SENATE—*Wednesday, October 8, 1997*

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

PRAYER

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

Gracious Lord, You know what is ahead today for us. Crucial issues await our attention. Unmade decisions demand our concentration. And we know that the choices we make will affect us, others around us, our Nation and the world.

It's with that in mind that we say with the psalmist, "Show us Your ways, O Lord; teach us Your paths. Lead us in Your truth and teach us, for You are the God of our salvation; on You we wait all the day."—Psalm 25:4–5.

May we prepare for the decisive decisions of this day by opening our minds to the inflow of Your spirit. We confess that we need Your divine wisdom to shine the light of discernment in the dimness of our limited understanding.

We praise You, that we can face the rest of this day with the inner peace of knowing that You will answer this prayer for guidance. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ASSISTANT MAJORITY LEADER

The PRESIDENT pro tempore. The able assistant majority leader, Senator NICKLES of Oklahoma, is recognized.

SCHEDULE

Mr. NICKLES. Mr. President, this morning the Senate will begin immediately 1 hour of debate on the motion to invoke cloture on S. 25, the McCain-Feingold campaign finance reform bill. Members can therefore expect a cloture vote at approximately 12 noon today. Assuming cloture is not invoked, the Senate may then proceed to S. 1173, the so-called highway transportation bill, ISTEA legislation. It is also possible the Senate will resume consideration of the D.C. appropriations bill if the two remaining issues can be resolved. The Senate may also consider any appropriations conference reports that may be available. Therefore, Members can anticipate additional rollcall votes throughout today's session of the Senate.

BIPARTISAN CAMPAIGN REFORM ACT OF 1997—CLOTURE MOTION

The PRESIDING OFFICER (Mr. HUTCHINSON). Under the previous order, there will now be 1 hour equally divided in the usual form, prior to the cloture vote on S. 25.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MCCONNELL. Mr. President, am I correct that the 1 hour between now and the vote at 12 is equally divided?

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCONNELL. Mr. President, I would like to yield to the Senator from Arkansas such time as he may desire, and take this opportunity to come preside while he speaks.

(Mr. MCCONNELL assumed the chair.)

Mr. HUTCHINSON. Mr. President, I thank the Senator from Kentucky for yielding time.

Yesterday I voted to invoke cloture on the McCain-Feingold bill. Today I will oppose that effort.

I voted for cloture because I want campaign finance reform. I want an opportunity to amend McCain-Feingold, which I believe is a seriously flawed bill. I want a chance to vote on a reform bill and I want to ban or limit soft money. But it is now clear that there is no consensus in support of McCain-Feingold, and if we are to have serious and meaningful reform, we will and must take a different direction.

I absolutely do not support the current version of McCain-Feingold. In my opinion, and I have expressed it both publicly and privately, McCain-Feingold contains provisions that threaten free speech and pose serious constitutional problems, especially in the area of issue advocacy. These groups, which play such an important part in the political process, regardless of their affiliation, deserve to play that important role. And we must not in any way place a chill on their right of free expression and their ability to criticize their public officials. There have been abuses, no doubt about that. But it is far better for us to err on the side of freedom and to err on the side of liberty and to err on the side of the Constitution than to take a chance of passing a misguided, though popular right now, reform bill that would in fact begin that erosion of those liberties and freedoms and the right of free expression that we cherish as Americans and that we always should.

It is clear there is no consensus on McCain-Feingold and will not be. It is equally clear that repeated cloture votes on McCain-Feingold is a part of a political strategy to portray opponents of McCain-Feingold as opponents of reform. As unfortunate as it is for the American people, the McCain-Feingold bill has become so politicized that even supporters of campaign finance reform, like myself, are disgusted with the political tactics that have been used in this debate. You have to question the sincerity of a strategy that disrupts Senate business and distracts the Senate from other important business such as ISTEA, the transportation funding bill, fast track, appropriation conference reports and judicial nominations, all of these vitally important things, pressing business of the American people, and to set that aside so we can hold press conferences to portray opponents of McCain-Feingold as opponents of reform, which is not true and is not fair.

If supporters of McCain-Feingold truly wanted to put forth a serious effort to enact reform, they would take a different approach by working to find consensus, by working to find agreement, rather than attempting to score political points.

I will not be a part of these partisan guerrilla warfare tactics. I fully and completely support campaign finance reform. I think we have need to address it. I think we need to reform the system and particularly deal with that area in which there has been abuse, in the area of soft money. But I will not again vote to invoke cloture on S. 25 and be a part of a political game that is more concerned about portraying political opponents in a certain bad light than enacting meaningful and real and significant reform.

