CMAQ funds to such entities. This subsection also defines eligible alternative fuel projects.

Subsection 110(d) requires the National Academy of Sciences to conduct a study on the effectiveness of the CMAQ program in improving the air quality in nonattainment areas. This subsection makes $500,000 in CMAQ funds available for each of fiscal years 1998 and 1999 for this study. The final report to Congress on this study shall include recommendations for modifications to the program in light of the study results.

The Committee recognizes the important security, economic, and environmental benefits that are derived from the increased use of renewable fuels. Therefore, the Committee strongly supports the continued use of renewable fuels as a key component of our nation's transportation policy. The Committee encourages the use of a variety of transportation approaches to clean air problems. Urban areas should consider the variety of options available to them, such as the use of vehicles that use alternative fuels (including innovative fuels such as bio-diesel) and to use CMAQ funds to support the infrastructure needed for such vehicles.

Senate amendment

Section 1123 of the Senate bill amends 23 U.S.C. 149 to continue the CMAQ program and maintains the basic eligibility criteria for this program. As in current law, only those projects or programs that the Secretary, in consultation with the EPA Administrator, determines are likely to contribute to the attainment of a national ambient air quality standard or the maintenance of such a standard are eligible for CMAQ funds.

Subsection 1123(a) technically amends subsection 149(a) to reflect that, since the CMAQ program is already established, the Secretary is to implement the program.

Subsection 1123(b) amends current section 149(b) to extend the eligibility for CMAQ funding to include carbon monoxide nonattainment areas, (2) all carbon monoxide and ozone maintenance areas, (3) areas classified as submarginal ozone nonattainment areas, and (4) extreme cold start programs.

Subsection 1123(c) strikes current section 149(c) and inserts a new section that modifies the eligible uses of CMAQ funds. A State with a nonattainment area or maintenance area that received the minimum apportionment under 23 U.S.C. 104(b)(2) can use that amount of its apportionment that is not attributable to its nonattainment or maintenance area population on any project in the State eligible for STP funds. Consistent with current law, a State that does not have and never has had a nonattainment area may use its CMAQ funds for any project eligible for STP funds.

Subsection 1123(d) amends 23 U.S.C. 120(c) to exclude projects funded with CMAQ apportionments from the list of safety projects eligible for 100 percent Federal participation. As a result, the standard Federal share provisions of 23 U.S.C. 120(a) and (b) that apply to all other CMAQ projects would apply to these projects as well.

Section 1502 permits States, metropolitan planning organizations, or other sponsors of CMAQ projects to enter into an agreement with any public, private, or nonprofit entity to cooperatively implement such projects, and to allocate CMAQ funds to such entities. This section also defines eligible alternative fuel projects.

Conference substitute

The Conference substitute adopts provisions from both the House and Senate bills.

In subsection 1110(a) the Conference adopts the provision included in both the House and Senate bills clarifying that the Secretary's role is to implement the CMAQ program.

In subsection 1110(b), the Conference adopts the House and Senate provisions amending 23 U.S.C. 149(b) regarding CMAQ eligibility to include programs that reduce motor vehicle emissions caused by extreme cold start conditions and adopts the House eligibility provision for projects that were eligible under section 149 on the day before the date of enactment of new paragraph 149(b)(6). The Conference substitute also provides that projects or programs that improve traffic flow are eligible for CMAQ funds.

In subsection 1110(c), the Conference adopts the Senate provision regarding the eligible uses of CMAQ funds by States receiving the minimum CMAQ apportionment.

In subsection 1110(d), the Conference adopts the provisions in both the House and Senate bills regarding partnerships with nongovernmental entities and alternative fuel projects, with a modification that directs the Secretary to determine whether certain water-phased hydrocarbon fuel emulsion technologies reduce emissions of hydrocarbon, particulate matter, carbon monoxide, or nitrogen oxide, from motor vehicles.

In subsection 1110(e), the Conference adopts the House provision regarding the study of the effectiveness of the CMAQ program, with the following modifications: (1) the Administrator of the Environmental Protection Agency shall participate in the study; and (2) the elements to be examined in the study are expanded to include (a) an evaluation of the air quality impacts of emissions from motor vehicles, (b) an evaluation of the negative effects of traffic congestion, (c) a comparison of the costs of

achieving air pollution emissions reductions under the program to the costs that would be incurred if similar reductions were achieved by other measures, and (d) recommendations to expand the scope of the program to address traffic-related improvements not currently covered by the program.

SEC. 1111. FEDERAL SHARE

House bill

Subsection 120(a) amends 23 U.S.C. 120(c) to provide that the Federal share of the cost of priority control systems for transit vehicles at signalized intersections may be 100 percent.

Subsection 120(b) amends title 23 to allow a State to use revenues generated through tolls as its non-Federal matching share of projects costs funded under title 23 (other than emergency relief projects) or projects under chapter 53 of title 49, United States Code. A State may do so only if it agrees to enter into an agreement with the Secretary to ensure that the State maintains its non-Federal capital expenditures at or above the average level for the previous three years. This is a continuation of a program established by ISTEA.

Subsection 134(c) technically amends the Federal share provisions of 23 U.S.C. 120(a) and (b) to move from a strict percentage to a limitation. This change allows for an increased non-Federal share at a State's option. It does not allow the Secretary to impose a lower Federal matching share. This change also conforms the Federal share language of section 120 to the revised, more flexible language in 23 U.S.C. 121 (as amended by section 1302 of the Conference substitute) concerning payments to States for construction.

Senate amendment

Subscetion 1112(a) amends 23 U.S.C. 120 to allow a State, if it chooses, to reduce the Federal share of a Federal-aid highway project. This change will give States the flexibility to carry out more projects than would be possible with a straight 20 percent non-Federal share. Nothing in this section is intended to require a State to lower the Federal share payable on any project funded under this title. Section 1112(a) also codifies in 23 U.S.C. 120 a provision established in section 1044 of ISTEA which allows States to apply all revenues used for specified capital improvements to their non-Federal share requirement for title 23 projects (other than emergency relief projects). To receive this credit, a State must meet a maintenance of effort test, and therefore, must maintain its average non-Federal transportation capital expenditure at or above the level of such expenditures for the preceding three fiscal years. The provision allows a State to drop a ''high year'' from the three year maintenance of effort test, if that year is at least 130 percent greater than the average for the 2 other preceding years.

Paragraph 1112(b)(1) makes conforming amendments to 23 U.S.C. 130 concerning railway highway grade crossing projects.

Conference substitute

In subsection 111(a), the Conference adopts the Senate provision giving States the option to determine a lower Federal share for a project than the one determined under 23 U.S.C. 120(a) and (b). The Conference does not adopt the House provision technically amending the Federal share provisions in 23 U.S.C. 120(a) and (b).

In subsection 1111(b), the Conference adopts the House provision permitting an increased Federal share of project costs for priority control systems for transit vehicles under 23 U.S.C. 120(c).

In subsection 1111(c), the Conference adopts the nearly-identical House and Senate provisions concerning States using toll revenues as a credit for the non-Federal share of project costs, with modifications. The Conference provision includes the Senate bill's exception from the standard maintenance of effort test for States where any one of the preceding 3 fiscal years' non-Federal transportation capital expenditures were more than 30 percent above the average level of such expenditures for the remaining 2 preceding fiscal years. The Conference provision also clarifies that payments made by the State for issuance of transportation related bonds are considered non-Federal transportation capital expenditures.

In subsection 1111(d), the Conference adopts the Senate's conforming amendments to 23 U.S.C. 130 concerning railway highway grade crossing projects.

SEC. 1112. RECREATIONAL TRAILS PROGRAM

House bill

Section 114 codifies the Recreational Trails program authorized in ISTEA as 23 U.S.C. 206. The program distributes to States a portion of gas tax revenues attributable to non-highway uses for trail projects. The Secretary is required to administer this program for the purpose of providing and maintaining recreational trails. The Federal share of the cost of any recreational trails project under this section shall not exceed 50 percent of project costs, but States are given the flexibility to meet this requirement on a program-wide basis, Federal agency project sponsors may pay up to 30 percent of project costs, and certain other Federal programs can be used as matching funds. Eligible costs include educational programs, the development, construction and rehabilitation of trails, and the acquisition of easements.

The 30 percent figures under the Assured Access to Funds requirement and the 40 percent figure under the Diversified Trail Use requirement are minimum requirements that can be exceeded. States should not treat their projects as if they were meeting three mutually exclusive categories. There can be overlap between the Diversified Trail Use requirement and the Assured Access to Funds requirement. There should be diversified motorized use projects, diversified non-motorized use projects, and projects that benefit both motorized and non-motorized use simultaneously.

Subsection 114(c) repeals the existing Recreational Trails program section in ISTEA.

Subsction 114(d) terminates the Recreational Trail Advisory Committee by the end of fiscal year 2000.

Subsection 114(e) directs the Secretary to encourage States to use qualified youth conservation or service corps to construct and maintain recreational trail projects.

Senate amendment

Section 1107 continues the existing Recreational Trails Program. Under this provision, the Recreational Trails program is to be funded through contract authority from the Highway Trust Fund. The annual contract authority is as follows: $17,000,000 for fiscal year 1998; $20,000,000 for fiscal year 1999; $22,000,000 for fiscal year 2000; $23,000,000 for fiscal year 2001; $24,000,000 for fiscal year 2002; and $25,000,000 for fiscal year 2003. The provision of current law relating to National Recreational Trails funding is repealed.

The Federal share payable for projects under the Recreational Trails program is increased from 50 percent to 80 percent. In addition to the Department of Transportation, other Federal agencies may contribute additional funds for a Recreational Trails project. However, the Federal share, using Recreational Trails funds, for any individual project may not exceed 80 percent; the combined share of all Federal agencies may not exceed 95 percent. The Federal share for this program is consistent with the Federal share available for other Federal-aid highway projects.

This section retains the current requirement regarding the States' use of annual apportionments: at least 30 percent of Federal funds must be used to facilitate non-motorized recreation; another 30 percent of the funds must be used for motorized recreational purposes. A State must use the remaining amount of funds for diverse recreational purposes, including both motorized and nonmotorized recreational trail use. Experience with implementing Recreational Trail projects in the past has shown that project sponsors for nonmotorized trail projects were significantly disadvantaged in meeting the higher non-Federal matching requirements.

To the extent practicable and consistent with other requirements, States are to give consideration to projects that benefit the natural environment or mitigate and minimize impacts to the environment.

The amount that the Secretary may deduct to pay the costs for administration of the program is reduced from three percent to one percent; see section 1102 of the Act.

Subsection 1208(c) directs the Secretary to terminate the National Recreational Trails Advisory Committee as soon as is practicable. The Advisory Committee was established in ISTEA and directed to (1) review the allocation and utilization of moneys under the Recreational Trails program; (2) establish review criteria for trail-side and trail-head facilities; and (3) recommend changes in Federal policy to advance the purposes of the program. The Advisory Committee has completed these tasks and is no longer necessary. This provision does not affect the State advisory committees that are responsible for implementing the Recreational Trails program.

Conference substitute

The Conference substitute adopts the Senate language with several modifications. The substitute clarifies that a State may use funds appropriated under this section for construction on new trails only if the construction is permissible under some other law or is otherwise required by a statewide comprehensive outdoor recreational plan (SCORP) that is in effect. Due to a lack of funding over the past several years, some States may not have updated SCORPs in effect; so the requirement that projects be included in a SCORP would apply only to those States that have a current updated SCORP in effect. This provision also places a cap on the amount that a state can expend on educational programs to promote safety and environmental protection at 5 percent of annual apportionments.

The substitute provision also modifies existing law to exclude all small States with a total land area of less than 3,500,000 acres from the requirement to expend annual apportionments for trails and trails related projects at a minimum of 30 percent for motorized recreation and 30 percent for non-motorized recreation. The substitute further provides that a State trail advisory committee may waive the motorized/nonmotorized use requirement if the State notifies the Secretary that the State does not have sufficient projects to meet the diversity requirements.

It includes a modified House provision which allows States to make grants under section 104(h) to private organizations, municipal, county, State and Federal governmental entities after considering guidance from the recreational advisory committee for uses consistent with this section.

In subsection 1112(d) the Conference adopts the House provision terminating the Recreational Trails Advisory Committee on September 30, 2000.

In subsection 1112(e), the Conference adopts the House provision encouraging the use of youth conservation or service corps to perform recreational trails projects.

SEC. 1113. EMERGENCY RELIEF

House bill

Paragraph 117(a)(1) of the House bill makes two technical corrections to the Federal share provision for the Emergency Relief (ER) program.

Senate amendment

Section 1105 restates the eligibility for highway and bridge projects and the funding requirements for the ER program. ER funds can be used only for emergency repairs done to restore essential highway traffic, to minimize the extent of damage resulting from a natural disaster or catastrophic failure, or to protect the remaining facility. The Secretary is authorized to borrow amounts necessary from any program under title 23 for emergency relief work. Any additional funds used shall be reimbursed with future ER appropriations. The purpose of allowing the Secretary to borrow funds from title 23 programs is to provide a ''cushion'' to allow project work to continue if all ER program funds are used. This section also amends current law, which limits the availability of ER funds to two years, to make them available until expended.

Conference substitute

The Conference adopts the House and Senate provisions, with some modifications. The Conference provision includes the two House corrections to the Federal share provisions in 23 U.S.C. 120(e) governing the ER program, but provides that the 100 percent Federal share provision for ER projects shall apply to repairs accomplished within 180 days, rather than 120 days, after the occurrence of the disaster.

SEC. 1114. HIGHWAY USE TAX EVASION PROJECTS

House bill

Subsection 122(a) amends section 1040 of ISTEA to specify that all funds provided for the highway use tax evasion program are contract authority. Subsection 122(b) requires funding provided under this section to be used to create an automated fuel reporting system to improve the tracking of motor fuels subject to Federal and State excise taxes. Subsection 122(c) makes a technical amendment to subsection 1040(a) of ISTEA to delete an incorrect reference.

Senate amendment

Section 1109 eliminates two obsolete tax evasion study requirements in current law. It eliminates the annual report on motor fuel tax enforcement and the report on the feasibility and desirability of using dye and markers to aid in motor fuel tax enforcement activities.

This section codifies at 23 U.S.C. 143 and expands the successful tax evasion program in section 1040 of ISTEA. It provides $5 million in contract authority for each of fiscal years 1998 through 2003 to continue joint Federal Highway Administration/Internal Revenue Service (IRS)/State motor fuel tax compliance projects across the Nation, as established in section 1040 of ISTEA. In addition, this section permits each State to use up to ¼ of 1 percent of its Surface Transportation Program apportionments for programs to halt fuel tax evasion. All costs of tax evasion projects are to be paid by the Federal government.

This section also authorizes an additional $8 million for the Secretary to complete the development of an excise fuel reporting system, as well as $2 million annually for the operation and maintenance of the system. This system will provide essential information regarding data on import and refinery production of motor fuel to compare with terminal fuel receipts and fuel deliveries. This new program, along with the continuing program, is necessary to help ensure that the successful, coordinated regional and national approach to combat fuel tax fraud can continue and improve.

Conference substitute

The Conference provision adopts the Senate provision with some modifications. The Conference substitute expressly provides the excise fuel reporting system with contract authority, authorizes a single, annual lump sum amount of funding for fuel tax evasion projects each year ($10 million in fiscal year 1998 and $5 million for each of fiscal years 1999 through 2003), and provides that priority as to the use of such funds shall be given to the establishment and operation of an automated fuel reporting system by the IRS.

SEC. 1115. FEDERAL LANDS HIGHWAY PROGRAM

House bill

Subsection 117(a) amends 23 U.S.C. 120 to enable Federal land managing agencies to pay the non-Federal share of any Federal-aid highway project. Similarly, Federal lands highways program funds may be used as the non-Federal share of any Federal-aid project providing access to or within Federal or Indian lands.

Subsection 117(b) amends 23 U.S.C. 202 to provide for separate allocations for public lands highways and for forest highways. ISTEA established them as one program with different methods of distribution. This subsection reconstitutes them as separate programs and sets forth the method of allocating funds for the two programs. The public lands funds are allocated through an administrative formula. The forest highway program allocation is based on a statutory formula. This subsection also provides that, for fiscal year 2000 and thereafter, all Indian reservation roads funds shall be allocated in accordance with a formula established in regulations development under a negotiated rulemaking procedure.

Subsection 117(c) amends 23 U.S.C. 203 to clarify what constitutes the point of obligation of funds (at which the Federal government is contractually obligated to pay its contribution to project costs) under the Federal lands highways program.

Subsection 117(d) amends 23 U.S.C. 204 to reflect the new, separate public lands and forest highways programs and to increase the flexibility of transportation planning with respect to Federal lands highways projects. It requires that only regionally significant transportation projects funded from the Federal lands highways program be coordinated with States and metropolitan planning organizations (MPOs), and that, once the Federal lands highways program transportation improvement program (TIP) is approved by the Secretary, the TIP shall be included in the appropriate State and metropolitan planning organization plans without further action by the States or MPOs. Subsection 117(d) also revises 23 U.S.C. 204(i) to authorize the Secretary to transfer public lands highways funds to the appropriate Federal land managing agency to cover both the administrative and transportation planning costs of such agency. Subsection 117(d) also requires that up to 1 percent of Indian reservation roads funds be set aside for transportation-related administrative expenses of Indian tribal governments, and it directs the Secretary to establish a pilot program to permit no more than 10 Indian tribes to apply directly to the Secretary for authority to conduct Indian reservation roads projects.

Senate amendment

Section 1106 retains the structure of the Federal lands highways program (FLHP). The process for inclusion of FLHP projects in the Statewide and Metropolitan planning process has been streamlined.

Section 1106 also allows Federal land management agencies to sue their program funds to provide the non-Federal share of FLHP projects. FLHP project funds may be used to provide the non-Federal share for other title 23 projects undertaken on projects providing access to Federal lands. The streamlining of the planning process under this section should be implemented through the notice, and comment rulemaking process. Because many FLHP projects are constructed, improved on, or maintained by the States, the views of the States are to be considered in this process. Eligibility of FLHP funds is extended to expressly include transit facilities found within public lands. This expanded eligibility is important, as bus systems can reduce congestion an other negative impacts of passenger vehicle traffic within our national parks and other Federal lands.

Section 1122, the current requirement that States with Indian reservations reserve 1 percent of their bridge program funds for Indian reservation bridges is replaced with a $9 million national program to fund improvements to Indian bridges as a set-aside from Indian Reservation Roads funds.

Conference substitute

The Conference finds that the House and Senate provisions concerning the use of Federal land management agency and Federal lands highways program funds to apply the non-Federal share of certain projects are substantively equivalent. The Conference adopts the Senate language on this subject in subsection 1115(a).

In subsection 1115(b), the Conference adopts the House provision amending 23 U.S.C. 202(d) concerning the allocation of Indian Reservation Roads funds in accordance with a formula established by regulation developed through negotiated rulemaking. The Conference provision also replaces the House bill's Indian Reservation Roads pilot program with a requirement that, upon the request of any Indian tribe, all funds authorized for Indian reservation road and bridge projects shall be made available to Indian tribal governments to carry out such projects, in accordance with the Indian Self-Determination and Education Assistance Act. In this subsection, the Conference also adopts the Senate provision replacing the current 1 percent set-aside from States' bridge apportionments with an annual set-aside of Indian Reservation Roads funds as the funding source for Indian reservation road bridges, increasing the amount set aside from $9 million to $13 million.

The Conference finds that the House and Senate provisions clarifying the point of obligation for Federal lands highways program projects are substantively equivalent. The Conference adopts the Senate language on this subject in subsection 1115(c).

The Conference finds that the house and Senate provisions on streamlined transportation planning and agency coordination are substantively equivalent. The Conference adopts the Senate language on this subject in subsection 1115(d). The Conference also adopts the Senate provision expanding the eligible uses of Federal lands highways program funds to include a project to replace the federally-owned bridge over the Hoover Dam and the provision in both the house and Senate bills authorizing the Secretary to transfer public lands highways funds to the

appropriate Federal land management agencies for transportation planning for Federal lands.

In subsection 1115(e), the Conference adopts a Senate proposal to establish a refuge roads program as part of the Federal lands highways program, allocating $20 million for each of fiscal years 1999 through 2003 based on the relative needs of the various refuges in the National Wildlife Refuge System to fund projects to maintain and improve refuge roads and certain other eligible Federal lands highways program projects located in or adjacent to wildlife refuges.