I thank again the Senator from Kentucky for his leadership and for his genuine deep convictions in defense of the first amendment and the right of free expression. I yield the floor.

(Mr. HUTCHINSON assumed the chair.)

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I listened with keen interest to the comments of the Senator from Arkansas and want to congratulate him for his decision. With his decision there is an excellent chance that today we will reach a historic high in opposition to measures similar to McCain-Feingold. So I commend the Senator from Arkansas for his conviction and thank him for his support in defense of the first amendment. I think he has done the courageous and correct thing.

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

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

I want to make a few brief observations this morning. There is not a whole lot left to say in this debate. But I wanted to refer to a few articles over the last few days that I think ought to be noted and printed in the RECORD.

A USA Today column on Monday, by Richard Benedetto, is worth noting, in terms of the attitude of the press on this issue. Americans have every right to expect that the press will not take sides on an issue off of the editorial page. Here is Mr. Benedetto's column of Monday, that I think is noteworthy, in USA Today. He says:

If you think the news media are providing the straight story on efforts to revise campaign finance laws, look closer.

Much of the reporting is tilted toward voices in favor of wholesale reform. Those who take an opposing view are mostly portrayed as either corrupt or partisan.

Little space or time is devoted to sober, broad looks at arguments on all sides of the issue. Instead, coverage is often emotional and selective. Reporting usually begins from the premise that the McCain-Feingold reform bill now before the Senate is good, and that any attempt to slow it, stop it or change it is bad.

Proponents say the fate of our democracy hangs on reform. And given a predisposition of many in the media to agree, that message is hammered home and almost daily.

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CNN gives its position away in the title of a show on campaign finance it will air Tuesday: The Money Trail; Democracy for Sale.

This was ostensibly an objective piece by CNN on campaign finance, an issue which the occupant of the chair has just said is largely about the first amendment to the U.S. Constitution.

Mr. Benedetto goes on:

Thanks to coverage such as that, it's no surprise polls show that a majority of Americans want Congress to pass legislation to tighten the rules under which politicians and political parties collect money.

Never one to misread a popular trend, President Clinton has enlisted on the side of reform. Never mind that it was alleged abuses of current law by Clinton and Vice President Gore in 1996 that intensified calls for change in the first place. He's now a believer.

Just a couple of other comments from his column, Mr. Benedetto's column in USA Today of Monday:

Media conduct on this one is not pure liberal bias. It's another example of what Washington Post columnist Robert Samuelson calls "pack journalism run amok."

"We media types fancy ourselves independent and skeptical thinkers," he recently wrote. "Just the opposite is often true. We're patsies for the latest social crusade or intellectual fad."

Mr. President, I ask unanimous consent Mr. Benedetto's column in USA Today be printed in the RECORD at this point.

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

[From USA Today, Oct. 6, 1997]

MEDIA TOO QUICK TO BUY INTO CAMPAIGN REFORM

(By Richard Benedetto)

If you think the news media are providing the straight story on efforts to revise campaign finance laws, look closer.

Much of the reporting is tilted toward voices in favor of wholesale reform. Those who take an opposing view are mostly portrayed as either corrupt or partisan.

Little space or time is devoted to sober, broad looks at arguments on all sides of the issue. Instead, coverage is often emotional and selective. Reporting usually begins from the premise that the McCain-Feingold reform bill now before the Senate is good, and that any attempt to slow it, stop it or change it is bad.

Proponents say the fate of our democracy hangs on reform. And given a predisposition of many of the media to agree, that message is hammered home almost daily.

Consider this opening sentence from an Associated Press wire story last week: "Virginia's candidates for governor are taking full advantage of one of the nation's most liberal campaign finance laws, raking in more than $10 million through August." In one sentence, readers are given two negative cues on campaign finance. The first: that Virginia law is "one of the nation's most liberal." The second: the loaded phrase "raking in."

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Never one to misread a popular trend, President Clinton has enlisted on the side of reform. Never mind that it was alleged abuses of current law by Clinton and Vice President Gore in 1996 that intensified calls for change in the first place. He's now a believer.

While reform may be needed, there are several arguments for moving carefully. For example, enacting limits on contributions could run afoul of the Constitution.

In 1976, the Supreme Court ruled 9-0 that campaign contributions are the equivalent of speech and that attempts to limit them could violate First Amendment rights. How thoroughly has that issue been aired? Not very. The focus of most reporting is on procedural maneuvering of opponents.

When Senate Majority Leader Trent Lott, R-Miss., introduced an amendment last week to require labor unions to get permission of members before spending dues money for political purposes, news reports said he was "muddying the water."