Subsection 1115(f) makes several amendments to title 23 to conform the provisions of that title to the changes made by this section.

SEC. 1116. WOODROW WILSON MEMORIAL BRIDGE

House bill

Section 128 amends the National Highway System Designation Act of 1995 to transfer title of the Woodrow Wilson Bridge to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia. This section further provides that the bridge shall not be eligible for high cost Interstate System reconstruction and improvement program funds until such time as the three jurisdictions accept ownership of the bridge.

Senate amendment

Section 1120 amends title IV of the National Highway System Designation Act of 1995 (i.e., the Woodrow Wilson Memorial Bridge Authority Act of 1995) to require the Secretary to execute an agreement with the Woodrow Wilson Memorial Bridge Authority or any Capital Region jurisdiction (Virginia, Maryland or the District of Columbia) before funds made available under this section are available for construction of the replacement bridge.

The agreement is must identify whether the Authority or a Capital Region jurisdiction will accept ownership of the new facility and must include a financial plan that identifies the total cost, schedule, and source of funds necessary to complete the project. The agreement must also (1) require that the project include not more than 12 traffic lanes, including 2 HOV, express bus, or rail transit lanes; (2) include all provisions described in the environmental impact statement or record of decision to mitigate the environmental and other impacts of the project; and (3) require the Authority and Capital Region jurisdictions to fully involve affected local governments in all aspects of the project. The Secretary is authorized to use the funds made available under this section for rehabilitation of the existing Woodrow Wilson Bridge and for the engineering, design, and construction of the replacement bridge.

The definition of the project is modified to require that the replacement bridge will be the preferred alternative identified in the record of decision in compliance with the National Environmental Policy Act.

Section 1120 authorizes $100 million for each of fiscal years 1998 and 1999; $125 million for fiscal year 2000; $175 million for fiscal year 2001; and, $200 million for each of fiscal years 2002 and 2003 to carry out this section.

Conference substitute

In section 1116, the Conference adopts the Senate provision, but modifies the annual authorizations for the project to provide a greater portion of the total $900 million authorized for the bridge in the latter years of the 6-year authorization period of this Act. Section 1116 also modifies the eligible uses of such funds: none of the funds made available under this section shall be available for construction of the Project before an agreement is executed by the Secretary and the bridge authority and any Capital Region jurisdiction that accepts ownership of the bridge. Prior to the execution of such agreement transferring ownership of the bridge, such funds may be used for pre-construction activities for the Project, including right-of-way acquisition and early acquisition of construction staging areas, and the maintenance and rehabilitation of the Bridge. Subsection 1120(e) also makes necessary technical corrections to sections 404 and 407 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 to clarify references to any record of decision for the project.

SEC. 1117. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

House bill

Subsection 112(a) establishes that funds for the Appalachian development highway system (ADHS) shall be allocated to the States based on the latest cost to complete estimate, although no State is to receive less than $1 million. This method of distribution can be adjusted by the Appalachian Regional Commission.

Subsection 112(b) specifies that funds for the ADHS are contract authority.

Subsection 112(c) changes the Federal share for reimbursing States that have prefinanced segments of the ADHS from 70 to 80 percent.

Subsection 112(d) allows for the deduction, from the funds authorized to carry out this section, of administrative expenses of the Appalachian Regional Commission associated with the ADHS.

Subsection 112(e) provides for local consultation before certain ADHS corridors in Ohio can be redesignated.

Senate amendment

Subsection 1117 provides funds to assist with the continued construction of the Appalachian development highway system located in regions of the 13 States that comprise the Appalachian Regional Commission. A total of $40 million for each of fiscal years 1998 though 2000, $50 million for fiscal year 2001, $60 million for fiscal year 2002, and $70 million for 2003 in contract authority is authorized to carry out this section.

The Federal share payable for pre-financing costs for Appalachian development highway system projects is increased from 70 percent to 80 percent.

The Appalachian development highway system map is revised to substitute the Virginia portion of Corridor H with the Virginia portion of the Coalfields Expressway authorize in the National Highway System Designation Act of 1995.

Conference substitute

In subsection 1117(a), the Conference adopts the House provision making funds authorized for the Appalachian development highway system available to the 13 Appalachian States based on the latest cost to complete estimate, with a modification deleting the option for the Appalachian Regional Commission to develop an alternative method for distributing such funds. This subsection provides that such funds shall be available to construct highways and access roads in accordance with section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 201.)

Subsection 1117(b) adopts the provision in both the House and Senate bills providing that the funds authorized to carry out this section are contract authority.

Subsection 1117(c) adopts the provision in both the House and Senate bills increasing the Federal share of project costs prefinanced by a State from 70 percent to 80 percent, thereby bringing the Federal share for prefinanced projects up to the same level as the standard Federal share for Appalachian development highway system projects.

Subsection 1117(d) makes alterations to the segments constituting Corridor O in Pennsylvania and provides that the addition to Corridor O designated in this subsection shall not affect estimates of the cost to complete the segment and that the segment substracted from Corridor O in this section may be included on a map of the Appalachian Development Highway System for purposes of continuity only.

SEC. 1118. NATIONAL CORRIDOR PLANNING AND DEVELOPMENT PROGRAM

House bill

Subsection 115(a) establishes the National Corridor Planning and Development Program, the purpose of which is to assist States in planning, developing, and constructing highway corridors.

Subsection 115(b) establishes that eligible corridors are those designated in law as high priority corridors. In fiscal years 1998 through 2000, the Secretary may make, on an interim basis pending identification by Congress as a high priority corridor, allocations to other regional or multistate highway corridors the Secretary determines are likely to improve international or interregional trade, facilitate mobility, or encourage eonomic growth and development in areas underserved by existing highway infrastructure.

Subsection 115(d) describes activities that are eligible for funding under the program. These include feasibility studies, design activities, corridor planning, location and routing studies, environmental review, coordination activities, and construction.

Subsection 115(d) requires that any State receiving funds under this program must develop a corridor development and management plan and it lists several elements the plan must contain.

Subsection 115(e) specifies that the funds authorized in this Act for the corridor program are contract authority.

Subsection 115(f) defines State to have the meaning such term has under 23 U.S.C. 101.

Senate amendment

Section 1116 of the Senate bill establishes three grant programs: (1) border crossing planning incentive grants, (2) trade corridor planning incentive grants, and (3) trade corridor and border infrastructure safety and congestion relief grants. The Federal share of the cost of any project carried out under these grant programs shall not exceed 80 percent.

Under subsection 1116(c), the Secretary is directed to make grants to States to encourage cooperative corridor analysis of and planning for the safe and efficient movement of goods along and within trade corridors and ports of entry. Within 2 years of receiving a grant under this subsection, a State shall submit a plan for corridor and port of entry improvements that has been coordinated with the transportation planning activities of other States and metropolitan planning organizations along the corridor. This subsection also $3 million in contract authority for each of fiscal years 1998 through 2003 to carry out this provision.

In subsection 1116(d), the Secretary is directed to make grants to States or metropolitan planning organizations for transportation projects to relieve traffic congestion or improve enforcement of motor carrier safety laws, provide for continued planning and development of trade corridors, or provide for the safe and efficient movement of goods along trade corridors. In selecting the projects to receive grants under this subsection, the Secretary is directed to consider eleven factors, including the extent to which international truckborne commodities move

through each State, the degree of leveraging of Federal funds provided under this section, and the value of the cargo carried by commercial vehicle traffic. $125 million for each of fiscal years 1998 through 2003 is authorized to carry out this program.

Subsection 1116(g) provides that if the total amount of funds authorized but unallocated for the three grant programs under this section exceeds $4 million at the end of any fiscal year, the amount in excess of $4 million shall be apportioned to all States as STP funds and shall be available for any purpose eligible for funds under the STP program.

Conference substitute

The Conference adopts the House provision, with several modifications.

First, subsection 1118(b) of the Conference provision creates two categories of corridors eligible for funding. The first category is those corridors identified by Congress as high priority corridors in section 1105(c) of the Intermodal Surface Transportation Efficiency Act (ISTEA). The second category consists of corridors selected by the Secretary after considering 6 factors listed. Those factors address: changes in commercial traffic due to the enactment of NAFTA, the extent of international truck-borne commodity movement, a proposed project's potential impact on commercial and other travel time, the extent of leveraging of the Federal grant funds provided under this subsection, and the value of commercial cargo. These factors only apply to the second category of corridors selected by the Secretary.

Second, in subsection 1118(c), the Conference provision conditions the use of grant funds for environmental review and construction on the Secretary's review of a corridor development and management plan. The plan is intended to ensure that funds be used for projects that have, to the extent possible, completed environmental and financial analyses and therefore are ready to proceed. The plan will also ensure that the corridor program be used to finance useable segments and not result in the construction of corridors unconnected to existing transportation facilities. However, the plan need only be reviewed, not approved by the Secretary.

Third, the Conference adopts the Senate provision requiring that the corridor planning carried out under this section be coordinated with transportation planning carried out by other States and metropolitan planning organizations along the corridor, and, to the extent appropriate, with the transportation planning activities of Federal land management agencies and tribal, Mexican, and Canadian governments.

SEC. 1119. COORDINATED BORDER INFRASTRUCTURE PROGRAM

House bill

Subsection 116(a) establishes the coordinated border infrastructure and safety program, the purpose of which is to improve the movement of people and goods across the Nation's land borders.

Subsection 116(b) identified eligible uses for funds under the program. They include construction of facilities, operational improvements, modifying regulatory procedures, and international planning and coordination.

Subsection 116(c) establishes eight criteria that are to be considered by the Secretary when allocating funds for projects.

Subsection 116(d) requires that a certain amount of the funds provided for the program be used to construct State motor vehicle safety inspection facilities.

Subsection 116(e) requires that at least 40 percent of funds are used on projects on the U.S./Canadian border and at least 40 percent of funds are used on projects on the U.S./Mexico border; at least 2 projects on each border shall be located at high volume ports of entry.

Subsection 116(f) specifies that funds made available for this program are contract authority.

Subsection 116(g) defines ''border region'' and ''border State.''

Senate amendment

Section 1116 of the Senate bill establishes three grant programs: (1) border crossing planning incentive grants, (2) trade corridor planning incentive grants, and (3) trade corridor and border infrastructure safety and congestion relief grants. The Federal share of the cost of any project carried out under these grant programs shall not exceed 80 percent.

In subsection 1116(b), the Secretary is directed to make grants to States or MPOs that have certified they are engaged in joint planning with their counterparts in Mexico and Canada for joint planning activities and to improve the movement of people and vehicles through international gateways. This subsection provides $1.4 million in contract authority for each of fiscal years 1998 through 2003 to carry out this grant program.

In subsection 1116(d), the Secretary is directed to make grants to States or MPOs for projects to relieve traffic congestion; improve enforcement of motor carrier safety laws; or provide for continued planning and development of, and safe movement of goods along, trade corridors. The subseciton includes 11 grant selection factors, including the extent to which commercial vehicle travel has increased at border stations and within States since the enactment of NAFTA, the extent of transportation improvements at the border or ports of entry since the enactment of NAFTA, the expected reduction in travel time at the gateway or port of entry as a result of the proposed project, and the degree of demonstrated coordination with Federal inspection agencies. $125 million is authorized for each of fiscal years 1998 through 2003 to carry out this program.

Subsections 1116(d) and (e) provide that the General Services Administration (GSA) is the lead Federal agency in the planning and development of border stations. The Secretary, upon receiving a request from the Administrator of GSA and the U.S. Attorney General, is authorized to transfer up to $10 million in each of fiscal years 1998 through 2001 to the GSA for the purposes of constructing transportation facilities that are necessary for law enforcement in border States.

Subsection 1116(g) provides that if the total amount of funds authorized but unallocated for the three grant programs under this section exceeds $4 million at the end of any fiscal year, the amount in excess of $4 million shall be apportioned to all States as STP funds and shall be available for any purpose eligible for funding under the STP program

Conference substitute

The Conference adopts the majority of the House section, with several modifications. First, in subsection 1119(b), the Conference provision adds, to the list of eligible uses of funds under this section, the activities of Federal inspection agencies. Second, in subsection 1119(c), the Conference provision (1) adds a new selection criterion from the Senate bill on the degree of demonstrated coordination with Federal inspection agencies and (2) adopts a Senate provision that expands the House criterion examining improvements in vehicle and highway safety and cargo security to be broader than just improvements related to motor vehicles and to encompass highway safety cargo and security in and through gateways and ports of entry.

The Conference does not adopt the House provisions setting aside funds for State motor vehicle safety inspection facilities or suballocating funding for projects at our borders with Canada and Mexico and for projects at ports of entry with high traffic volume.

In subsection 1119(d), the Conference adopts the Senate provision permitting the Secretary to transfer no more than $10 million in funding made available to carry out this section and section 1118 to the Administrator of GSA to construct transportation infrastructure necessary for law enforcement in border States.

HIGH RISK ROAD SAFETY IMPROVEMENT PROGRAM

House bill

Subsection 110(a) creates a new program within the Federal-aid highway program to fund construction and operational projects that improve the safety of high risk roads. States are to allocate funds under this program to those projects that have the highest benefit. Up to fifty percent of funds under this program can be transferred to each State's National Highway System or Surface Transportation Program apportionments.

Subsection 110(b) includes a conforming amendment to include the title of this section in the table of sections of title 23, United States Code.

Subsection 110(c) authorizes a roadway safety awareness and improvement program funded from the high risk road safety program. the activities of the program should be carried out cooperatively between the Department of Transportation, States, and other safety organizations.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference does not adopt the House provision.

COOPERATIVE FEDERAL LANDS PROGRAM

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1115 establishes a new section 207 in chapter 2 of title 23, United States Code, which provides a funding source for public roads or bridges owned by States or their political subdivisions that cross, are adjacent to, or provide access to, Federal lands and Indian reservations (including reservoirs owned by the Army Corps of Engineers). The purpose of this program is to supplement the efforts of the Federal government in developing and maintaining roads or bridges that serve federally owned land and Indian reservations (including reservoirs owned by the Army Corps of Engineers).

The Cooperative Federal Lands Transportation Program ensures that funding will be provided for projects in States where greater than 4.5 percent of the land within the State borders is held in trust or owned by the Federal government. Funds are provided directly to these States for projects that provide access to Federal lands and Indian reservations. This section provides $74 million in contract authority per year from the Highway Trust Fund.

Conference substitute

The Conference does not adopt the Senate provision.

PERFORMANCE BONUS PROGRAM

House bill

Subsection 123(a) requires the Secretary to develop performance-based criteria for distributing up to 5 percent of Interstate maintenance, bridge program, high risk road safety improvement program, Surface Transportation Program, and Congestion Mitigation and Air Quality Improvement program funds.

Subsection 123(b) establishes the factors the Secretary shall assess in developing the performance-based criteria.

Subsection 123(c) requires the Secretary to submit to Congress the criteria developed under this section.

The mid-course correction legislation provided for under section 508 would include a provision to approve a system of performance bonuses to States pursuant to section 123.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference does not adopt the House provision.

NEW YORK AVENUE TRANSPORTATION DEVELOPMENT AUTHORITY

House bill

Section 142 establishes a New York Avenue Development Authority to develop an improvement plan for the New York Avenue Corridor in the District of Columbia. The authority is eligible to receive funding under the National Corridor Planning and Development program.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference does not adopt the House provision.

Subtitle B—General Provisions

SEC. 1201. DEFINITIONS

House bill

Section 143 organizes the definitions for title 23 alphabetically and makes minor technical corrections to the definitions.

Section 143 also amends the definition of ''transportation enhancement activities.'' It specifies that a transportation enhancement activity must have a direct link to surface transportation. It also expands the definition to allow the removal of graffiti and litter among the list of eligible activities, as well as environmental mitigation to reduce vehicle-caused wildlife mortality while maintaining habitat connectivity. In addition, it adds construction of tourist and welcome centers as an eligible activity.

Senate amendment

Section 1114 provides definitions for the terms ''Federal-aid highway funds'' and ''Federal-aid highway program.'' These phrases are used throughout title 23, but are not defined in current law. The addition of these clarifying definitions is not intended to change the implementation of any section under current law. The section also reorganizes the definitions for title 23 alphabetically and makes minor technical corrections to the definitions.

Subsection 1123(e) adds a definition of ''maintenance area'' to 23 U.S.C. 101(a) and makes a conforming amendment to section 149.

Subsection 1223(d) amends the definition of ''transportation enhancement activities'' in 23 U.S.C. 101(a) to expressly provide that tourist and welcome center facilities associated with scenic or historic highway programs are eligible transportation enhancement projects.

Section 1231 revises the definition of ''operational improvement'' in 23 U.S.C. 101(a) to include the installation, operation, or maintenance of certain Intelligent Transportation Systems infrastructure projects. The installation, operation or maintenance of communications systems, roadway weather information and prediction systems, and other improvements designated by the Secretary that enhance roadway safety during adverse weather are also incorporated into the revised definition.

Subparagraph 1404(b)(1)(A) changes the term ''highway safety improvement project'' in 23 U.S.C. 101(a) by deleting the reference to ''highway''.

Conference substitute

In section 1201, the Conference provision recognizes the definitions in 23 U.S.C. 101(a) alphabetically and makes minor technical corrections to the definitions.

The Conference does not adopt the Senate provision defining ''Federal-aid highway funds'' and ''Federal-aid highway program.''

The Conference adopts the Senate provision amending the term ''highway safety improvement project'' and makes a minor, technical modification to the definition. In carrying out this provision, States should minimize any negative impact on safety and access for bicyclists and pedestrians in accordance with 23 U.S.C. 217.

The Conference adopts the Senate provision defining ''maintenance area.''

The Conference does not adopt the Senate provision amending the definition of ''operational improvement.''

The Conference defines ''refuge road'' as a public road providing access to or within a unit of the National Wildlife Refuge System and for which title and maintenance responsibility is vested in the U.S. Government.

The Conference also adopts the House provision defining ''transportation enhancement activities,'' with modifications. The substitute requires that transportation enhancement activities relate to, rather than have a direct link to, surface transportation. It does not include the House provision adding graffiti and litter removal as eligible activities. It retains the Senate provision regarding eligibility of tourist and welcome centers. In order to be eligible under the enhancement program, the tourist or welcome center (whether a new facility or existing facility) does not have to be on a designated scenic or historic byway, but there must be a clear link to scenic or historical sites. It also adds the establishment of transportation museums as an eligible activity.

SEC. 1202. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS

House bill

Section 137 amends 23 U.S.C. 217 to make a number of clarifying changes, to require that bicyclists and pedestrians be included in the planning process, and to allow electric bicycles on trails when State or local regulations permit. The provision clarifies the requirements under 23 U.S.C. 109(n) related to the impact on non-motorized transportation of a Federal-aid highway project. It also requires that bicycle safety be taken into account when States undertake rail-highway crossing projects under 23 U.S.C. 130. Such safety devices shall include installation and maintenance of audible traffic signal and audible signs. This section also requires the Secretary and AASHTO to study design standards for bicycle projects, establishes national bicycle safety education curricula, and requires the Secretary, AASHTO, the Institute of Transportation Engineers, and other interested organizations to issue design guidance for accommodating bicycles and pedestrians.

Senate amendment

Section 1110 builds on ISTEA by expanding the amount of funds available to be used to encourage bicycling and walking as alternative modes of transportation. This provision amends 23 U.S.C. 217 to include the construction of pedestrian walkways as an eligible use of a State's National Highway System apportionments under the same criteria by which bicycle transportation facilities currently are eligible. This section eliminates the restriction on the use of NHS funds for the construction of bicycle transportation facilities on land adjacent to the Interstate System and amends current law to allow the safe accommodation of bicycles on highway bridges located on fully access-controlled highways, if the bridge is being replaced or rehabilitated with Federal funds. The Department is encouraged to work with the States to ensure that bicycling and pedestrian interests are represented in State and MPO decisionmaking.

This section also provides that bicyclists and pedestrians shall be given consideration in the comprehensive Statewide and metropolitan planning processes, and that the inclusion of bicycle and pedestrian facilities shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilties.

Conference substitute

The Conference adopts the House provision with modifications. The substitute clarifies that safety devices such as installation of audible traffic signals and audible signs shall be considered where appropriate. It also retains the provision in current law, 23 U.S.C. 217(i), which clarifies that eligible bicycle projects must be principally for transportation, rather than recreation, purposes. The Conference provision also adopts the House provision requiring design guidance, with two modifications. First, the substitute clarifies that the guidance must include recommendations to amend and update AASHTO policies relating to highway and street design standards. Second, it extends the deadline for issuance of the guidance to 18 months. The Conference does not adopt the House provision requiring a study of highway and street design standards.

SEC. 1203. METROPOLITAN PLANNING

House bill

Section 124 amends 23 U.S.C. 134 by setting seven general goals and objectives that may be considered in the planning process. They include: supporting economic vitality; increasing safety and security; increasing accessibility and mobility; protecting the environment; integrating the transportation system; promoting efficiency; and preserving existing facilities. These replace the existing list of nineteen planning factors. The language also includes fostering economic growth and development to the list of reasons that is in the national interest to encourage metropolitan planning.

The section makes a number of technical changes to subsection 134(g) regarding long range plans. It also allows metropolitan planning organizations to include projects that would be funded if additional resources were available. The inclusion of such projects is for illustrative purposes only. The bill requires that a TIP be updated at least every three years. It also allows the metropolitan planning organizations to include projects that they would advance if additional resources were available.

Senate amendment

Section 1601 retains the current structure and most of the metropolitan planning provisions found in 23 U.S.C. 134. It retains the

current project selection process set forth in ISTEA.

This section makes the following substantive changes to current law. First, this section streamlines the 16 metropolitan planning factors found in current law into seven issues to be considered in the planning process. Second, it gives States flexibility to move projects within a 3-year Transportation Improvement Program without FHWA approval if the Governor and metropolitan planning organization agree. Third, it eliminates the requirement that transportation improvement programs identify the source of funds for individual projects by Federal funding category. Fourth, this section adds freight shippers to the list of stakeholders to be given opportunities to comment on plans and transportation improvement programs (TIPSs). Finally, it provides that, for urbanized areas designated after the enactment of this Act, metropolitan planning area boundaries shall cover at least the urbanized area and the area expected to become urbanized within the 20-year forecast period and shall require the agreement of the Governor and MPO. Such boundaries are not required to include the entire ozone or carbon monoxide nonattaiment areas, as identified under the Clean Air Act.

Section 1602 reaffirms that the requirements of the National Environmental Policy Act do not apply to State plans and programs developed pursuant to 23 U.S.C. 134 and 135.

Conference substitute

The Conference substitute adopts a combination of both the Senate and House provisions. The substitute retains the basic current metropolitan planning structure and processes. As included in both bills, the 16 planning factors are streamlined to seven general factors to be considered in the planning process. In considering the relationship between transportation and quality of life, metropolitan planning organizations are encouraged to consider the interaction between transportation decisions and local land use decisions appropriate to each area. The language clarifies that the failure to consider any specific factor in formulating plans, projects, programs, strategies, and certification of planning processes is not reviewable in court. The Conference substitute also adopts the House provision including economic growth and development as a general requirement in metropolitan planning.

As included in both bills, freight shippers and providers of freight transportation services are included on the list of persons to be given opportunities to comment on metropolitan long-range plans and programs (TIPs) along with the addition of representatives of users of public transit. The Conference substitute also adopts the House provision allowing MPOs to include an illustrative list of projects that would be included on the TIP if additional resources were available. The illustrative list does not affect the fiscal constraint requirement of the TIP.

The Conference substitute clarifies that the expansion or designation of existing or new metropolitan planning organization boundaries due to the imposition of any new air quality standards will not automatically occur, and such boundaries will be determined by agreement of the Governor and the affected local governments.

In subsection 1203(m), the Conference substitute also adopts the Senate provision reaffirming that NEPA does not apply to plans and programs developed pursuant to 23 U.S.C. 134. This provision is consistent with current law and practice. To date, State transportation plans and programs developed under section 134 or 135 of title 23, United States Code, and decisions by the Secretary regarding those plans or programs, have not been considered to be Federal actions for purposes of NEPA. Nothing in this provision, however, is intended to prohibit a State from applying NEPA early in the decisionmaking making process for surface transportation projects, including at the planning stage, if it so chooses. Individual projects included in plans or programs continue to be subject to NEPA.

SEC. 1204. STATEWIDE PLANNING

House bill

Section 125 amends 23 U.S.C. 135 by setting the scope of the planning process. States, to the extent they determine appropriate, may consider goals and objectives in the planning process, including supporting economic vitality, increasing safety and security, increasing accessibility ad mobility, protecting the environment, integrating the transportation system, promoting efficiency, and preserving existing facilities. These considerations replace the existing planning factors.

Freight shippers and freight providers are added to the list of groups that shall be allowed a reasonable opportunity to comment on the proposed long-range plan and on the proposed State transportation improvement plan. It requires that in rural areas, the transportation program be developed by the State in cooperation with local elected officials. It also allows the State to include projects that it would fund if additional resources were available. Projects undertaken pursuant to the high risk road safety program are added to the list of projects that must be selected by the State in consultation with affected local officials.

This section also includes a provision to study the effectiveness of local planning.

Senate amendment

Section 1602 retains the current structure and most of the statewide planning provisions found in 23 U.S.C. 135. It retains the current project selection process set forth in ISTEA. This section makes the following substantive changes to current law. First, it streamlines the 20 statewide planning factors found in current law into seven broader issues to be considered in the planning process. Second, it gives States flexibility to move projects within a 3-year transportation improvement program (TIP) without FHWA approval or action if the Governor and metropolitan planning organization agree. Third, it eliminates the requirement that transportation improvement programs must identify the source of funds for individual projects by Federal funding category. Finally, this section adds freight shippers to the list of stakeholders to be given opportunities to comment on plans and statewide transportation improvement programs (STIPs).

Section 1602 also reaffirms that the requirements of the National Environmental Policy Act do not apply to plans and programs developed pursuant to 23 U.S.C. 134 and 135.

Conference substitute

The Conference substitute adopts a combination of both the Senate and House provisions. The substitute retains the basic statewide planning structure and processes. As included in both bills the 20 planning factors are streamlined to seven general factors to be considered in the state planning process. The language clarifies that the failure to consider any specific factor in formulating plans, projects, programs, strategies and certification of planning processes is not reviewable in court.

As included in both bills, freight shippers and providers of freight transportation services are included on the list of persons to be given opportunities to comment on statewide long-range plans and programs (TIPs), along with the addition of representatives of users of public transit. The Conference substitute also adopts the House provision allowing States to include an illustrative list of projects that would be included in the TIP if additional resources were available. The illustrative list does not affect the fiscal constraint requirements of the TIP.

The Conference substitute adopts the Senate provision allowing States flexibility to move projects within a three-year transportation improvement program without separate approval or action by the Federal Highway Administration if the MPO concurs. The substitute also includes a provision requiring States to consult with local officials with responsibility for transportation when formulating plans and programs.

The Conference substitute provides for enhanced consultation between local officials and States when compiling the State transportation improvement programs. This consultation may occur through a variety of mechanisms, including, where appropriate, regional development organizations. In certain areas, regional development organizations may serve to ensure the participation of local officials and the public in the planning process in a coordinated manner.

In subsection 1204(h), the Conference substitute also adopts the Senate provision reaffirming that NEPA does not apply to State plans and programs developed pursuant to 23 U.S.C. 135. This provision is consistent with current law and practice. To date, State transportation plans and programs developed under section 134 and 135 of title 23, United States Code, and decisions by the Secretary regarding those plans or programs, have not been considered to be Federal actions for purposes of NEPA. Nothing in this provision, however, is intended to prohibit a State from applying NEPA early in the decisionmaking making process for surface transportation projects, including at the planning stage, if it so chooses. Individual projects included in plans or programs continue to be subject to NEPA.

SEC. 1205. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES

House bill

Subsection 140(a) amends 23 U.S.C. 112 to clarify that quality based selection process requirements for design and engineering services and other contracting procedures will apply unless a State has in the past adopted alternative procedures to increase competition. Requirements must be met for any phase of a project funded in whole or in part with Federal funds. Subsection 140(b) allows a State to procure consultant services under one contract for the preparation of any environmental analysis as well for subsequent engineering and design services if the State has conducted a review of the objectivity of the analysis.

Senate amendment

Section 1127 amends 23 U.S.C. 112(b)(2) to promote competition and provide the greatest value for Federal-aid highway projects. It clarifies that the time period for States to have legislatively enacted alternative requirements to Qualifications Based Selection (QBS) Procedures for obtaining engineering and design services has ended. Additionally, it requires that the Federal Acquisition Regulations (FAR) be used for consistent and equitable contract administration, accounting, and audits while providing for the use of FAR QBS simplified acquisition procedures for contracts under $100,000. Finally, clarification is provided that requires the Secretary to establish a certification procedure

to ensure that any legislation enacted by a State since November 28, 1995, to exercise its option complies with the time frames and substantive criteria contained in Section 307 of the National Highway System Designation Act of 1995.

Subsection 1225(a) allows a State to procure consultant services under a single contract for preparation of both the environmental analysis and subsequent engineering and design services if the State has conducted an independent multi-disciplined review of the objectivity of the analysis.

Conference substitute

In section 1205, the Conference adopts a substitute provision, which includes (1) the House and Senate provision striking language from 23 U.S.C. 112(b)(2)(B)(i) and (ii) on the process for adopting alternative requirements to QBS procedures, clarifying that the time for adopting such alternative procedures has passed, and (2) the House provision authorizing and stating the terms under which a State may procure the services of a consultant under a single contract for both environment analyses and engineering/design work for a project.

SEC. 1206. ACCESS OF MOTORCYCLES

House bill

Section 135 specifies that State or local governments may not restrict access of motorcycles to any highway facility for which Federal-aid funds were used.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

In section 1206, the Conference adopts the House provision with modifications to clarify that this provision only applies to Federally-assisted highways open to traffic and to laws that apply only to motorcycles and the primary purpose of which is to restrict access of motorcycles. This provision does not override or affect the applicability of any local jurisdiction's safety laws or such jurisdiction's authority to regulate safety.

SEC. 1207. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES

Subsection 121(a) provides that the funds made available under section 127(a)(3)(C) of the House bill to carry out the ferry boat and ferry terminal program authorized in section 1064 of ISTEA shall be available until expended.

Subsection 121(b) requires the Secretary to conduct a study of ferry transportation in the United States, including the territories, to identify existing ferry operations and to identify potential domestic ferry routes. The provision requires the study to be submitted to Congress.

Subsection 121(c) amends 23 U.S.C. 129(c) to expand the conditions in which Federal funds may be used in ferry construction to include publicly operated ferry boats and terminal facilities and to permit federally-funded ferries to be leased without the approval of the Secretary.

Senate amendment

Subsection 1232 clarifies that the construction of ferry boats and ferry terminal facilities are eligible uses of National Highway System, Surface Transportation Program, and Congestion Mitigation and Air Quality Improvement program funds. This simply clarifies how the program is currently administered and does not amend or weaken any of the underlying eligiblity requirements of the NHS, STP, or CMAQ programs.

Section 1816 reauthorizes the ferry boat and ferry terminal program in section 1064 of ISTEA.

Subsection 1817 requires the Secretary to conduct a study of ferry transportation in the United States, including the territories, to identify existing ferry operations and develop information on the ferry routes. The Secretary is required to submit the study to Congress within one year of enactment of this Act.

Conference substitute

Subsection 1207(a) amends 23 U.S.C. 129(c) to expand the eligible uses of Federal funds in ferry construction to include publicly operated or majority publicly owned ferry boats and terminal facilities, if the Secretary determines that a majority publicly ferry boart or facility provides substantial public benefits. In subsection 1207(b), the Conference reauthorizes the ferry boat and ferry terminal facilities program in section 1064 of ISTEA, provides that the funds made available to the program shall remain available until expended, and establishes a $20 million annual set-aside for ferry boats, ferry terminal facilities, and approaches to such facilities within marine highway systems that are part of the NHS and as designed for Alaska, New Jersey, and Washington state.

In subsection 1207(c) the Conference adopts the House provision requiring a study of ferry transportation, with modifications. The substitute adds language to ensure the study includes identification of the potential for high speed and alternative-fueled ferry services. It also requires that the study be submitted to the Committee on the Environment and Public Works of the United States Senate, rather than the Commerce, Science and Transportation Committee.

The Conference does not adopt the Senate language concerning ferry boat and ferry terminal facility eligibility for NHS, STP, and CMAQ funds.

SEC. 1208. TRAINING

House bill

Subsection 129(a) amends section 140(a) of title 23 to allow a State to reserve training positions for persons who receive welfare assistance, except that such placement shall not adversely impact current employees or positions.

Subsection 129(b) expands the list of eligible activities under the training program to include summer transportation institutes and training in highway technology.

Senate amendment

Subsection 2009 moves the highway construction training provisions of 23 U.S.C. 140(b) to 23 U.S.C. 506(d) to consolidate the highway education and training provisions in the research subtitle. Proposed subsection 506(d) continues to allow the Secretary to develop and administer highway construction and technology training programs and to develop and fund summer transportation institutes. This section allows the Secretary to deduct up to $10 million each year before making apportionments under section 104(b) for these programs. In developing and administering these training programs, the Secretary may reserve training positions for individuals who receive welfare assistance from a State.

Subsection 1702 makes a conforming amendment to strike 23 U.S.C. 140(b).

Conference substitute

In section 1208, the Conference adopts a substitute provision. In subsection 1208(a), the Conference adopts the House provision to permit the Secretary to reserve training slots for welfare recipients, with a modification that any such reservation of training slots shall not preclude workers participating in an apprenticeship, skill improvement, or other upgrading program from being referred to or hired on to highway projects. In subsection 1208(a), the Conference adopts the provision included in both the Senate and House bills to include highway technology training and the development and funding of summer transportation institutes as eligible activities under 23 U.S.C. 140(b). Subsections 1208(b) and (c) amend section 140 to clarify the apportionments from which funds may be deducted for highway training and supportive services.

SEC. 1209. USE OF HOV LANES BY INHERENTLY LOW-EMISSION VEHICLES

House bill

Section 145 authorizes States to permit an electric vehicle with fewer than 2 occupants certified as an Inherently Low Emission Vehicle to operate in high occupancy vehicle lanes until September 30, 2003, and authorizes the State to revoke this permission if the State determines it is necessary.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference adopts the House provision, with a modification eliminating the requirement that the low-emission vehicle be only an electric vehicle.

SEC. 1210. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1603 establishes a new program, the purpose of which is to provide for the completion of Advanced Travel Forecasting Procedures (ATFP), formerly known as the Transportation Analysis Simulation System (TRANSIMS), and to provide support for early deployment of ATFP programs to State governments, metropolitan planning organizations, and other transportation management areas. The ATFP model is a large-scale travel simulation that will provide a practical mechanism for transportation planning, particularly with respect to congestion, air quality, and safety, including crash prevention. A total of $4 million for fiscal year 1998; $3 million for fiscal year 1999; $6.5 million for fiscal year 2000; $5 million for fiscal year 2001; $4 million for fiscal year 2002; and $2.5 million for fiscal year 2003 in contract authority is provided for this section.

Conference substitute

The Conference adopts the Senate provision.

SEC. 1211. AMENDMENTS TO PRIOR SURFACE TRANSPORTATION LAWS

House bill

Subsection 134(h) repeals a requirement that the Federal government oversee certain bridge commissions created by Congress in Public Law 87–441. Such duties would be assumed by State and local governments.

Subsection 136(a) makes certain changes and additions to Section 1105(c) of ISTEA relating to high priority corridors.

This subsection clarifies that all of ISTEA High Priority Corridor 18 and that portion of High Priority Corridor 20 from the vicinity of Carthage, Texas, to Laredo, Texas, at the Mexican border together are part of Interstate Route I–69. It also directs States to erect Interstate Route I–69 signs along segments that are at Interstate standards and connect to existing Interstates and specifically, along U.S. 59 in the Houston area. The National Highway System Designation Act of 1995 designated Corridors 18 and 20 as future Interstates and gave States the authority to erect signs designating them as future Interstates. It is the intent of the Committee

that States have the authority to erect signs specifically designating future Interstate Route I–69 along all of Corridor 18 and along the designated portions of Corridor 20.

As the New York State Department of Transportation submits its plans for the development of Route 219, the Federal Highway Administration is encouraged to consider, as one of the benefits of the project, the economic development opportunities that would be afforded the Seneca Indian Nation located at the junction of Route 219 and Route 17. For example, the design and construction of a facility that included a welcome center that provided traveler and tourist information would be a valuable economic development initiative.

Senate amendment

Section 1124 modifies section 355 of the National Highway System Designation Act of 1995 to permit New Hampshire to meet the safety belt use law required under 23 U.S.C. 153 through a performance requirement. Through the end of fiscal year 2000, New Hampshire's is deemed to have met the safety belt use requirements of section 153 upon certification by the Secretary that the State has achieved: (1) a safety belt use rate in each of fiscal years 1997 through 2000 of not less than 50 percent; and (2) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate.

Seciton 1206 amends section 205 of the National Highway System Designation Act of 1995 which states that the Secretary shall not require States to use or plan to use the metric system before September 30, 2000. The amendment made by section 1206 allows States to choose when and if to implement the metric system with respect to designing, advertising, or preparing plans, specifications, timetables, or other documents, for a Federal-aid highway project. This section does not require any State to modify its current use of the metric system for Federal-aid highway projects.

Subsection 1208(a) terminates the right-of-way revolving fund established in 23 U.S.C. 108(c) and provides a closeout period for obligations already authorized from the fund. This program was terminated as a revolving loan fund because of the new rules required of all credit programs in the Credit Reform Act of 1990. Credits based on conversion or reimbursements are to be applied to the Highway Trust Fund rather than to the revolving fund. Twenty-three States currently have active right-of-way revolving fund projects. This section provides for a 20-year close out period from the date that right-of-way funds were advanced to give these States sufficient time to complete these unfinished projects.

Subseciton 1208(b) terminates a tolling pilot program that has accomplished its intended purpose. Pilot toll agreements that were executed under 23 U.S.C. 129(k) are still valid.

Subseciton 1208(d) repeals the 1962 Bridge Commission Act, Pub. L. 87–441. This Act relates to bridge commissions and authorities created by an 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 Country Bridge Commission, which operates the New Harmony Bridge across the Wabash River between Indiana and Illinois. While under the 1962 Bridge Commission Act, the FHWA has the authority to appoint commissioners and review the commission's financial operations, these actions could be administered more effectively and efficiently at the State or local level. This provision removes this unnecessary Federal oversight of the White County Bridge Commission.

Section 1802 amends subsection 1105(c) of ISTEA to modify a high priority corridor route in Louisiana.

Section 1810 allows the Secretary of Transportation, the Federal Railroad Administrator, and their designees to serve as ex-officio members of the Board of Directors of the Pennsylvania Station Redevelopment Corporation.

Seciton 1811 allows the Secretary of Transportation, the Federal Railroad Administrator, and their designees to serve as ex-officio members of the Board of Directors of the Union Station Redevelopment Corporation.

Section 1814 amends paragraph 1105(c)(18) of ISTEA to modify a high priority corridor.

Conference substitute

In subsection 1211(a), the Conference adopts the Senate provision on the Pennsylvania Station Redevelopment Corporation.

In subsection 1211(b), the Conference adopts the Senate provision on the Union Station Redevelopment Corporation.

In subsection 1211(c), the Conference adopts the Senate provision on safety belt use law requirements, with a minor technical amendment.

In subsection 1211(d), the Conference adopts the Senate provision permitting metric conversion at the States' option.

In subsection 1211(e), the Conference adopts the Senate provision terminating the right-of-way revolving fund.

In subsection 1211(f), the Conference adopts the Senate provision terminating the pilot toll collection program.

In subsection 1211(g), the Conference finds that provisions in both the House and Senate bills repealing a 1962 bridge commission act to be substantially equivalent and adopts the Senate language.

In subsection 1211(h), the Conference adopts the House and Senate provisions making changes and additions to subsection 1105(c) of ISTEA concerning high priority corridor routes, with several modifications.

Subsection 1211(i) directs the Secretary to conduct a feasibility study for a certain future corridor segment and direct consideration of Highway 99 in I–69 studies.

Subsection 1211(j) modifies the scope of a project authorized under the Surface Transportation and Uniform Relocation Assistance Act of 1987.