Opponents called it "a poison pill." Newspaper editorials denounced the move as shamefully partisan. The charge: Republicans want to hamper unions' ability to raise money because the millions of dollars they raise for campaigns go mostly to Democrats.

But if that's legitimate cause for denouncing the amendment, why is it not similarly legitimate to question the motive of Democrats seeking to ban "soft money?" Those are unlimited contributions that go to political parties and are supposed to help pay for party-building activities such as get-out-the-vote efforts.

Republicans collect more soft money than Democrats. So it would seem in the Democrats' interest to get rid of that GOP advantage. Yet, few raise that point. According to the prevailing wisdom, soft money must go—period.

Media conduct on this one is not pure liberal bias. It's another example of what Washington Post columnist Robert Samuelson calls "pack journalism run amok."

"We media types fancy ourselves independent and skeptical thinkers," he recently wrote. "Just the opposite is often true. We're patsies for the latest social crusade or intellectual fad."

The anti-smoking campaign is a recent example of the media buying in with few reservations. Global warming, too. Now it's campaign finance reform.

Mr. MCCONNELL. Also there was a recent and interesting survey conducted by Rasmussen Research, out of North Carolina.

Most Americans think that friendly reporters are more important to a successful political campaign than money, according to a Rasmussen Research survey of 1000 adults. By a 3-to-1 margin (61 percent to 19 percent) Americans believe that if reporters like one candidate more than another, that candidate is likely to win—even if the other candidate raised more money in a campaign.

I ask unanimous consent that be printed in the RECORD as well.

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

REPORTERS MORE INFLUENTIAL THAN CAMPAIGN CASH?—MOST AMERICANS SAY YES!

WAXHAW, NC.—Most Americans think that friendly reporters are more important to a successful political campaign that money, according to a Rasmussen Research survey of 1,000 adults. By a 3-to-1 margin (61% to 19%) Americans believe that if reporters like one candidate more than another, that candidate is likely to win—even if the other candidate raised more money in the campaign.

"This finding raises basic questions about the types of reform that it will take to restore voter confidence in representative democracy," noted Scott Rasmussen, president of Rasmussen Research. "Campaign contributions that buy special favors are viewed by the American people as a problem that needs to be addressed. However, most also think that much more serious reform will be needed to solve our nation's electoral problems."

Earlier surveys by Rasmussen Research have found the most Americans think the passage of new campaign finance laws will not end corruption in government. The consensus view is that new laws would simply encourage politicians to find new ways of obtaining money in exchange for votes or other favors. Nine-out-of-ten Americans believe that members of Congress do exchange votes for campaign cash.

Americans are also generally suspicious of reporters. More than seven-out-of-ten registered voters believe that the personal biases of reporters affect their coverage of stories, issues, and campaigns.

Additional survey information on campaign finance reform and other issues can be found at www.PortraitoAmerica.com, a web site maintained by Rasmussen Research.

Rasmussen Research is a public opinion polling firm that conducts independent surveys on events in the news and other topics. The survey of 1,000 adults was conducted September 27-28, 1997. The survey has a margin of sampling error of +/-3 percentage points, with a 95% level of confidence.

Mr. McCONNELL. Also, there was a fascinating column by Robert Samuelson in Newsweek of October 6, Monday of this week. The headline says, "Making Pols Into Crooks—Campaign-Finance 'Reform' Criminalizes Politics and Deepens Public Cynicism."

Let me just take a few excerpts out of this article, because I think it really is excellent, and sums up the nature of this debate. Bob Samuelson says:

The "reformers" claim they're trying to lower public cynicism by cleansing politics of the evils of money. Actually, they're doing the opposite: by putting so many unrealistic restrictions on legitimate political activity, the "reformers" ensure that more people—politicians, campaign workers, advocacy groups—will run afoul of the prohibitions. Public cynicism rises as politics is criminalized.

Mr. Samuelson goes on:

There is no easy way to curb the role of money in politics without curbing free expression. If I favor larger (smaller) government, I should be able to support like-minded candidates by helping them win. Campaign "reformers"—who would like to replace private contributions with public subsidies and impose strict spending limits—reject this basic principles.

Money, they say, is corrupting politics. It isn't.

Campaign spending isn't out of control or outlandish. In the 1996 election, campaign spending at all levels—

At all levels, Federal, State and local—

totaled $4 billion, says political scientist Herbert Alexander of the Citizens' Research Foundation. That was one twentieth of one percent of the gross domestic product of $7.6 trillion. Americans spend about $20 billion a year on laundry and dry cleaning. Is the price of politics really too steep?

Robert Samuelson asks.