In subsection 1211(k), the Conference adopts the House provision repealing section 146 of the Surface Transportation Assistance Act of 1982 relating to lane restrictions.

Subsection 1211(l) amends section 1045 of ISTEA relating to a substitute project in Wisconsin.

SEC. 1212. MISCELLANEOUS

House bill

Subsection 129(c) establishes a motor carrier operator training facility in Minnesota.

Subsection 129(d) establishes a motor carrier operator training facility in Pennsylvania.

Subsection 132(a) authorizes the Secretary to fund the production of a documentary about infrastructure to promote infrastructure awareness. A total of $1 million in contract authority is authorized for each of fiscal years 1998 through 2000 from the Highway Trust Fund, other than the Mass Transit Account, to carry out this project.

Subsection 134(g) amends 23 U.S.C. 302 to clarify that section 302 does not limit reimbursement of eligible indirect costs to State and local governments. This will make the Federal-aid highway program consistent with other Federal programs, reducing an administrative burden caused by requiring States to develop separate accounting systems.

Subsection 134(i) amends section 1023 of ISTEA to extend an axle weight limitation exemption for mass transportation buses. This subsection also amends the vehicle weight provisions in 23 U.S.C. 127 with respect to certain cargo in the States of Colorado and Louisiana and with respect to certain highways in New Hampshire and Maine.

Senate amendment

Section 1410 directs the Secretary to analyze the safety, infrastructure, cost recovery, environmental, and economic implications of the operation of heavier weight vehicles on Interstate Route 95 in Maine and New Hampshire and establishes a temporary moratorium on the withholding of funds from Maine and New Hampshire under 23 U.S.C. 127.

Section 1704 makes technical corrections to 23 U.S.C. 302. It changes the term ''State highway department'' to ''State transportation department'' to emphasize and reflect the intermodal focus of these departments. It eliminates the requirement for a secondary road unit as there is no longer a secondary system and secondary plans have been eliminated. It also establishes that compliance with section 302, as revised by this section shall have no effect on the eligibility of costs. This subsection eliminates 302(b) regarding the construction of projects on the secondary system.

Conference substitute

In subsection 1212(a), the Conference adopts the Senate provision amending 23 U.S.C. 302, concerning State transportation departments.

In subsection 1212(b), the Conference adopts the House provision concerning an infrastructure awareness documentary, with modifications. The substitute states that a total of 60 percent of the total project cost of $4.8 million will be provided from the Highway Trust Fund and the remaining 40 percent is required to be provided by the private sector. Credit is given for funds received to date. The substitute provides a total of $880,000 for fiscal year 1998 and $1 million for each of fiscal years 1999 and 2000, and $800,000 for fiscal year 2000 from the Highway Trust Fund, other than the Mass Transit Account, for this project.

In subsection 1212(c), the Conference adopts the House provision concerning the axle weight limitation for mass transportation buses.

In subsection 1212(d), the Conference adopts the House provision concerning vehicle weight limitations in Colorado, Louisiana, Maine, and New Hampshire, with a modification based on the Senate vehicle weight study provision requiring each State to conduct a study analyzing the economic, safety, and infrastructure impacts of the exemptions provided in this subsection, including the impact of not having such an exemption. $200,000 is provided to each State for the study.

In subsection 1212(e), the Conference authorizes $2.5 million for each of fiscal years 1999 through 2001 for grants to a driver training and safety center.

In subsection 1212(f), the Conference authorizes funding for grants to establish a welcome center in Point Pleasant, West Virginia.

In subsection 1212(g), the Conference provides that Minnesota may obligate funds that have been allocated under 23 U.S.C. 117 for a project in the State for any other project in the State for which funds are so allocated.

In subsection 1212(h), the Conference provides that the Federal share of the cost of a

project on the Baltimore Washington Parkway shall be 100 percent.

In subsection 1212(i), the Conference directs the Secretary to make grants to a not-for-profit organization engaged in promoting bicycle and pedestrian safety to operate a clearinghouse and establish educational programs on improving bicycle and pedestrian safety.

In subsection 1212(j), the Conference adopts the House provision establishing a motor carrier operator training facility in Minnesota.

In subsection 1212(k), the Conference adopts the House provision establishing a motor carrier operator training facility in Pennsylvania.

In subsection 1212(l), the Conference authorizes funding in fiscal years 1999 and 2000 for the High Priority Las Vegas Intermodal Center.

In subsection 1212(m), the Conference authorizes funding in fiscal year 1999 for several seismic design, engineering, and deployment projects.

In subsection 1212(n), the Conference deauthorizes a segment of a navigation project in Biloxi Harbor, Mississippi.

In subsection 1212(o), the Conference provides a complete waiver from the application of federal environmental statutes to a specified project on Corridor O of the Appalachian development highway system in Pennsylvania.

The scope of the waiver in the provision, which states that ''the Secretary shall approve and the Commonwealth of Pennsylvania is authorized to proceed with final design, engineering and construction'', means that notwithstanding all federal statutes not otherwise determined in the provision to apply, the state may proceed with all remaining phases of the project. No other federal agency approval or permit is required unless such approval or permit is specified in the provision.

The phrase ''the Secretary shall approve'' means that the Secretary of Transportation may only approve the plans, specifications and engineering for the project and release funding for the project. The phrase was included to ensure that the Secretary would approve any application for releasing a request for funding for the project since he has a unique responsibility among all federal agencies with respect to a highway project to approve funding. It should not be read to give other federal agencies authority over the project indirectly by any authority they might otherwise have with respect to decisions of the Secretary, nor should the phrase in any way be construed to permit other federal agencies authority over the project since their involvement in the project is waived unless specifically reserved.

Finally, the provision provides that environmental reviews already performed by the Commonwealth of Pennsylvania satisfy all Federal environmental laws. Any analysis and mitigation measures provided in those reviews, but no others, must remain in effect.

In subsection 1212(p), the Conference amends the Act of October 21, 1978 (Pub. L. 95–495) regarding the boundary waters canoe area.

In subsection 1212(q), the Conference authorizes funding from the General Fund for three projects in New York.

In subsection 1212(r), the Conference provides for the transfer of ownership by the Secretary of the Army of a bridge on U.S. Route 13 in the vicinity of St. Georges, Delaware.

In subsection 1212(s), the Conference conditions the use of Federal-aid highway funds for a project in Georgia.

In subsection 1212(t), the Conference directs the Secretary to designate a segment of State Route 26 in Pennsylvania as the Nittany Parkway.

SEC. 1213. STUDIES AND REPORTS

House bill

Subsection 133(h) requires the Secretary to conduct a study to determine the practices in the States for specific service food signs.

Subsection 134(j) requires a study of the impact of truck weight standards on specialized hauling vehicles.

Subsection 139(b) requires the General Accounting Office (GAO) to evaluate procurement practices and project delivery. The study shall access the impact a utility company's failure to relocate in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects.

Section 141 directs the Transportation Research Board to conduct a study on the current laws, regulations, and practices regarding truck sizes and weights and to make recommendations, taking into account impacts on the economy, safety, environment and service to communities.

Section 412 directs the Secretary to conduct a study on the effectiveness and deterrent value of State laws and regulations pertaining to penalties for violations of commercial motor vehicle weight laws. The Secretary shall issue a report to Congress not later than two years after the date of enactment of this Act.

Senate amendment.

Subsection 1113(a) requires the GAO to report to Congress on the Department's methodology for determining highway needs using the Highway Economic Requirement System (HERS), a computer program developed to use economic criteria and engineering criteria in estimating highway investment requirements. The GAO is required to provide to Congress, within 3 years of enactment of this Act, an assessment of the extent to which the model is useful in estimating an optimal level of highway infrastructure investment.

Subsection 1113(b) requires the Comptroller General to submit a report to the Congress on the International Roughness Index (IRI), an index that is being used to measure the pavement quality of the Federal-aid highway system. The IRI is a data input used in the HERS model. Concerns have been raised as to the reliability of the IRI measurement across different manufacturers and types of pavements and this study shall indicate the extent to which the IRI measurement is reliable.

Subsection 1113(d) requires the GAO to conduct a study on Federal-aid highway procurement practices and project delivery. The study shall access the impact that a utility company's failure to relocate in a timely manner has on the delivery and cost of Federal-aid highway and bridge projects.

Section 1126 requires the Secretary to conduct a study on the extent and effectiveness of the use by various States of uniformed policy officers on Federal-aid highway construction projects. Some States use police officers extensively on their highway construction projects, while other States use virtually no police officers for work zone traffic control. Work zone safety has been a high priority issue for the FHWA, traffic engineering professionals, and highway agencies. This section requires the Department of Transportation to submit a report to Congress on the results of the study not later than 2 years after the effective date of this section.

Section 1813 requires the Secretary to conduct a comprehensive assessment of the state of transportation infrastructure on the southwest border between the United States and Mexico. The Secretary is required to submit the report to Congress one year after the date of enactment of this Act.

Conference substitute

In subsection 1213(a) the Conference adopts the Senate provision concerning the Highway Economic Requirement System.

In subsection 1213(b), the Conference adopts the Senate provision on the International Roughness Index.

In subsection 1213(c), the Conference adopts the Senate provision concerning the study of the use of uniformed police officers, with a modification to require that the study be conducted in consultation with law enforcement organizations.

In subsection 1213(d), the Conference adopts the Senate provision on assessing the state of transportation infrastructure on the southwest border, with a modification to ensure that the assessment of the adequacy of law enforcement and narcotics abatement activities include their relationship to infrastructure in the border area.

In subsection 1213(e), the Conference adopts the House provision concerning the study of procurement practices and project delivery.

In subsection 1213(f), the Conference adopts the House provision on specialized hauling vehicles, with a modification to require the study include, but not be limited to, an analysis of the economic, safety, and infrastructure impacts of truck weight standards.

In subsection 1213(g), the Conference adopts the House provision on specific service food signs, with modifications. The substitute provides language to clarify that recommendations for modifications to the Manual on Uniform Traffic Control Devices for Street and Highways that result from this study should be made only if appropriate.

In subsection 1213(h), the Conference adopts the House provision on the study of State motor vehicle weight penalties.

In subsection 1213(i), the Conference adopts the House provision on the study regarding the regulation of weights, lengths, and widths of commercial motor vehicles.

In subsection 1213(j), the Conference directs the Secretary to work with the State of Oklahoma to carry out a traffic analysis regarding a trade processing center.

In subsection 1213(k), the Conference directs the Secretary to study the feasibility of providing high speed rail passenger service from Atlanta, Georgia, to Charleston, South Carolina.

SEC. 1214. Federal Activities

House bill

Subsection 117(e) requires the Secretary, in cooperation with the District of Columbia, the John F. Kennedy Center for the Performing Arts, and the Department of the Interior, and in consultation with other interested persons, to conduct a study of methods to improve pedestrian and vehicular access to the John F. Kennedy Center for the Performing Arts. The subsection authorizes $500,000 for fiscal year 1998 for the study and directs the Secretary to report to Congress on the results of the study by September 30, 1999.

Subsection 117(f) provides funding to the Smithsonian Institution for transportation-related activities, including exhibitions and educational outreach programs, the acquisition of transportation-related artifacts, and transportation-related research programs, and authorizes $5 million annually to carry out these activities.

Subsection 117(g) directs the secretary to set aside parkways and park highways funds in fiscal years 1998 through 2000 for the planning, design, and construction of a visitors center.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

In subsection 1214(a), the Conference adopts the House provision to study methods to improve pedestrian and vehiclular access to the Kennedy Center.

In subsection 1214(b), the Conference adopts the House provision funding transportation-related exhibits, artifacts, and research at the Smithsonian Institution, but reduces the annual authorization for these activities from $5 million to $1 million.

In subsection 1214(c), the Conference adopts the House provision funding the New River Visitors Center.

In subsection 1214(d), the Conference authorizes and provides for the allocation of $1.5 million in additional contract authority for each of fiscal years 1998 through 2003 for each State that has within its boundaries part or all of an Indian reservation having a land area of 10 million acres or more.

In subsection 1214(e), the Conference directs the Secretary to make an annual $1 million grant to the Minnesota Historical Society for the establishment of the Minnesota Transportation History Network.

In subsection 1214(f), the Conference authorizes $200,000 for fiscal year 1999 for the U.S. Fish and Wildlife Service to resurface the entrance road to the Sachuest Point National Wildlife Refuge.

In subsection 1214(g), the Conference authorizes $300,000 for fiscal year 1999 for the U.S. Fish and Wildlife Service to remove asphalt runways at Ninigret National Wildlife Refuge and $5 million for each of fiscal years 1999 through 2003 for the State of Rhode Island to make improvements to the T.F. Green Intermodal Facility.

In subsection 1214(h), the Conference authorizes $500,000 for fiscal year 1999 for the U.S. Fish and Wildlife Service for the Middletown visitor center at Sachuest Point National Wildlife Refuge.

In subsection 1214(i), the Conference authorizes $75,000 for fiscal year 1999 for the U.S. Fish and Wildlife Service to pave the entrance road to the Ninigret National Wildlife Refuge.

In subsection 1214(j), the Conference authorizes $1 million for each of fiscal years 1999 through 2003 for the U.S. Fish and Wildlife Service for the education center at the Rhode Island National Wildlife Refuge complex.

In subsection 1214(k), the Conference authorizes $1 million for fiscal year 1999 for the National Park Service to revitalize the Tredegar Iron Works as a visitor center for Richmond National Battlefield Park.

In subsection 1214(l), the Conference authorizes $800,000 for each of fiscal years 1999 through 2003 to the Corps of Engineers for the State of Missouri to use to resurface and maintain city and county roads that provide access to Corps of Engineers reservoirs.

In subsection 1214(m), the Conference authorizes $250,000 for each of fiscal years 1999 and 2000 to the Department of the Interior for the Shenandoah Valley Battlefield National Historic District Commission to use to develop a Civil War battlefield plan for the Shenandoah Valley.

In subsection 1214(n), the Conference provides that the Administrator of the General Services Administration shall seek the approval of the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure before taking any action that leads to government ownership of the Department of Transportation's headquarters facility.

In subsection 1214(o), the Conference authorizes $3 million for each of fiscal years 1999 and 2000 for the environmental review, planning, design, and construction of a historical and cultural visitors center and museum at Fort Peck, Montana.

In subsection 1214(p), the Conference authorizes $5 million in fiscal year 1999 for the State of Mississippi to use to replace and widen the box bridges on the Natchez Trace Parkway.

In subsection 1214(q), the Conference authorizes $2.943 million in fiscal year 1999 for the Lolo Pass Visitor Center in Idaho.

In subsection 1214(r), the Conference provides funding for the Puerto Rico highway program for each of fiscal years 1998 through 2003. This subsection specifics how such funds shall be administered and states that the amounts treated as being apportioned to Puerto Rico shall be deemed to be required to be apportioned to Puerto Rico for purposes of the imposition of any penalty provisions in titles 23 and 49, United States Code.

SEC. 1215. DESIGNATED TRANSPORTATION ENHANCEMENT ACTIVITIES

House bill

Subsection 117(h) authorizes $400,000 for each of fiscal years 1998 and 1999 for the restoration of the Gettysburg, Pennsylvania, train station.

Subsection 118(c) authorizes $1.5 million for each of fiscal years 1998 through 2003 to establish a center for national scenic byways in Duluth, Minnesota. This center would provide technical communications and network support for nationally designated scenic byway routes.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

In subsection 1215(a), the Conference adopts the House provision for the restoration of the Gettysburg, Pennsylvania, train station.

In subsection 1215(b), the Conference adopts the House provision on the scenic byways center in Duluth, Minnesota. It is the Conferees' intent that the Center for National Scenic Byways be staffed by the regional planning agency located in northeastern Minnesota. The regional planning agency located in Northeastern Minnesota has experience in transportation planning, tourism planning, resource planning, economic development, and community planning. The regional planning agency has demonstrated its ability to manage scenic byway projects, develop a technical information network, and provide national leadership in supporting the National Scenic Byways Program.

In subsection 1215(c), the Conference authorizes $2 million for each of fiscal years 1999 through 2001 for the State of West Virginia to use for the Coal Heritage Scenic Byway for any purpose eligible under 23 U.S.C. 204(h).

In subsection 1215(d), the Conference authorizes $5 million for fiscal year 1999 and $2 million for each of fiscal years 2000 through 2003 to implement traffic calming measures on Route 50 in Fauquier and Loudoun Counties, Virginia.

In subsection 1215(e), the Conference authorizes $1 million for fiscal year 1999 for a pedestrian bridge over U.S. route 29 in Charlottesville, Virginia.

In subsection 1215(f), the Conference authorizes $600,000 for fiscal year 1999 for construction of the Virginia Blue Ridge Parkway interpretive center.

In subsection 1215(g), the Conference authorizes $2 million for fiscal year 1999 for renovating and preserving the Missouri Route 66 Chain of Rocks Bridge.

In subsection 1215(h), the Conference directs the Secretary to approve the use of National Highway System and Surface Transportation Program apportionments for the construction of Type II noise barriers on a route in Dekalb County, Georgia.

SEC. 1216. INNOVATIVE SURFACE TRANSPORTATION FINANCING METHODS

House bill

Section 119 establishes a variable pricing pilot program. The Secretary may enter into cooperative agreements with up to 15 States to conduct and monitor the pilot projects. The Federal share for a pilot program is 80 percent of the total cost of the program, although the Federal share for any portion of a project may be up to 100 percent. The provision authorizes full Federal participation in the start-up, development, and pre-implementation costs associated with a pilot program for up to three years. Single occupancy vehicles that are part of a pilot program may operate in high occupancy vehicle (HOV) lanes. Pilot programs must include an analysis of how the program affects low income drivers.

Subsection 120(c) creates an Interstate System Reconstruction and Rehabilitation Pilot Program. This program allows up to three facilities to be tolled, provided the toll revenues are used to improve that facility. Any State wishing to participate in the pilot program must enter into an agreement with the Secretary to ensure that no toll revenues are diverted to another facility or purpose. The provision also specifies eligibility and selection criteria for the program.

Senate amendment

Section 1108 renames the congestion pricing pilot program as the value pricing pilot program and codifies the program in title 23, United States Code.

A number of States and local governments have used funds provided under ISTEA to complete feasibility studies and implementation of value pricing projects. This section provides funding and additional flexibility to allow States to continue to implement these projects. In addition, it expands the program, increasing the number of pilot programs eligible for funding from five to 15, and lifting the restriction that only three projects can be conducted on the Interstate System. Funds available under this section may be used for all pre-implementation and design costs to give States more flexibility to study options for different types of value pricing projects.

This section also includes an exemption from the HOV requirement of 23 U.S.C. 102(b) to permit single occupancy vehicles to operate in HOV lanes if the vehicles are part of a value pricing program.

It is expected that each value pricing project will include a thorough evaluation of the project's effects, including its impacts on congestion, air quality, transit use, and other social and economic effects.

Conference substitute

In subsection 1216(a), the Conference adopts the Senate provision on the value pricing pilot program, with two modifications. First, it prohibits Federal funding of pre-implementation, development and start-up costs after three years, as provided in the House bill. Second, includes the House provision requiring each pilot program to include, where appropriate, an analysis of the impact of the program on low income drivers. Paragraph 1101(a)(12) authorizes $7 million for fiscal year 1999 and $11 million for each of fiscal years 2000 through 2003 for the value pricing pilot program.

In subsection 1216(b), the Conference adopts the House provision establishing an Interstate System Reconstruction and Rehabilitation Pilot Program.

SEC. 1217. ELIGIBILITY

House bill

Subsection 133(a) makes the improvements and facilities necessary to connect the Ambassador Bridge in Detroit, Michigan, to the

Interstate System eligible for funds apportioned for the National Highway System and the Surface Transportation Program.

Subsection 133(b) makes the Cuyahoga River Bridge in Ohio eligible to receive funds apportioned under the congestion mitigation and air quality improvement program.

Subsection 133(c) gives the State of Connecticut flexibility in the use of Interstate Construction fund balances. It also gives the State additional obligation authority to use these funds.

Subsection 133(e) clarifies that private entity expenditures for construction of specific toll roads in Southern California may be credited to the State's non-Federal share.

Subsection 133(f) permits the continued collection of tolls on the International Bridge, Sault Ste. Marie, Michigan.

Subsection 133(g) makes certain food services eligible to be listed on current logo signs.

Senate amendment

Subsection 1105(c) clarifies eligibility under the ER program for a 600-foot bypass for Route 1, south of San Francisco, in San Mateo County, which was and is still subject to periodic landslides and closures.

Section 1129 provides eligibility for the Ambassador Bridge in Detroit, Michigan, under the surface transportation program and the National Highway System program.

Section 1804 permits the continued collection of tolls on the International Bridge, Sault Ste. Marie, Michigan.

Section 1809 requires the Secretary to allow the continuance of commercial operations at certain service plazas on Interstate 95 in Maryland.

Conference substitute

In subsection 1217(a), the Conference adopts the Senate provision concerning a project in San Mateo County, California.

In subsection 1217(b), the Conference adopts the Senate provision on the Ambassador Bridge.

In subsection 1217(c), the Conference adopts the House provision on the Cuyahoga River Bridge, with a modification. The bridge is eligible to receive funds from the surface transportation program.

In subsection 1217(d), the Conference adopts the House provision giving Connecticut flexibility in the use of its Interstate Construction funds.

The Conference finds that the House and Senate provision concerning the collection of tolls on the International Bridge at Sault Ste. Marie, Michigan, are substantively equivalent and adopts the Senate language at 1217(e).

In subsection 1217(f), the Conference adopts the House provision concerning food service businesses eligible to be included on logo signs.

In subsection 1217(g), the Conference adopts the Senate provision concerning commercial operations at certain service plazas in Maryland.

In subsection 1217(h), the Conference directs the Secretary to permit the State of Georgia to conduct a welcome center pilot project in Cobb County, Georgia.

In subsection 1217(i), the Conference adopts the House provision concerning State matching share credits for two toll road projects in Southern California.

In subsection 1217(j), the Conference prohibits the collection of tolls on a segment of the Pennsylvania Turnpike for 6 years.

In subsection 1217(k), the Conference provides that funds authorized in this Act for transportation projects in Mississippi may be used to construct, reconstruct, or rehabilitate rail lines in the vicinity of Vicksburg and Jackson, Mississippi.

SEC. 1218. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEVELOPMENT PROGRAM

House bill

Subsection 312(d) provides $5,000,000 per year for the years 1998 through 2003 for grants for the development of low speed magnetic levitation technology for public transportation purposes in urban areas.

Senate amendment

Section 1119 establishes the magnetic levitation technology deployment program (MAGLEV) to: (1) provide financial assistance to conduct pre-construction planning activities for a number of selected projects which meet the eligibility requirements established by the legislation, including involvement in a corridor that exhibits partnership potential; and (2) select one of the planned projects for Federal participation in the costs of design, construction and deployment in revenue service. MAGLEV is defined as systems capable of safe use at a speed in excess of 240 miles per hour.

Within 180 days of enactment the Secretary is required to solicit applications for financial assistance for eligible projects. The projects selected for financial assistance in this phase of the program must meet stringent eligibility requirements established by the legislation. Project selection will be on the basis of criteria established by the Secretary prior to solicitation of applications.

Following pre-construction planning activities for selected projects, the Secretary is required to select a single project for Federal participation in the cost of final design, engineering and construction of a segment of the project that can be operated in revenue service. The Federal share of full project costs (including total capital costs of guide ways, stations, vehicles and equipment) shall not exceed 2/3 of total project cost. The use of Federal funds will be restricted to the capital costs of the guide way (excluding stations, vehicles and equipment). The non-Federal share of pre-construction planning activities shall be at least 20 percent.

This section provides $10 million for fiscal year 1999 and $20 million for fiscal year 2000 in contract authority from the Highway Trust Fund to conduct pre-construction activities for selected projects and other necessary purposes. It also authorizes appropriations from the Highway Trust Fund of $200 million for each of fiscal years 2000 and 2001; $250 million for fiscal year 2002; and $300 million for fiscal year 2003. A State is authorized to allocate a portion of its Federal-aid highway apportionments under the CMAQ Program or the STP Program to supplement the assistance received under this section or to use the innovative financing provisions of Chapter 2 of this Act.

Conference substitute

The Conference adopts the Senate provision with modifications. The substitute increases the contract authority for the program to $15 million for fiscal year 1999, $20,000,000 for fiscal year 2000, and $25,000,000 for fiscal year 2001, and it is intended that a portion of these funds can be used for project evaluation. It requires that $5 million be made available for grants for research and development of low-speed superconductivity magnetic levitation technology for public transportation purposes.

The Conference adopts the House provision in title II of the Act.

SEC. 1219. NATIONAL SCENIC BYWAYS PROGRAM

House bill

Section 118 directs the Secretary to carry out a National Scenic Byways program and codifies the program at 23 U.S.C. 162. To be eligible for the program, a road must be nominated by a State or a Federal land management agency. Funds are available for technical assistance, including planning, development of management plans, and safety improvements. The Federal share is the same as for other Federal-aid highway projects. This program is the continuation of a similar program established by ISTEA.

Senate amendment

Section 1501 codifies the National Scenic Byways program at 23 U.S.C. 165. Subsection 165(a) directs the Secretary to carry out the National Scenic Byways program and designate roads having outstanding scenic, historic, cultural, natural or archaeological 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 165(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. Subsection 165(c) lists the eight categories of projects eligible for scenic byways funding under this section. Subsection 165(d) allows the Secretary to authorize scenic byways funds only for projects that protect the scenic, historic, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

Subsection 165(e) provides that the Federal share payable on account of any project under this section shall be 80 percent, 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 165(f) provides contract authority from the Highway Trust Fund of $17 million in each of fiscal years 1998 and 1999; $19 million for each of fiscal years 2000 and 2001; $21 million for fiscal year 2002; and $23 million for fiscal year 2003.

Conference substitute

In section 1219, the Conference adopts the Senate provision, with a modification to include the House savings clause language, providing that the Secretary shall not withhold a grant or condition receipt of a grant or technical assistance to a State for any scenic byway unless such action is consistent with the authority provided in chapter 1 of title 23. Section 1219 codifies this program at 23 U.S.C. 162.

Paragraph 1101(a)(11) authorizes $23.5 million for each of fiscal years 1998 and 1999, $24.5 million for each of fiscal years 2000 and 2001, $25.5 million for fiscal year 2002, and $26.5 million for fiscal year 2003 for the National Scenic Byways program.

SEC. 1220. ELIMINATION OF REGIONAL OFFICE RESPONSIBILITIES

House bill

Section 507 requires that the Secretary eliminate programmatic responsibility of regional offices of the Federal Highway Administration (FHWA) as part of the agency's efforts to restructure its field offices, including elimination of regional offices, creation of technical resources centers, and delegation to State offices. The Secretary shall begin implementation of a restructuring plan submitted to Congress not later than December 31, 1998.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

In section 1220, the Conference adopts the House provision, with modifications. The Conference substitute permits the Federal

Highway Administration to retain programmatic decisionmaking authority at the regional offices for the motor carrier safety program. It also requires the Secretary to give preference to sites that now house FHWA regional offices and that are in locations that minimize the travel distance between technical resource centers and the FHWA division offices they will serve.

SEC. 1221. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1604 authorizes a new Transportation and Community and System Preservation Pilot Program to investigate and address the relationships between transportation projects, community preservation, and the environment. The pilot program consists of three parts: (1) a comprehensive research program; (2) a planning assistance program to provide funding to States, metropolitan planning organizations (MPOs), and local governments that want to begin integrating their transportation planning with community preservation, environmental protection, and land use policies; and (3) an implementation assistance program to provide funding to States, MPOs, and local governments that have developed state-of-the-art approaches to integrate their transportation plans and programs with their community preservation and environmental planning programs.

The research program established by subsection 1604(b) examines the experiences of communities in uniting transportation, community preservation, and environmental goals with decisionmaking processes. As part of this research, projects carried out with planning or implementation assistance funds made available by this section shall be monitored and analyzed.

The planning assistance authorized in subsection 1604(c) is intended to provide financial resources to States and communities that wish to explore integrating their transportation programs with community preservation and environmental programs. In providing this planning assistance, the Secretary is directed to give priority consideration to applicants that demonstrate commitments to public involvement and to bring non-Federal resources to the proposed projects.

The implementation assistance authorized in subsection 1604(d) provides financial resources to States and communities that have established community preservation programs to enable them to carry out projects that address transportation efficiency while meeting community preservation and environmental goals. Any activities eligible for funding under title 23 or chapter 53 of title 49 are eligible for assistance under this program, including corridor preservation activities necessary to carry out transit-oriented development plans or traffic calming measures.

Subsection 1604(d) authorizes $20 million for each of fiscal years 1998 through 2003 to carry out this program.

Conference substitute

In section 1221, the Conference adopts the Senate provision, with some modifications. First, the Conference provision expands the research and planning elements of this program to include (1) the consideration of the role of the private sector in shaping the relationships between transportation, community preservation, and the environment and (2) the examination of ways to encourage private sector development patterns to achieve the program's goals. Second, the Conference provision modifies the funding authorized to carry out this program by authorizing $20 million for fiscal year 1999 and $25 million for fiscal years 2000 through 2003.

SEC. 1222. ADDITIONS TO APPALACHIAN REGION

House bill

Subsection 112(f) adds Elbert and Hart counties in Georgia to the Appalachian region.

Senate amendment

Section 1812 amends section 403 of the Appalachian Regional Development Act of 1965 to add Hale county in Alabama, Elbert and Hart counties in Georgia, Yalobusha county in Mississippi, and Montgomery and Rockbridge counties in Virginia to the Appalachian region.

Conference substitute

The Conference adopts the Senate provision with modifications adding Macon county in Alabama to the Appalachian region and technically amending section 405 of the Appalachian Regional Development Act to ensure that section 403 of such Act is still in effect.

SEC. 1223. TRANSPORTATION ASSISTANCE FOR OLYMPIC CITIES

House bill

Subsection 130(a) states the purpose of this section is to assist and support States and local governments with surface and aviation-related transportation issues necessary to host international quadrennial Olympic and paralympic events in the United States.

Subsection 130(b) authorizes the Secretary to give priority to transportation projects related to Olympic events from certain highway and transit discretionary accounts.

Subsection 130(c) authorizes the Secretary to participate in State and metropolitan planning activities related to Olympic events.

Subsection 130(d) authorizes the Secretary to provide assistance from funds provided for the general operating expenses of the Federal Highway Administration for the development of an Olympic and Paralympic transportation management plan.

Subsection 130(e) authorizes the Secretary to provide funds to States and local governments for carrying out transportation projects related to an international quadrennial Olympics. It also establishes the Federal share of the cost of such projects at 80 percent.

Subsection 130(f) defines State or local government eligibility for Federal funds under this section.

Subsection 130(g) authorizes the Secretary to give preference in aviation programs for projects that are Olympics related.

Senate amendment

Section 1130 authorizes the Secretary to provide assistance to State and local governments with surface transportation planning and projects relating to international quadrennial Olympic or Paralympic events. Subsection 1130(b) provides that the Secretary may give preference, in allocating Interstate and bridge discretionary funds, to transportation projects relating to Olympic or Paralympic events. Subsection 1130(c) authorizes the Secretary to participate in transportation planning with States and MPOs on transportation projects relating to Olympic or Paralympic events. Subsection 1130(d) provides that funds made available for highway research, technology, and training programs may be used to develop an Olympic and a Paralympic transportation management plan. Subsection 1130(e) authorizes the Secretary to provide funding to States and local governments for transportation projects relating to an Olympic or Paralympic event, and provides that the Federal share of the cost of each such project shall be 80 percent. Subsection 1130(f) defines State or local government eligibility for Federal funds under this program. Subsection 1130(g) authorizes to be appropriated such sums as are necessary for each of fiscal years 1998 through 2003 to carry out this section.

Conference substitute

The Conference adopts the Senate language with a modification expanding the program to include assistance for the Special Olympics International movement.

SEC. 1224. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1132 authorizes a new grant program that provides funds to assist the States in their efforts to rehabilitate or repair and to preserve the Nation's historic covered bridges.

Subsection 1132(a) defines the term ''covered bridge'' as a roofed bridge that is primarily made of wood and includes the roof, flooring, trusses, joints, walls, piers, footings, walkways, support structures, arch systems, and underlying land. It defines the term ''historic covered bridge'' as a covered bridge that is at least fifty years old or is listed on the National Register of Historic Places.

Subsection 1132(b) directs the Secretary to development and maintain a list of historic covered bridges and collect and disseminate information concerning historic covered bridges. It also directs the Secretary to foster educational programs relating to the history, construction techniques, and contribution to society of historic covered bridges. It also directs the Secretary to sponsor or conduct research on the history of covered bridges. It also directs the Secretary to sponsor or conduct research, and study techniques, on protecting covered bridges from rot, fire, natural disasters, or weight-related damage.

Subsection 1132(c) directs the Secretary to make a grant, subject to availability, to a State that submits an application. A grant may be made for a project to rehabilitate or repair or preserve a historic covered bridge. It may be made only if, to the maximum extent possible, the project is carried out in the most historically appropriate manner and preserves that existing structure of the bridge, and the project provides for the replacement of wooden components with wooden components.

Conference substitute

The Conference adopts Senate amendment.

SEC. 1225. SUBSTITUTE PROJECT

House bill

Subsection 144(a) authorizes the Secretary to approve substitute highway and transit projects under the Interstate substitute program in 23 U.S.C. 103(e)(4) in lieu of the Barney Circle Freeway project in the District of Columbia. Subsection 144(b) provides that, upon such approval, the Barney Circle project shall not be eligible for funds under subsection 108(b) of the Federal-aid Highway Act of 1956 and the substitute projects shall be funded from the District of Columbia's unexpended Interstate apportionments and allocations that are not subject to lapse. Subsection 144(c) specifies the Federal share payable on any substitute project approved under this section. Subsection 144(d) requires that any approved substitute project must be under contract for construction, or construction must have commenced, within 4 years of the date of enactment of this section.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference adopts the House provision.

SEC. 1226. FISCAL, ADMINISTRATIVE, AND OTHER AMENDMENTS

House bill

Subsection 134(a) removes three obsolete provisions from 23 U.S.C. 115(b). They are a provision related to bond interest on Interstate projects under construction on January 1, 1983, a limitation in the repayment of interest on Interstate and National Highway System projects, and a requirement that the Secretary approve an advance construction project for it to be considered completed.

Subsection 134(b) removes an outdated provision at 23 U.S.C. 118(e) regarding total payments to a State in any fiscal year. In its place, it reinstates a provision that was once in title 23 but was inadvertently omitted when amended by 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 year.

Subsection 134(f) strikes an outdated provision at 23 U.S.C. 124(b) concerning the construction of toll routes necessary to complete the Interstate System. The provision is no longer needed since the Interstate is complete.

Subsection 134(e) strikes an outdated provision at 23 U.S.C. 126 concerning the use of motor vehicles taxes to fund highway construction projects.

Senate amendment

Section 1203 removes an outdated provision from 23 U.S.C. 118 and replaces it with a provision that permits obligations incurred in prior fiscal years and released in a current fiscal year to be made available for re-obligation.

Subsection 1702(a) technically amends title 23, United States Code, to move the title's declarations of policy and definitions to their own sections within title 23.

Subsection 1702(b) amends 23 U.S.C. 115(b) to strike three out-of-date provisions concerning bond interest and completion of advance construction projects.

Subsection 1702(c) amends 23 U.S.C. 116 to clarify when a State's duty to maintain a Federal-aid highway shall cease, but does not impose any additional requirement on the State to maintain a highway nor does it relieve any maintenance requirements in current law. It simply clarifies existing policy.

Subsection 1702(d) technically amends 23 U.S.C. 119(a) concerning Secretarial approval of projects on the Interstate System.

Subsection 1702(e) amends 23 U.S.C. 124 to strike an out-of-date provision on construction of toll roads necessary to complete the Interstate System.

Subsection 1702(f) strikes 23 U.S.C. 126, an out-of-date provision on the use of motor vehicle and fuel taxes for highway projects.

Subsection 1702(i) revises 23 U.S.C. 136(m) to provide a definition of ''primary system.''

Subsection 1702(j) corrects an out-of-date reference to the Federal-aid urban system in 23 U.S.C. 137(a) concerning fringe and corridor parking facilities.

Subsection 1702(k) makes technical amendments to 23 U.S.C. 140 concerning nondiscrimination.

Subsection 1702(l) technically amends 23 U.S.C. 142(a)(2) concerning Secretarial approval of certain STP projects.

Subsection 1702(m) strikes an out-of-date provision, 23 U.S.C. 147, on priority primary routes.

Subsection 1702(n) strikes an out-of-date provision, 23 U.S.C. 148, on development of a national scenic and recreational highway.

Subsection 1702(o) strikes out-of-date language from 23 U.S.C. 152(e) concerning the apportionment of hazard elimination funds.

Subsection 1702(p) strikes an out-of-date provision, 23 U.S.C. 155, concerning access highways to public recreation areas on certain lakes.

Conference substitute

In subsection 1226(a), the Conference finds that the House and Senate provisions striking three out-of-date provisions from 23 U.S.C. 115 are substantively equivalent and the Conference adopts the Senate language with a purely technical modification.

In subsection 1226(b), the Conference adopts the House provision amending 23 U.S.C. 118 concerning the effect of the release of Federal-aid highway funds.

In subsection 1226(c), the Conference finds that the House and Senate provisions striking out-of-date language from 23 U.S.C. 124(b) on the construction of toll roads are substantively equivalent and the Conference adopts the provision.

In subsection 1226(d), the Conference finds that the House and Senate provisions striking 23 U.S.C. 126 concerning the use of motor vehicle and fuel taxes for highway construction projects are substantively equivalent and the Conference adopts the House language.

NONDISCRIMINATION

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1703 amends section 324 of title 23, U.S.C. by moving the provision on discrimination on the basis of sex to section 140 as subsection (d). Under current law, both of these sections address discrimination.

Conference substitute

The Conference does not adopt the Senate provision.

WETLAND RESTORATION PILOT PROGRAM

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1503 authorizes the Secretary to establish a national wetland restoration pilot program. This discretionary pilot program shall fund restoration projects to offset the degradation of wetlands resulting from highway construction projects carried out before December 27, 1977. The Secretary is required to submit a report on the results of the program every three years. This provision provides contract authority in the amount of $12 million for fiscal year 1998; $13 million for fiscal year 1999; $14 million for fiscal year 2000; $17 million for fiscal year 2001; $20 million for fiscal year 2002; and $24 million for fiscal year 2003 to carry out this program.

This section is devoted to historic losses of wetlands only. Funds provided in this program are not intended to reward State departments of transportation for knowingly degrading wetlands through highway construction. Therefore, the funds provided in this section are not to be used to mitigate wetlands losses from current and future highway projects or from projects carried out after December 1977.

Conference substitute

The Conference does not adopt the Senate provision.

Subtitle C—Program Streamlining and Flexibility

SEC. 1301. REAL PROPERTY ACQUISITION AND CORRIDOR PRESERVATION

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1202 amends sections 108 and 323 of title 23, United States Code, to expand the flexibility provided to State and local governments to compete for land resources. It provides for the advanced acquisition of real property not only for highway projects, but for all transportation improvements under title 23. This section removes restrictive language and outdated programs, revises language, and adds opportunities for States and local governments to utilize early property acquisition when necessary, while retaining maximum flexibility to leverage the use of Federal funds.

The provision provides 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 provision is consistent with the credits already permitted for donated real property and services. 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.

Conference substitute

The Conference adopts the Senate provision with a modification to clarify that costs of services are not eligible as a credit for non-Federal share.

SEC. 1302. Payments to States for Construction

House bill

Subsection 134(d) 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. This amendment will make the Federal-aid highway program more like other Federal programs, including the Federal transit program, and will give the State greater flexibility in managing their funds.

Senate amendment

Section 1204 amends 23 U.S.C. 121 to remove a restriction that applies the Federal/non-Federal matching share requirement to each payment a State receives. The revised section 121 makes the requirement applicable to total project costs rather than to individual voucher payments. The increased flexibility provided by these changes will result in a simplified program that is easier for State departments of transportation to administer. The changes recognize that the important restriction is that the total project meets the Federal share requirement. The changes also make the Federal-aid-highway program more compatible with other Federal programs, particularly the Federal mass transportation program; projects are often administered jointly by FHWA and the Federal Transit Administration.

Conference substitute

The Conference adopts the House provision, making only technical modifications and retaining the provision as a separate section, as in the Senate bill.

SEC. 1303. PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY

House bill

The House bill contains no comparable provision.

Senate amendment

Section 156 of title 23, United States Code, requires States to change fair market value

for the use of airspace acquired in connection with a federally funded project. Section 1205 expands the requirement in section 156 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 from the highway account of the Highway Trust Fund. The revised section 156 applies the same standard to all real property interests acquired with Federal-aid highway funds. As in current law, the Secretary may grant exceptions for social, environmental, or economic purposes.

Conference substitute

The Conference adopts the Senate provision with the inclusion of the following clarifying report language. The purpose of the exception retained in this provision is to give the States (with the Secretary's approval) the flexibility to charge less than fair market value for lands bought with Highway Trust Fund dollars if the lands, once sold or leased, would be used for some purpose of public benefit that would outweigh the general desire to receive fair market value for the property, such as if the lands would be used as parkland or as a recreation area.

SEC. 1304. ENGINEERING COST REIMBURSEMENT

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1210 amends 23 U.S.C. 102(b) to provide an exception to the requirement that a State commence construction or acquisition of right-of-way on a project within 10 years after using Federal funds for preliminary engineering for such project. The exception requires the State, before the expiration of the 10-year period, to request a longer time period and for the Secretary to determine that the request is reasonable.

Conference substitute

The Conference adopts the Senate provision, with a modification requiring that the State commerce construction or acquisition of right-of-way within 10 years or such longer period as the State requests and the Secretary determines to be reasonable.

SEC. 1305. PROJECT APPROVAL AND OVERSIGHT

House bill

Subsection 139(a) amends 23 U.S.C. 106 to require life cycle costs analysis on each usable project segment on the National Highway System and requires the analysis to conform with Executive Order 12893 on infrastructure investment.

Section 501 consolidates and codifies the current practices used by the Secretary to approve and oversee Federal-aid highway projects and further streamlines that process. This section requires that for projects on the NHS (including the Interstate system), the Secretary and each State will enter into an agreement as to the appropriate level of Federal oversight. The Secretary may not assume a greater degree of responsibility than under current law. For all non-NHS projects, the States will assume all of the Secretary's current responsibilities for design, plans, specifications, estimates, the awarding of contracts, and the inspection of projects. For projects on the NHS but not on the Interstate system, a State shall assume all of the Secretary's current responsibilities for design, plans, specifications, estimates, the awarding of contracts, and the inspection of projects unless the State or the Secretary determines that such assumption is not appropriate.

Section 504 requires the preparation of a financial plan for any highway or transit project costing over $1 billion that is proposed to be funded with Federal funds, and requires that the plan be based on detailed annual estimates (including reasonable assumptions of future increases) of the cost to complete the project.

Senate amendment

Subsection 1222(a) amends 23 U.S.C. 106, which addresses Federal and State responsibilities for surface transportation projects. This section permits the Secretary to discharge to the State with their approval the Secretary's responsibilities under title 23 for the design, plans, specifications, estimates, contract awards, and inspection of projects on the National Highway System. For non-NHS projects, a State may request that the Secretary no longer review and approve the design, plans, specifications, estimates, contract awards, and inspection of projects under title 23.

Subsection 1222(a) also requires the Secretary to prepare a financial plan for any projects with an estimated total cost of $1 billion or more.

Conference substitute

In subsection 1305(a), the Conference adopts a substitute project approval and oversight provision. The substitute requires that the State shall assume the Secretary's responsibilities under this title for design, plans, specifications, estimates, contract awards and inspection of projects that are not on the National Highway System unless the State determines that such assumption is not appropriate. In addition, the State may assume responsibility for projects on the NHS but not on the Interstate system unless the State or Secretary determines that such assumption is not appropriate.

In any case where States must meet surface quality regulations set forth by the Federal Highway Administration, they may look for leadership to a private Midwestern engineering institute which has served as a State certifying contractor for the past eleven years. The FHWA may work with this institution in carrying out this National certification program and use the existing expertise in the area.

In subsection 1305(b), the Conference adopts the House provision concerning financial plans, with a modification codifying the provision at 23 U.S.C. 106(h).

In subsection 1305(c) the Conference adopts the House life-cycle cost provision with modifications. This provision eliminates the mandate that States conduct life-cycle costing procedures on each usable project segment of $25 million or more on the National Highway System. Instead, it provides that the Secretary shall develop a set of procedures to be issued as recommendations to the States for conducting analyses of the life-cycle costs for projects on the National Highway System. In making a recommendation, the Secretary shall consult with AASHTO, and such recommendations shall be based on the principles identified in Executive Order 12893.

Life-cycle cost analysis is a process to reduce costs and improve quality and performance. In order to achieve these goals, the Secretary's recommendations shall suggest a uniform analysis period and uniform discount rates as established in OMB Circular A–94 for all Fedeal-aid National Highway System projects. The recommendation shall incorporate factors such as a documented, vigorous maintenance schedule, user costs, and the life of the project. The States are encouraged to use the recommendations to the maximum extent possible on National Highway System projects.

SEC. 1306. STANDARDS

House bill

The House bill contains no comparable provision.

Senate amendment

Subsection 1222(b) eliminates the requirement that the Secretary issue Interstate maintenance guidelines and adds that safety considerations of a project may be met by phase construction.

Conference substitute

In section 1306, the Conference adopts the Senate provision with a modification. The conference provision language clarifies that the safety considerations are to be consistent with an operative safety management system or a statewide transportation improvement program approved by the Secretary.

SEC. 1307. DESIGN-BUILD CONTRACTING

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1224 provides authority, two years after the date of enactment of this Act, for State transportation departments to use the design-build approach for construction of eligible title 23 project segments. Design-build is an innovative method of highway contracting that is only allowed on an experimental basis under current law. It differs from traditional contracting in that it combines, rather than separates, responsibility for the design and construction phases of a highway project. This section allows States to use their State design-build contracting procedures in statute or procedures authorized under section 303M of the Federal Property and Administrative Services Act of 1949.

The benefits of the design-build approach include greater accountability for quality and costs, less time spent coordinating designer and builder activities, firmer knowledge of project costs, and a reduced burden in administering contracts. Design-build is particularly advantageous for accelerating project delivery. For example, a study of 11 design-build projects in Florida found that this innovative contracting method produced significant improvements in project performance as compared to non design-build projects. The average design-build construction time was 21.1 percent shorter than the average for non design-build projects. In addition, actual design-build procurement times were 54 percent less than the normal design procurement time allocated for projects using traditional contracting methods. The design-build projects also produced a 4.7 percent reduction in after-bid changes to the contract.

Despite the potential advantages of design-build, it may not be an appropriate method for carrying out every highway project. Therefore, this section provides minimum cost requirements for potential design-build projects. To qualify for the award of a design-build contract, the cost of each usable segment of a highway project must be at least $50,000,000. In the case of an Intelligent Transportation Systems project, the total cost of the project must exceed $10,000,000.

Conference substitute

In section 1307, the Conference adopts the Senate provision with the following modifications. Subsection 1307(a) allows a State to award a design-build contract for a project using any procurement process permitted by applicable State and local law. Subsection 1307(c) requires the Secretary to consult with the American Association of State Highway and Transportation Officials and affected industry representatives before issuing regulations to carry out this section. Subsection 1307(e) provides that the design-build amendments made in this section shall take effect 3 years after the date of enactment of this Act and provides that, during the 3-year transition period, the Secretary may approve design-build contracts to be awarded using any procees permitted by applicable State and local law. Subsection

1307(f) requires the Secretary to submit a report to Congress within 5 years after the date of enactment of this Act. The report shall analyze the effectiveness of design-build contracting procedures.

SEC. 1308. MAJOR INVESTMENT STUDY INTEGRATION

House bill

Section 503 requires the Secretary to issue new regulations to eliminate the major investment study (MIS) requirement as a separate requirement and integrate this requirement, which is a requirement in the planning regulations, into the environmental review process for transportation projects. The two processes are currently not integrated, although many of their requirements and purposes overlap and are similar.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference adopts the House provision, with a modification to require that the new regulations promulgated under this section integrate the MIS requirement as part of the analyses required to be undertaken pursuant to the planning provisions of title 23 and chapter 53 of title 49, United States Code, and the National Environmental Policy Act of 1969 for Federal-aid highway and transit projects. The Conference provision also specifically limits the scope of such regulations; they shall be no broader than the scope of the current MIS requirement in 23 CFR 450.318.

SEC. 1309. ENVIRONMENTAL STREAMLINING

House bill

Section 502 establishes a coordinated environmental review process for highway construction projects so that whenever practicable, all environmental reviews, analyses, opinions and any permits, licenses, or approvals that must be issued by a Federal agency are conducted concurrently and within cooperatively established time periods. The time periods must be consistent with those established by the Council on Environmental Quality (CEQ) in implementing the National Environmental Policy Act (NEPA). Agreed upon time periods may be extended by the Secretary, if, upon good cause shown, the Secretary and the Federal agency determine that an extension is necessary as a result of new information that could not reasonably have been anticipated when the time periods for review were established. In the event that an agency fails to complete its review or analysis within an agreed upon time period, the Secretary may close the record.

The House bill further directs the Secretary, in consultation with CEQ, to establish a State environmental review delegation pilot demonstration program to allow a limited number of States to assume responsibility for implementing NEPA for highway projects. The pilot program is authorized for three years.

Senate amendment

Section 1225 requires the Secretary to develop an integrated decisionmaking process for surface transportation projects. Using the environmental review process under NEPA, the section establishes a mechanism to coordinate the permitting process for surface transportation projects, encouraging consolidation of Federal, State, local and Tribal decisionmaking to maximum extent practicable, and early consideration of environmental impacts. The section further encourages the use of collaborative, problem solving and consensus building approaches to implement the integrated process.

Conference substitute

The Conference adopts the House language with the following three modifications. First, the provisions establishing a pilot program to delegate responsibility for compliance with the requirements of NEPA to up to eight States is deleted. Second, the language directing agencies to provide due consideration to the determination of the Secretary with respect to the purpose and need of a highway project is deleted. Third, the conference substitute clarifies that the authority of the Secretary to close the record in the event that another agency fails to meet an agreed-upon deadline for completing its environmental review of a proposed project is limited to the record with respect to the matter before the Secretary.

Both the House and Senate bills seek to address the same concerns: the delays, unnecessary duplication of effort, and added costs often associated with the current process for reviewing and approving surface transportation projects. The U.S. Department of Transportation has, through its administrative initiatives, attempted to address some of these problems. Legislation is appropriate, however, to further improve the integration and coordination of decisions relating to highway projects. Better and earlier coordination among the agencies involved in the decisionmaking process for highway projects should help reduce conflicts and their associated delays and costs.

The fundamental goals of the environmental streamlining provisions are to establish an integrated review and permitting process that identifies key decision points and potential conflicts as early as possible; integrates the NEPA process as early as possible; encourages full and early participation by all relevant agencies that must review a highway construction project or issue a permit, license, approval or opinion relating to the project; and establishes coordinated time schedules for agencies to act on a project.

To accomplish these goals, the Conference substitute adopts the House provision encouraging the Secretary to enter into memoranda of agreement (MOAs) with the agencies responsible for reviewing the environmental documents prepared under NEPA or for conducting other environmental review, analyses, opinions or issuing any license, permits or approvals relating to a project. It is expected that Federal, State and other agencies involved in reviewing and approving a project, or components of a project, will use the MOA process to establish cooperatively determined time periods to complete their work and, more generally, to describe how, and the extent to which, the various permitting requirements and environmental reviews relating to the project will be integrated. MOAs may include a variety of interagency agreements. In order to avoid subsequent conflicts and delays on a project, agencies are encouraged to solicit early public input in the development of an MOA.

The Conference substitute retains the House provisions regarding the joint development of time periods for each agency involved in the review and approval of a project to complete its review. The language further provides that any environmental review, including those required under NEPA, conducted with respect to a project shall generally be done concurrently unless conducting a concurrent review would result in a significant adverse effect on the environment, would substantively alter Federal law, or would not be possible without information developed during the review process. This last exception is intended to ensure that agencies are not put in the position of having to complete environmental reviews before they have sufficient information to conduct a meaningful review.

The provisions relating to the Secretary's authority to close the record have been modified to clarify the extent of the Secretary's authority to issue a record of decision for a project in the event that another agency fails to meet the agreed upon deadline for completing its review of any environmental documents required for the project under NEPA. The Secretary's authority to close the record authority does not extend to reviews, analyses, opinions or decisions conducted by another agency on any permit, license or approval issued by that agency. For example, if a project requires the Corps of Engineers to issue a permit under section 404 of the Clean Water Act, the Secretary may not restrict the Corps' review with respect to its decision to issue the 404 permit, even if the Corps fails to meet a deadline set forth in a MOA with the Secretary. Therefore, the conference substitute includes language affirming that the Secretary's authority to close the record is limited to the record on the matter pending before the Secretary. This still allows the Secretary to issue a record of decision on a highway project, even if other agencies have not completed their review of the environmental documents required under NEPA for the project.

The conference substitute allows the additional costs associated with Federal agencies complying with this streamlined process to be considered eligible project expenses under the Federal-aid highway program. Such costs may only be for the additional amount the Secretary determines are necessary to Federal agencies to meet the time periods for environmental review where such time periods are less than the customary time for such review.

For purposes of this section, the term Federal agency includes any Federal agency or State agency carrying out affected responsibilities by operation of Federal law.

These provisions make a number of significant procedural changes and improvements to the process for reviewing and approving highway projects. It is expected that the Secretary will publish regulations, after public notice and comment, to implement these new procedures.

SEC. 1310. UNIFORM TRANSFERABILITY OF FEDERAL-AID HIGHWAY FUNDS

House bill

Section 505 creates a new uniform transferability of Federal-aid highway funds and codifies this provision at 23 U.S.C. 110. (This creates a second section 110 in title 23, because section 1105 of this Act codified the revenue aligned budget authority provision at 23 U.S.C. 110.)

Subsection 505(a) applies to any highway program or set-aside within a program which does not allow at least 50 percent of the apportioned or set-aside funds to be transferred to another category. The provision allows any State to transfer up to 50 percent of any funds apportioned to it, as well as any funds within that apportionment that have special requirements or constitute a set aside, to any other category of funds.

Subsection 505(b) sets rules for the transferability of certain funds set aside within the Surface Transportation Program. STP funds set aside at the 1991 funding levels for the hazard elimination and rail-highway grade crossing programs, metropolitan planning funds, and the sub-State suballocation may not be transferred. For funds set aside for transportation enhancements, up to 50 percent of the difference between the amount set aside for enhancements for the fiscal year and the amount of the sub-State suballocation in fiscal year 1996 can be transferred. For funds apportioned for the CMAQ program, a State may transfer up to 50 percent of the difference between its CMAQ funding for the fiscal year and its fiscal year 1997 CMAQ apportionment.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference adopts the House provision, with several modifications. The conference substitute provides that the maximum amount a State may transfer of its STP enhancements and safety set-aside flexible funds is 25 percent of the difference between the increase in each such set-aside over the fiscal year 1997 amount of each such set-aside. This modification (1) reduces the maximum percent a State may transfer from 50 to 25, (2) permits flexible safety set-aside funds to be transferred, but retains the prohibition against transferring hazard elimination and rail-road highway grade crossing funds, and (3) changes the comparison year from fiscal year 1996 to fiscal year 1997. The Conference substitute also changes the comparison year for determining CMAQ transferability; under this provision, a State may transfer 50 percent of the difference between the amount of its CMAQ apportionment for the fiscal year and the amount such apportionment would be had the CMAQ program been funded at $1.35 billion.

SEC. 1311. DISCRETIONARY GRANT SELECTION CRITERIA AND PROCESS

House bill

Section 506 requires that the Secretary establish and publish the criteria used for the awarding of discretionary grants, that such criteria conform to Executive Order 12893 (relating to infrastructure investment) to the extent practicable, and that preference be given to donor States when considering equal applications for grants. It also requires that the Secretary submit to Congress 14 days before awarding a discretionary grant an explanation of how the selected projects conform to the published guidelines.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference adopts the House provision, with several modifications. First, the Conference provision does not include the requirement that preference be given to donor States. Second, rather than requiring explanations to be submitted 14 days before awards of discretionary grants, the Conference provision requires the Secretary to submit to Congress at least quarterly a list of the projects selected under the discretionary grant projects for programs listed in subsection (c) of this section, along with an explanation of how such projects were selected using the criteria required under this section. Third, the Conference provision modifies the list of the programs covered by this provision.

DESIGN FLEXIBILITY

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1236 clarifies 23 U.S.C. 109 regarding the Secretary's responsibilities regarding planned future traffic needs and the Secretary's responsibilities in reviewing State plans for proposed highway projects. This modification eliminates the requirement that the Secretary ensure that a State plan for a highway project must accompany future traffic demands. As revised, subsection 109(a) only requires that the Secretary ensure that future traffic needs were considered.

Conference substitute

The Conference does not adopt the Senate provision.

MIDCOURSE CORRECTION

House bill

Section 508 directs the Secretary to withhold certain funds for fiscal 2001 until August 1, 2001 unless Congress enacts a law making midcourse corrections to the highway and transit programs. At a minimum, the midcourse correction must include a funding distribution for the high cost interstate program, approve a system of performance bonuses, approve an Appalachian development highway system program, and approve projects within the transit capital program.

Senate amendment

The Senate bill contains no comparable provision.

Conference substitute

The Conference does not adopt the House provision.

Subtitle D—Safety

SEC. 1401. HAZARD ELIMINATION PROGRAM

House bill

Section 138 amends 23 U.S.C. 152 to require that hazards to bicyclists be included in the hazardous locations inventory. This section also directs States to carry out hazard elimination projects so as to minimize any negative impact on safety and access for bicyclists and pedestrians. This section also authorizes the Secretary to approve any safety improvement project described in 23 U.S.C. 152(a) and makes conforming amendments to subsections 152(f) and (g).

Senate amendment

Section 1404 expands the eligibility of the current hazard elimination program to include a full range of safety improvements for bicyclists and pedestrians, including multimodal and community safety programs; spot improvement programs for rapid-response of low costs hazards such as potholes, roadway and trail debris, and unsafe drainage gates are eligible for funding under this program. This section also makes traffic calming measures eligible for hazard elimination funds. The prohibition on States using hazard elimination funds to correct hazards on routes on the Interstate system is eliminated. This section also revises the reference to ''Highway safety improvement project'' in subsection 152(b) to read ''safety improvement project'' to reflect the multimodal focus of the hazard elimination program.

Conference substitute

The Conference adopts the Senate provision with modifications. It clarifies that to be eligible under this section, a project must be related to a public surface transportation facility. The Conference substitute does not adopt the Senate language making public transportation vehicles and any public transportation facility that the Secretary determines to be appropriate eligible for hazard elimination funds. The Conference provision also makes technical and conforming amendments to 23 U.S.C. 152. In carrying out this section, States should minimize any negative impact on safety and access for bicyclists and pedestrians in accordance with 23 U.S.C. 217.

SEC. 1402. ROADSIDE SAFETY TECHNOLOGIES

House bill

Subsection 126(a) requires the issuance of guidance to the States on the proper uses of various types of crash cushions. The States shall use such guidance to evaluate the use of such crash cushions and whether the cushions or other safety appurtenances should be installed at specific highway locations.

Subsection 126(b) requires the Secretary to (1) study the means of improving safety and road capacity through the use of movable road barrier (positive separation) technologies, (2) report to Congress within one year after the date of enactment of this Act on the results of such study, and (3) provide the report to States for their use on appropriate projects on Federal-aid highways.

Senate amendment

Section 3107 requires the Secretary to issue guidance regarding the benefits and safety performance of redirective and nonredirective crash cushions. States are required to use this guidance in evaluating the safety and cost-effectiveness of using different crash cushion designs or other safety appurtenances.

Conference substitute

The Conference adopts the House provision with a modification to extend the report deadline to 18 months after enactment, rather than one year.

SEC. 1403. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1406 establishes a new program to encourage States to promote and increase seat belt usage in passenger motor vehicles. This new program provides incentive grants to States that either obtain a State seat belt use rate above the national average, or increase the State seat belt usage. The Secretary shall determine annually: (1) those States that achieved a usage rate higher than the national average, and the amount of Federal government budget savings from Federal medical insurance programs associated with the higher seat belt usage rate; and (2) those States that realized an increase in the seat belt rate compared with the State's base rate, and the resulting Federal government budget savings from Federal medical insurance programs.

Under this section, the Secretary is required to allocate to each State in fiscal years 1999 through 2003, the amount of Federal medical savings that resulted from either increases in seat belt usage over the national average or increases over the State's base rate. States may use such funds for any project eligible for assistance under title 23, United States Code. This section provides $60 million for fiscal year 1998; $70 million for fiscal year 1999; $80 million for fiscal year 2000; $90 million for fiscal year 2001; and $100 million for fiscal years 2002 and 2003.

Conference substitute

The Conference adopts the Senate provision, with modifications increasing authorizations for the programs and providing that, for fiscal year 1999, any unallocated funds under this section shall be apportioned to the States as STP funds, and for fiscal years 2000 through 2003, the Secretary shall use any unallocated funds authorized under this section to make allocations to States that have developed plans to carry out innovative projects to promote increased seat belt use rates.

SEC. 1404. SAFETY INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS

House bill

Section 209 directs the Comptroller General to conduct a study to evaluate the effectiveness of State 0.08 and 0.02 blood alcohol content (BAC) laws in reducing the number and severity of alcohol-related crashes. This section requires the Comptroller General to report to the Congress within two years with the results of the BAC study.

Senate amendment

Section 1408 directs the Secretary to withhold 5 percent of a State's Interstate Maintenance, National Highway System, and Surface Transportation Program apportionments in fiscal year 2002 and 10 percent of such apportionments in fiscal year 2003 and thereafter if the State has failed to enact and enforce a law providing that an individual with an alcohol concentration of 0.08 percent or greater while operating a motor vehicle has committed the offense of driving while intoxicated. The section also provides that if a State has funds withheld from apportionment under this section on or before September 30, 2003, and then comes into compliance with this section within 3 years, the Secretary shall apportion to the States the withheld funds. If a State fails to come into compliance within the 3-year period, the withheld funds shall lapse.

Conference substitute

In section 1404, the Conference adopts a substitute provision authorizing a total of $500 million for incentive grants. The Conference substitute directs the Secretary to apportion the funds authorized to carry out this section to any State that has enacted and is enforcing a law providing that an individual with an alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to have committed a per se offense of driving while intoxicated. States may obligate funds apportioned under this section for any project eligible for assistance under title 23, United States Code, and the Federal share of such project shall be 100 percent.

The Conference adopts the House provision in title II of the Act.

SEC. 1405. OPEN CONTAINER LAWS

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1409 directs the Secretary to withhold 5 percent of a State's Interstate Maintenance, National Highway System, and Surface Transportation Program apportionments in fiscal year 2002 and 10 percent of such apportionments in fiscal year 2003 and thereafter if the State fails to have in effect a law prohibiting any open alcoholic beverage container or the consumption of any alcoholic beverage in the passenger area of a motor vehicle located on a public highway. The section also provides that if a State has funds withheld from apportionment under this section on or before September 30, 2003, and then comes into compliance with this section within 3 years, the Secretary shall apportion to the States the withheld funds. If a State fails to come into compliance within the 3-year period, the withheld funds shall lapse.

Conference substitute

The Conference adopts the Senate provision, with a modification providing for the transfer, rather than the withholding, of a State's IM, NHS, and/or STP funds. For fiscal years 2001 and 2002, States that have failed to enact or enforce an open container law shall have 1½ percent of their IM, NHS, and/or STP funds transferred to their Section 402 program to fund alcohol-impaired driving countermeasures and law enforcement activities to prevent drunk driving. In addition, the State may elect to use all or a portion of the transferred funds for the State's hazard elimination program. For fiscal year 2003 and thereafter, States that have failed to enact or enforce an open container law shall have 3 percent of their IM, NHS and/or STP funds transferred to their Section 402 program to fund alcohol-impaired driving countermeasures or law enforcement activities to prevent drunk driving, with the State able to use all or a portion of the transferred funds for the State's hazard elimination program.

SEC. 1406. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1405 establishes a new program to address the growing problem of repeat, hard core drunk drivers with high alcohol concentrations by requiring States to enact repeat intoxicated driver laws or else have a percentage of their highway construction funds transferred to their Section 402 highway safety program. The section requires States to enact and enforce penalties for drunk drivers who have an alcohol concentration of .15 or greater, and who have been convicted of a second or subsequent drunk driving offense within 5 years. Minimum penalties shall include a license suspension of not less than 1 year, an assessment of the individual's abuse of alcohol and recommended treatment regimes as appropriate, and either an assignment of 30 days community service or 5 days imprisonment.

For fiscal years 2001 and 2002, States failing to enact or enforce the described minimum penalties for repeat drunk drivers with high alcohol concentrations shall have 1½ percent of their INHS and/or STP funds transferred to their Section 402 program to fund alcohol-impaired driving countermeasures and law enforcement activities to prevent drunk driving. For fiscal year 2003 and thereafter, States that have failed to enact or enforce a repeat intoxicated driver law will have 3 percent of their INHS and STP funds transferred to their Section 402 program.

Conference substitute

The Conference adopts the Senate provision with a modification to provide that States may use all or a part of the transferred funds for the State's hazard elimination program.

RAILWAY-HIGHWAY CROSSINGS

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1403 amends 23 U.S.C. 130 to expand the eligibility of railway-highway funds to include trespassing countermeasures in the vicinity of the crossing, safety education, enforcement of traffic laws and publicly sponsored projects at privately owned railway-highway crossings. States are required to report to the Department on completed crossing projects funded under this subsection for inclusion in the DOT/American Association of Railroads National Grade Crossing Inventory.

This section eliminates the requirement that half the funds authorized under section 130 be available for installation of protective devices at railway-highway crossings. These activities, however, remain eligible for funding under this section.

Conference substitute

The Conference does not adopt the Senate provision.

FLEXIBILITY OF SAFETY PROGRAMS

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1233 gives States additional flexibility with respect to safety set-aside requirements. This provision requires each State to set aside 2 percent of its surface transportation program apportionment for railway-highway crossings; 2 percent of its STP funds for hazard elimination activities; and 6 percent of its STP funds for railway-highway crossings or hazard elimination activities.

Additional discretion is given to each State to transfer up to 100 percent of its 6 percent STP safety set-aside funds to its section 402 safety program or to its motor carrier safety program allocation. The requirement that half the funds authorized and expended under section 130 be available for installation of protective devices at railway-highway crossings is eliminated. The revised section, however, retains this use as an eligible activity.

Conference substitute

The Conference does not adopt the Senate provision.

Subtitle E—Finance

CHAPTER 1—TRANSPORTATION INFRASTRUCTURE AND INNOVATION

House bill

The House bill contains no comparable provision.

Senate amendment

Subtitle C, Chapter 2, establishes a Federal credit assistance program for major surface transportation projects under the Transportation Infrastructure Finance and Innovation Act of 1998 (TIFIA).

Conference substitute

In sections 1501 through 1504, the Conference adopts the Senate provision, with certain modifications. The TIFIA program is designed to assist major surface transportation projects with their own revenue streams, which can attract substantial private capital with a limited Federal investment. This program offers the sponsors of large transportation projects a new tool to leverage limited Federal resources, stimulate additional investment in our Nation's infrastructure, and encourage greater private sector participation in meeting our transportation needs.

Eligible projects for TIFIA assistance include any projects eligible under title 23 (highway and transit capital projects) as well as international bridges and tunnels, inter-city passenger bus and rail facilities and vehicles (including Amtrak and magnetic levitation systems), and publicly-owned intermodal freight facilities. Examples of the types of projects which may benefit from this program are the Woodrow Wilson Bridge, the Farley/Pennsylvania Station project in New York City and the State of Florida's proposed high-speed rail project between Miami, Orlando and Tampa. Project sponsors may be governmental units, private entities, or public-private partnerships. The Conferees wish to reiterate language concerning the Florida high-speed rail project in the Senate committee report section on TIFIA. This project represents an effort by the State of Florida to bring a new technology to the United States by using an innovative public-private partnership that does not rely on Federal grant support. The State of Florida's request for a Federal loan equal to 1/3 of project costs should receive favorable consideration from the Department of Transportation, provided it meets the program criteria.

To be eligible for credit assistance, a project must meet certain threshold criteria. It must cost at least $100 million or 50 percent of a State's annual apportionment of Federal-aid funds, whichever is less. (For intelligent transportation system projects, the minimum cost is $30 million, due to the substantial capacity enhancements attainable

with but a limited investment.) The project also must have the potential to be self-supporting from user charges or other non-Federal dedicated funding sources, be on a State's transportation plan and, at the time of funding, be on a fiscally-constrained State transportation improvement program. An application for credit assistance may be submitted by a State or local government or other entity. The Secretary will select among potential candidates based on various criteria, including the project's regional or national significance, its potential economic benefits, its credit-worthiness, the degree of private sector participation, and other factors.

Forms of assistance that can be provided under this program consist of direct loans, loan guarantees, and lines of credit. In all cases the Federal role will be that of a minority investor, with Federal participation limited to not more than 33 percent of total project costs. The Secretary is authorized to enter into agreements with project sponsors of containing terms and conditions designed to assist the projects in leveraging additional funds, while ensuring that the program operates in a fiscally-prudent manner. The State in which a project is located may identify a State or local government entity to assist the Secretary in servicing the Federal credit instrument.

The Secretary may provide credit assistance to demonstrate to the capital markets the viability of making transportation infrastructure investments where returns depend on residual project cash flows after serving senior municipal revenue bonds or other capital markets debt. An objective of the program is to help the financial markets develop the capability ultimately to supplant the role of the Federal government in helping finance the costs of large projects of national significance. That is why loan guarantees are limited to major institutional lenders, such as defined benefit pension funds, which may be potential providers in the future of supplemental and subordinate capital for projects. The Conference would like the Secretary to encourage Federal borrowers to prepay their direct loans or guaranteed loans as soon as practicable from excess revenues or the proceeds of municipal or other capital market debt obligations. The Secretary also may sell off direct loans to third parties or into the capital markets, if such transactions can be arranged upon favorable terms.

The Conference recognizes that the Congress enacted the Deficit Reduction Act of 1984 provision prohibiting the combination of Federal guarantees with tax-exempt debt, because of concerns that such a double-subsidy could result in the creation of an ''AAA'' rated security superior to U.S. Treasury obligations. Accordingly, any project loan backed by a loan guarantee as provided in TIFIA must be issued on a taxable basis.

The Conference wants to ensure that projects receiving TIFIA assistance are financially sound. Each project, at the time of its application for assistance, is required to furnish a preliminary rating opinion letter from one of the bond rating agencies identified by the Securities and Exchange Commission as a ''Nationally Recognized Statistical Rating Organization,'' indicating that the project's senior debt obligations have the potential to achieve an investment-grade bond rating. The Secretary shall consult with the Office of Management and Budget, each rating agency providing such an opinion letter, and any other financial experts the Secretary deems necessary, in order to determine the credit instrument's appropriate subsidy cost (capital reserve) pursuant to the Federal Credit Reform Act of 1990. Until such time as a formal investment-grade rating is assigned, the Secretary shall not extend credit in an amount exceeding the estimated subsidy cost. The Conference believes that analytical techniques that are widely-accepted by the capital markets, such as those used by the rating agencies to evaluate the financial stability of municipal bond insurance companies, should be drawn upon to estimate the appropriate subsidy cost.

TIFIA expressly requires that projects adhere to Title VI of the Civil Rights Act, the National Environmental Policy Act, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act. The Conference also recognizes that highway and transit capital projects assisted under TIFIA will retain adequate protections for labor in terms of prevailing wages, as required under title 23 provisions.

The bill provides $530 million of contract authority, funded from the Highway Trust Fund, to fund the budgetary or subsidy costs of the Federal credit instruments between fiscal years 1999–2003: $80 million in fiscal year 1999; $90 million in fiscal year 2000; $110 million in fiscal year 2001; $120 million in fiscal year 2002; and $130 million in fiscal year 2003. (As with other Federal credit programs, the non-budgetary or financing costs of the Federal credit instruments will be funded from the General Fund.) The bill caps the nominal amount of credit instruments supported by this contract authority at $1.2 billion for each of fiscal years 1998 and 1999; $1.8 billion for fiscal years 2000 and 2001; and $2.3 billion for each of fiscal years 2002 and 2003.

The Conferees are aware that present Federal income tax law prohibits the use of direct or indirect Federal guarantees in combination with tax-exempt debt (section 149(b)) of the Internal Revenue Code of 1986. The TIFIA provisions of the conference agreement do not override or otherwise modify this provision of the Code.

The Conference finds that developing, implementing, and evaluating financial assistance programs such as TIFIA is a critical mission of the Department of Transportation. To ensure the financial and programmatic success of TIFIA, the conference strongly encourages the Secretary to establish an organizational structure within the Department in which financial assistance activities and programs can be closely coordinated and monitored.

In order to evaluate the effectiveness of this program, the Secretary is required to submit a report to Congress within four years of the date of enactment of this bill. The report should summarize the program's financial performance to date and recommend whether the objectives of the program would be best met by continuing the program under the authority of the Secretary, establishing a Government corporation or Government-sponsored enterprise to administer the program, or by relying upon the capital markets to fund projects of regional and national significance without Federal participation.

CHAPTER 2—STATE INFRASTRUCTURE BANK PILOT PROGRAM

SEC. 1511. STATE INFRASTRUCTURE BANK PILOT PROGRAM

House bill

The House bill contains no comparable provision.

Senate amendment

Section 1301 codifies the State Infrastructure Bank (SIB) Pilot Program authorized in the NHS Designation Act of 1995. This section includes modifications to increase the flexibility of the SIB program. The current 10-State limit on the number of participants in the SIB program is eliminated, thus enabling any State to establish a State Infrastructure Bank. The percentage limitation regarding funds a State can transfer to use in State infrastructure banks is eliminated. The 10-State limit unnecessarily restricted States from pursuing this financial mechanism and the percentage limitation unnecessarily limits the States' use of this mechanism. The need to maintain separate highway and transit accounts also imposed an accounting burden on States that was inconsistent with financial flexibility desired in a financing entity such as a State Infrastructure Bank and was therefore eliminated.

Conference substitute

In section 1511, the Conference adopts a substitute provision, retaining most of the Senate provision, but with some significant modifications. First, the Conference adopts a four-State pilot program. Rather than permitting every State to establish a SIB under this section, the Conference provision states that the participating States under this section are California, Florida, Missouri, and Rhode Island. Second, the Conference provision modifies the Senate language by expressly providing, in paragraph 1511(i)(2), that the requirements of titles 23 and 49, United States Code, shall apply to repayments from non-Federal sources to a SIB from projects assisted by the SIB, and that such repayments shall be considered to the Federal funds.

Subtitle F—High Priority Projects

SEC. 1601. HIGH PRIORITY PROJECTS

House bill

Subsection 127(b) authorizes the high priority projects program as subsection (j) of section 104 of title 23. Funds for this program are exempt from the obligation limitation imposed on the Federal-aid highway program. Subsection 127(b)(2) authorizes a State in carrying out a project with Federal funds to divide or segment the project provided that the division or segmentation complies with the requirements of the National Environmental Policy Act of 1969.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

The Conference adopts the House provision with modifications. Subsection 1601(a) establishes the program of high priority projects in section 117 of title 23. The provision is very clear that it is establishing a program of projects, not a series of individual programs. In fact, 23 U.S.C. 117(a) provides that any unallocated funds are available to the Secretary. Although this program is now subject to an overall obligation limitation, it is the intent of the Conference that this program functionally operate, to the extent possible, as if this program were exempt from the obligation limitation.

In subsection (h) of section 117, it provides that ''[f]unds allocated to a State in accordance with this section shall be treated as amounts in addition to amounts a State is apportioned under sections 104, 105, and 144 for programmatic purposes.'' (emphasis added) The aim of this provision is to ensure that high priority project funding is treated as additive to the National Highway System, Interstate maintenance, surface transportation program, congestion mitigation and air quality improvement, bridge, and minimum guarantee funds that the State would otherwise receive. In fact, this provision was specifically added to give guidance to states with internal formulas for the distribution of federal-aid funds.

In addition, section 1601 provides, in new 23 U.S.C. 117(g), that ''[o]bligation authority attributable to funds made available to carry out this section shall only be available for

the purposes of this section and shall remain available until obligated . . . .'' This means that the obligation authority provided for high priority projects is reserved solely for such project funds and cannot be used for any other Federal-aid highway program or project. Further, section 1102 of TEA 21, which directs the distribution of obligation authority for all Federal-aid highway programs, provides in subsection 1102(g) that obligation authority distributed for a fiscal year for high priority projects ''shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.'' The treatment of obligation authority for high priority projects under these two provisions further articulates the intent of Congress that high priority project funds and obligation authority shall be separate from and in addition to a State's regular Federal-aid highway apportionments.

Furthermore, including high priority projects in the minimum guarantee calculation serves the separate purpose of ensuring that the distribution of Federal-aid highway funds between the States is as equitable as possible. It does not mean that each State's high priority projects were funded from what would have been the State's regular formula apportionments, and therefore provides no support for the position that project funds should be offset from a district's allocation of Federal-aid highway formula funds. This interpretation is contrary to the express language of section 1601, as cited above.

Subsection 1601(b) clarifies that by listing high priority projects in section 1602 of this Act and similar projects in previous legislation, Congress is establishing the limits of the projects for purposes of eligibility for associated Federal-aid highway funding. The listing or identification of a project is not intended to define the scope of the project for purposes of complying with all Federal requirements, including those of the National Environmental Policy Act (NEPA). As the associated Federal-aid highway funding for these projects typically is not sufficient to finance the Federal share of all improvements within the project limits, Congress recognizes that a State needs the flexibility to advance logical segments of the overall project. Any segment of a project must still have to connect logical termini, have independent utility, and not restrict consideration of alternatives for other reasonably foreseeable transportation improvements. This provision does not waive safety or contracting requirements for the underlying segment.

In the case of the South Lawrence Trafficway in Kansas, the State may advance the segment between U.S. 59 and Kansas Route 10 as a non-Federally funded project without triggering NEPA.

Subsection 1601(c) makes conforming amendments to the table of contents for title 23.

SEC. 1602. HIGH PRIORITY PROJECTS

House bill

Subsection 127(c) establishes the high priority projects for 1998 through 2003.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

Section 1602 establishes the high priority projects for 1998 through 2003.

SEC. 1603. SPECIAL RULE

House bill

Contains no comparable provision.

Senate amendment

The Senate amendment contains no comparable provision.

Conference substitute

Section 1603 provides how projects are included in certain calculations.

TITLE V—TRANSPORTATION RESEARCH

Subtitle A—Funding

SECTION 5001. AUTHORIZATION OF APPROPRIATIONS

Senate bill

Section 2201 of the Senate bill provides contract authority for fiscal years 1998 through 2003 to carry out the research and technology programs, the international highway transportation outreach program, the infrastructure investment needs report, and the study of the future strategic highway program.

House bill

Subparagraphs 127(a)(3)(F),(G), and (H) authorize funding for discretionary highway research programs; transportation education, professional training, and technology deployment; and the transportation technology innovation and demonstration program for fiscal years 1998 through 2003.

Section 625 of the House bill allocates the funds made available under subparagraph 127(a)(3)(G) of the bill for the National Highway Institute, the local technical assistance program, the Eisenhower Fellowship Program, the national technology deployment initiative program, and university transportation centers.

Conference substitute

Subsection 5001(a) and (b) of the Conference substitute provide contract authority for fiscal years 1998 through 2003 for the following research programs: surface transportation research under 23 U.S.C. 502, 506, 507, and 508, and section 5112 of this Act; the technology deployment program; training and education; the Bureau of Transportation Statistics; and university transportation research.

Subsection 5001(c) suballocates certain research funds for specific projects and programs, such as long term pavement performance, innovative bridge research and construction, the National Highway Institute, and commercial vehicle ITS infrastructure.

Subsection 5001(d) authorizes the Secretary to transfer up to 10 percent of the funds allocated within each paragraph of subsection (c) for any other project or program within that paragraph.

SECTION 5002. OBLIGATION CEILING

Senate bill

Subsection 2201(c) of the Senate bill establishes a limitation on obligations for the research and technology program, the international highway transportation outreach program, the infrastructure investment needs report, and the study of the future strategic highway program.

House bill

Subsection 103(e) of the House bill provides that the general obligation limitation for Federal-aid highway programs established in subsection 103(a) applies to transportation research programs carried out under chapter 3 of title 23, United States Code, and title VI of the House bill.

Conference substitute

Section 5002 of the Conference substitute establishes, for each of fiscal years 1998 through 2003, an annual limitation on obligations of amounts made available under subsection 5001(a) for research programs.

SECTION 5003. NOTICE

Senate bill

The Senate bill contains no similar provision.

House bill

Whenever funds authorized under this title or amendments thereto are subject to a reprogramming notice the House and Senate Committees on Appropriations, Section 604 requires concurrent notice to the Committees on Transportation and Infrastructure and on Science of the House of Representatives and to the Committees on Environment and Public Works and on Commerce, Science, and Transportation of the Senate. The section also requires the Secretary to provide notice to these committees of any major reorganization of programs, projects, or activities of the Department for which funds are authorized by this Title at least 15 days prior to the reorganization's effective date.

Conference substitute

The Conference adopts the House provision with a modification to strike reference to the Senate Committee on Commerce, Science, and Transportation.

Subtitle B—Research and Technology

SECTION 5101. RESEARCH AND TECHNOLOGY PROGRAM

Senate bill

Section 2005 amends the table of chapters in title 23 by adding a new chapter, ''Chapter 5—Research and Technology,'' and provides definitions for their terms ''safety'' and ''federal laboratory''.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts this Senate provision.

SECTION 5102. SURFACE TRANSPORTATION RESEARCH

Senate bill

Section 2005 revises and recodifies 23 U.S.C. 307 at 23 U.S.C. 502 and authorizes the Secretary to carry out research, development, and technology transfer activities with respect to motor carrier transportation and all phases of highway planning and development. It requires the Secretary to develop and carry out programs to facilitate the application of products that will improve the safety, efficiency, and effectiveness of the Nation's transportation system. Mandatory elements of the research program are delineated and appropriate reporting requirements are specified. Section 2006 establishes an advanced research program, Section 2007 requires the Secretary to continue the long-term pavement performance program (LTPP), and Section 2012 requires the Secretary to make a report to Congress on the Nation's infrastructure investment needs.

House bill

Section 611 amends 23 U.S.C. 307 by requiring the Secretary to continue research on the long term performance of pavements (LTPP) and advanced long term highway research. The section changes the existing seismic research program to include all surface transportation modes and requires a biennial report on the condition of the Nation's highways and bridges. The section also requires research into several specific areas, including research on the use of recycle materials such as paper and plastic fiber reinforcement systems.

Conference substitute

The Conference adopts the House provision after blending a number of Senate provisions into the final text including the provision from Section 2005 recodifying the general research provision in Chapter 5 of title 23 U.S.C. and provisions from Sections 2006, 2007 and 2012.

SECTION 5103. TECHNOLOGY DEPLOYMENT

Senate bill

Section 2011 directs the Secretary to develop and administer a national technology

deployment initiatives (NTDI) program to significantly accelerate the adoption of innovative technologies by the surface transportation community to increase the efficiency and durability and improve the safety of the Nation's transportation system. The Secretary shall continue deployment partnerships established through the strategic highway research program (SHRP). Section 2013 requires the Secretary to establish and carryout an innovative bridge research and construction program.

House bill

Section 622 establishes a new national technology deployment initiative. The initiative's purpose is to increase the use of research results by the transportation community. The initiative is to be conducted in cooperation with interested parties and coordinated with other technology transfer activities.

Conference substitute

The Conference substitute blends the House and Senate provisions and includes the innovative bridge program within the technology deployment initiative. The provision also includes a directive that the Secretary integrate programs under this section with other technology transfer efforts.

SECTION 5104. TRAINING AND EDUCATION

Senate bill

Section 2009 moves the highway construction and training provisions of 23 U.S.C. 140 into Chapter 5 of title 23 and requires the Secretary to continue to operate the National Highway Institute (NHI) within the FHWA along with the Local Technical Assistance Program (LTAP) and the Eisenhower Fellowship Program.

House bill

Section 621 continues the NHI while Section 623 continues the Eisenhower Fellowship Program and the LTAP program. The LTAP program is modified to include industry advancements in the area of concrete and concrete structures in LTAP program activities.

Conference substitute

The Conference adopts the Senate provision, but does not move the highway construction and training provisions of 23 U.S.C. 140 into Chapter 5 of title 23. The substitute increases the percentage of certain Federal-aid highway funds a State may use for education and training of State and local transportation agency employees.

SECTION 5105. STATE PLANNING AND RESEARCH

Senate bill

Section 2008 continues the provision under current law that directs 2 percent of certain categories of funds apportioned to the States for each fiscal year to be available to fund state planning and research, including statewide planning under Section 135 of title 23, U.S.C.

House bill

Section 612 continues the provision under current law and adds a new Highway Noise Research Center.

Conference Substitute

The Conference adopts the House provision.

SECTION 5106. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM

Senate bill

Section 2010 continues the current activities aimed at improving U.S. firms access to foreign markets. This section also adds a new provision to enable States to use their State Planning and Research Program funds for international highway transportation activities.

House bill

Section 613 expands and broadens the purposes of this program to include the promotion of U.S.highway transportation goods and services and expands the list of eligible activities to include the gathering and dissemination of information on foreign transportation markets and industries. The section allows the Secretary to accept funds from cooperating organizations to reimburse the FHWA for salaries and expenses and allows States to use their State planning and research funds to participate in the International program.

Conference substitute

The Conference incorporates both the House and Senate provisions.

SECTION 5107. SURFACE TRANSPORTATION-ENVIRONMENT COOPERATIVE RESEARCH PROGRAM

Senate bill

Section 2017 establishes in Title 23 a Transportation and Environment Cooperative Research Program as well as an advisory board to recommend environmental and energy conservation research, technology and technology transfer activities related to surface transportation. The Secretary of Transportation may contract or make grants to the National Academy of Sciences to carryout the research and technology activities of this program. The section also calls for the Secretary to conduct a study and prepare a report on the relationship between highway density and ecosystem integrity.

House bill

Section 633(a) of the House bill establishes the program in Title 49 and requires that the program include research designed to develop more accurate models for evaluating transportation measures as well as transportation system designs which are usable by State and local governments, to better understand factors contributing to demand for transportation, and to develop indicators of economic, social and environmental performance of transportation systems to facilitate analysis of potential alternatives.

Conference substitute

The Conference adopts the House language as 23 U.S.C. 507, adding the Senate study of the relationship between highway density and ecosystem integrity and additional priorities as determined by the Advisory Board to the research program under this section.

SECTION 5108. SURFACE TRANSPORTATION RESEARCH STRATEGIC PLANNING

Senate bill

Section 2001 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 Federal investment in research. The Secretary is also required to submit to Congress a report on strategic plans, goals and milestones to help guide research, development and technology transfer activities during a five year period.

House bill

Seciton 633 requires the Secretary to establish a performance-based strategic planning process consistent with the Government Performance and Results Act of 1993. The strategic planning process shall address deficiencies in the current program, as identified by the General Accounting Office, Transportation Research Board, and other transportation research and development stakeholders, by setting a strategic direction, defining national priorities, coordinating federal efforts and evaluating the impact of the federal investment in surface transportation R&D. As envisioned by the Results Act, a strategic plan shall be developed to include review and comment from outside sources, the National Research Council and other advisory boards. The plan shall be submitted and updated as required by the Results Act. Under this section, the Secretary is also required to submit a report describing the Department's efforts to establish competitive merit review procedures for programs covered by the strategic plan required under this section. It is the Conferees' expectation, in the absence of more specific legislative instructions, that applications for research and development funding from the Department will be evaluated, to the extent feasible, by academic peers and that strict procedures to ensure that only the most meritorious of applicants will be funded. Consistent with the Results Act, the Secretary is also expected to develop performance measurement procedures for evaluating the programs so that programs are designed with specific goals in mind and evaluated on how well those goals are achieved.

Conference substitute

The conference adopts the House provision.

SECTION 5109. BUREAU OF TRANSPORTATION STATISTICS

Senate bill

Section 2004 expands the list of topics to be covered by the Bureau of Transportation Statistics (BTS) to include transportation related variables influencing global competitiveness, the impact of international trade on the nation's economy and on domestic transportation facilities and services, and transportation's impact on the ability of domestic U.S. businesses to reach foreign markets. This section also requires the BTS Director to coordinate responsibilities for long-term data collection with other efforts to implement the Government Performance and Results Act (GPRA). This section codifies the following existing BTS initiatives: (1) the BTS' Transportation Data Base, including various data on competing and complementary modes of transportation, intermodal combinations, international movement, and local and intercity movements; (2) the BTS' National Transportation Library; and (3) the general content of the BTS' National Transportation Atlas Data Base (NTAD). This section requires the Director of BTS to study freight factors, such as diesel fuel data and miles of international trade traffic. The BTS Director also is required to recommend to Congress what improvements are needed in such data collection for use in the highway apportionment formula. This section authorizes the BTS to establish grants and enter into cooperative agreements with public and nonprofit organizations to conduct research and development for BTS' major activities.

House bill

Section 631 makes certain changes to the purposes and authorities of the Bureau of Transportation statistics and provides funding for the Bureau. It requires the establishment of a national transportation library, an atlas database, and an intermodal transportation data base. The Bureau is authorized to make research and development grants. Provisions are included ensuring that certain proprietary or private information that is gathered by the Bureau in the course of its work is not disclosed. The Bureau is given certain responsibilities under the Government Performance and Results Act of 1993.

Conference substitute

The Conference adopts the Senate provisions without the study requirements and all related provisions.

SECTION 5110. UNIVERSITY TRANSPORTATION RESEARCH

Senate bill

Section 2003 directs the Secretary to make grants to or contract with non-profit institutions of higher learning to establish one university transportation center in each of the 10 Federal administrative regions that comprise the Standard Federal Regional Boundary Systems. This section also directs the Secretary to make grants to not more than 4 additional university transportation centers to address advanced transportation issues. It outlines the selection criterion and eligibility requirements for the above grants, and limits the Federal share of the cost of establishing and operating a university transportation center and carrying out related research activities under this section to not more than 50 percent.

House bill

Subsection 624(a) establishes the University Transportation Research program in Chapter 55 of Title 49 consolidating the existing University Transportation Centers and University Research Institutes. The program consists of ten center representing each Federal region and an additional ten centers selected at large. The selection criteria, objectives of the program, and other requirements are established. Any university receiving a grant under this program for FY 1997 will receive grants in FY 1998 and FY 1999. The subsection lists universities and consortia the Secretary shall consider along with other applicants, when selecting grant recipients.

Subsection 624(b) conforms the table of sections for chapter 55 of Title 49.

Subsection 624(c) establishes and funds the Appalachian Transportation Institute.

Subsection 624(d) continues and funds the ITS Institute.

Conference substitute

The Conference finds that the House and Senate provisions are similar and adopts the House provisions with modifications. In section 5110, the conference continues the 10 regional university transportation centers (designated as group A) and establishes a new program to fund additional centers (designated as groups B, C, and D). The institutions in each category are enumerated in 49 U.S.C. 5505(j). All institutions listed in groups A through D receive a grant in fiscal years 1998 and 1999. Beginning in fiscal year 2000, special rules apply for making grants within each group based on specified selection criteria. The conference includes the requirement contained in both bills that establishes the Federal match as 50 percent.

SECTION 5111. ADVANCED VEHICLE TECHNOLOGIES PROGRAM

Senate bill

Section 2016 directs the Secretary to encourage and promote the research, development and deployment of transportation technologies that will use technological advances in multmodal vehicles, vehicle components, environmental technologies, and related infrastructure to remove impediments to an efficient and cost-effective national transportation system. It defines the term ''eligible consortium'' and the conditions that need to be fulfilled in order to receive assistance under this section. It requires the Secretary to report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate on the projects undertaken by the eligible consortia and the progress made in advancing the purposes of this section.

House bill

Seciton 312(b) enables the Secretary to make grants and enter into contracts and cooperative agreements to promote the development and early deployment of innovation in mass transportation technology, services, management, or operational practices. It defines the eligibility criteria for funding under this section as well as ''eligible consortium''. This section limits the Federal share of costs from these programs to 50 percent of the net project costs.

Conference substitute

The Conference adopts the Senate provision with the modification that the Secretary include the House Committee on Science to the list of legislative committees receiving the report.

SECTION 5112. STUDY OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM

Senate bill

Section 2015 directs the Secretary to enter into a cooperative agreement with the Transportation Research Board of the National Academy of Sciences (referred to as the 'Board' in this section) to conduct a study to determine the goals purposes, research agenda and projects, administrative structure, and fiscal needs for a new strategic highway research program to replace the program established under 23 U.S.C. section 307(d). It directs the Board to consult with the American Association of State Highway and Transportation Officials in the implementation of this study. This section instructs the Board to submit a final report on the results of this study to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

House bill

Section 611(e) is substantially the same as the Senate version but requires the results of the study additionally to be sent to the Committee on Science of the House of Representatives.

Conference substitute

The Conferees adopt the House provision.

SECTION 5113. COMMERCIAL REMOTE SENSING PROJECTS AND SPATIAL INFORMATION TECHNOLOGIES

Senate bill

Section 2020 authorizes $10 million each year from FY 1999–2004 for the Secretary to establish a remote sensing program to optimize highway routing through favorable terrain. The Secretary is to carry out this section in cooperation with the National Aeronautic and Space Administration and a consortium of university research centers.

House bill

Section 611 encourages the Secretary to develop a program to study the use of remove sensing and spatial information systems. The Secretary is to consult with other federal agencies and universities experienced in this area to carry out the program.

Conference substitute

The Conference adopts the Senate provision as modified to specify that the program should utilize commercial remote sensing products. This is consistent with long-standing space policy of utilizing commercial resources wherever possible, both to save taxpayer money and to support the burgeoning commercial remove sensing industry.

SECTION 5114. SENSE OF CONGRESS ON THE YEAR 2000 PROBLEM

Senate bill

The Senate bill contains no comparable provision.

House bill

Section 605 expresses a sense of Congress that the Department of Transportation should give high priority to making sure that all of its computer systems are reprogrammed to ensure effective operation in the year 2000 and beyond. The Department needs to assess immediately the risk of year 2000 problem present for its systems and to develop a plan and a budget to correct Year 2000 problems for its mission-critical programs. The Department also need to begin consideration of contingency plans, in the event that certain systems are unable to be corrected in time.

Conference substitute

The Conference adopts the House provision.

SECTION 5115. INTERNATIONAL TRADE TRAFFIC

Senate bill

Section 2004 of the Senate bill includes a provision directly the Bureau of Transportation Statistics to conduct a study of international trade traffic, including measures of international trade that could be used as formula factors, and to submit the results of this study to Congress within 3 years of the date of the enactment of this Act.

House bill

The House bill contains no comparable provision.

Conference substitute

The conference adopts the Senate study provision in section 5115.

SECTION 5116. UNIVERSITY GRANTS

Senate bill

The Senate bill contains no comparable provision

House bill

Subsection 211(a) of the House bill directs the Secretary to make grants to establish and maintain a center for transportation injury research at the State University of New York at Buffalo. $2 million in each of fiscal years 1998 through 2003 is authorized for this research. This funding shall be use by the Calspan University of Buffalo Research Center to conduct research and testing of invehicle systems and infrastructure-based technology to improve emergency notification, crash characterization, dispatching and delivery of medical and other services to crash victims.

Subsection 211(b) directs the Secretary to make grants to the Neuroscience Center for Excellence at Louisiana State University and the Virginia Transportation Research Institute at George Washington University for research and technology development relating to head and spinal cord injuries. $500,000 in each of fiscal years 1999 through 2003 is authorized for this research.

Conference substitute

Subsection 5116(a) directs the Secretary to make grants to the University of California at San Diego to upgrade earthquake simulation facilities at the University and authorizes $1 million for each of fiscal years 1999 through 2002 for such grants.

Subsection 5116(b) directs the Secretary to make grants to the University of Alabama at Huntsville for global climate research and authorizes $200,000 for each of fiscal years 1999 through 2003 of such grants.

Subsection 5116(c) directs the Secretary to make grants to Auburn University for asphalt research and authorizes $250,000 for each of fiscal years 1999 and 2000 for such grants.

Subsection 5116(d) directs the Secretary to make grants to the University of Alabama at Tuscaloosa for advanced vehicle research and authorizes $400,000 for each of fiscal years 1999 through 2003 for such grants.

Subsection 5116(e) directs the Secretary to make grants to Oklahoma State University for the Geothermal Heat Pump Smart Bridge Program, and authorizes $1 million for each

of fiscal years 1999 through 2001 and $500,000 for fiscal year 2002 for such grants.

Subsection 5116(f) directs the Secretary to make grants to the University of Oklahoma for the Intelligent Stiffener for Bridge Stress Reduction and authorizes $1 million for each of fiscal years 1999 and 2000 and $500,000 for fiscal year 2001 for such grants.

Subsection 5116(g) directs the Secretary to make grants to the University of Alabama for the study of advanced trauma care and authorizes $750,000 for each of fiscal years 1999 through 2003 for such grants.

In subsection 5116(h), the Conference adopts the House provision on the center for transportation injury research.

In subsection 5116(i), the Conference adopts the House provision on head and spinal cord injury research.

SECTION 5117. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM

Senate bill

The Senate bill contains no similar provision.

House bill

Section 632 directs the Secretary to carry out a transportation technology innovation and demonstration program. This section directs the program to develop or improve systems for the use of concrete pavement, motor vehicle safety, asphalt pavement, hazardous materials monitoring, motor carrier advanced sensor control, outreach and technology transfer activities, transportation economic and land use system, intelligent transportation infrastructure, and corrosion control and prevention. It directs the Secretary to make grants to the Texas Transportation Institute to continue the Translink Research program and to continue research into the fundamental properties of asphalts and modified asphalts. It establishes a national center for transportation management and research and development, as well as an infrasture technology institute.

Conference substitute

The Conference adopts the House provision with modifications such that the Secretary is directed to study corrosion control and prevention and develop transportation economic and land use systems. The Secretary is further directed to continue research into the fundamental properties of asphalts and asphalts. This section also establishes an Advanced Traffic Monitoring and Response Center, and a Recycled Materials Resource Center.

SECTION 5118. DREXEL UNIVERSITY INTELLIGENT INFRASTRUCTURE INSTITUTE

Senate bill

The Senate bill contains no similar provision.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts a provision to establish the Intelligent Infrastructure Institute at Drexel University in Pennsylvania to advance infrastructure research.

SECTION 5119. CONFORMING AMENDMENTS

Senate bill

Section 2019 of the Senate bill contains a series of amendments to title 23 U.S.C. to conform the title to the changes made by this act.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference adopts the conforming amendments.

MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM

Senate bill

Section 2002 establishes the program to conduct research and technology development for intermodal and multimodal projects. The Secretary shall consult among the Administrators of the operating administrations of the Department and other federal officials with research responsibilities to establish program priorities.

House bill

The House bill contains no comparable provision.

Conference substitute

The Conference does not adopt the Senate provision.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BRADY of Texas). Under the Speaker's announced policy of January 7, 1997, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. RIGGS) is recognized for 5 minutes.

(Mr. RIGGS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. BLUMENAUER) is recognized for 5 minutes.

(Mr. BLUMENAUER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. KASICH) is recognized for 5 minutes.

(Mr. KASICH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Hawaii (Mr. ABERCROMBIE) is recognized for 5 minutes.

(Mr. ABERCROMBIE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. PETERSON) is recognized for 5 minutes.

(Mr. PETERSON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DIXON) is recognized for 5 minutes.

(Mr. DIXON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FOLEY) is recognized for 5 minutes.

(Mr. FOLEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

(Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. TIAHRT) is recognized for 5 minutes.

(Mr. TIAHRT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. BLAGOJEVICH) is recognized for 5 minutes.

(Mr. BLAGOJEVICH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

(Ms. CARSON addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

(Ms. WOOLSEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. TAUSCHER) is recognized for 5 minutes.

(Mrs. TAUSCHER addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

NOT ABOUT POLITICS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Colorado (Mr. BOB SCHAFFER) is recognized for 60 minutes as the designee of the majority leader.

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, as Congress approaches the conclusion of what history will surely judge among the most solemn week in the history of Congress, I rise to address my colleagues tonight in this special order and in this great Chamber. For it was on this very floor that we all swore allegiance by the same oath, to the same Constitution, to one mighty Nation before the one true God.