Further in the article he says:

More menacing are the artificial limits that "reformers" have imposed on political expression——

Something the Senator from Arkansas was just referring to a few moments ago in his speech——

What's been created is a baffling maze of election laws and rules that, once codified, establish new types of criminal or quasi-criminal behavior. Anyone tiptoeing around the rules is said to be "skirting the law." And there are violations. In the futile effort to regulate politics, the "reformers" have manufactured most of the immorality, illegality and cynicism that they deplore.

Today's "abuses" stem mostly from the 1974 "reforms" enacted after Watergate. Congress then limited the amount individuals could give a candidate to $1,000 per election; total giving to all candidates (directly, through parties or committees) was limited to $25,000 a year. What happened? The limits inspired evasions. Suppressing contributions to candidates encouraged new political-action committees. People gave to PACs, which give to candidates. In 1974, there were 608 PACs; now there are 4,000.

Another evasion is "independent spending": groups (the Supreme Court says) can promote a candidate by themselves if they don't "coordinate" with a candidate. The present evasion of concern is "soft money": contributions to parties for "party-building" activities like voter registration. "Soft money" contributions have no limits; so Tamraz could give $300,000. But "soft money" can also be used for general TV ads that mention candidates as long as they don't use such words as "vote for." Does any of this make any sense? Not really. Ordinary people can't grasp all the obscure, illogical distinctions.

And he is talking, Mr. President, about current law, even before we talk about making it more complicated.

No matter. The failure of past "reforms" is no barrier to future "reforms." The latest effort is the McCain-Feingold bill now before the Senate.

Samuelson says:

Most of the bill flouts the spirit, if not the letter, of the First Amendment.

Mr. President, I ask unanimous consent that this article be printed in the RECORD.

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

[From Newsweek, Oct. 6, 1997]

MAKING POLS INTO CROOKS—CAMPAIGN-FINANCE "REFORM" CRIMINALIZES POLITICS AND DEEPENS PUBLIC CYNICISM

(By Robert J. Samuelson)

The prospect that an independent counsel will be named to investigate the alleged campaign-law violations of President Bill Clinton and Vice President Al Gore exposes a central contradiction of "campaign-finance reform." The "reformers" claim they're trying to lower public cynicism by cleansing politics of the evils of money. Actually, they're doing the opposite: by putting so many unrealistic restrictions on legitimate political activity, the "reformers" ensure that more people—politicians, campaign workers, advocacy groups—will run afoul of the prohibitions. Public cynicism rises as politics is criminalized.

The distasteful reality is that politics requires money. To compete, candidates must communicate; and to communicate, they need cash. Someone has to pay for all the ads, direct mail and polls. There is no easy way to curb the role of money in politics without curbing free expression. If I favor larger (smaller) government, I should be able to support like-minded candidates by helping them win. Campaign "reformers"—who would like to replace private contributions with public subsidies and impose strict spending limits—reject this basic principle.

Money, they say, is corrupting politics. It isn't. Campaign spending isn't out of control or outlandish. In the 1996 election campaign spending at all levels totaled $4 billion, says political scientist Herbert Alexander of the Citizens' Research Foundation. That was one twentieth of one percent of the gross domestic product (GDP) of $7.6 trillion. Americans spend about $20 billion a year on laundry and dry cleaning. Is the price of politics really too steep?

Nor have contributions hijacked legislation. Consider the tax code. It's perforated with tax breaks, many undesirable. Some tax breaks benefit wealthy constituents who sweetened their lobbying with generous campaign contributions. But the largest tax breaks stem mostly from politicians' desire to pander to masses of voters. In the 1997 tax bill, Clinton and Congress provided huge tax breaks for college tuition. Does anyone think these passed because Harvard's president is a big contributor?

The media coverage and congressional hearings of today's alleged campaign-finance "abuses" have, of course, revealed the frenzied and demeaning efforts of politicians of both parties to raise money. But there hasn't been much evidence of serious influence buying. The worst we've heard is of President Clinton's, in effect, subletting the Lincoln Bedroom to big contributors and of businessman Roger Tamraz's giving $300,000 to Democrats in the hope of winning government support for an oil pipeline. All Tamraz got was a brief chat with Clinton and no blessing for the project. This sort of preferential "access" isn't dangerous.

More menacing are all the artificial limits that "reformers" have imposed on political expression. What's been created is a baffling maze of election laws and rules that, once codified, establish new types of criminal or quasi-criminal behavior. Anyone tiptoeing around the rules is said to be "skirting the law." And there are violations. In the futile effort to regulate politics, the "reformers" have manufactured most of the immorality, illegally and cynicism they deplore.

Today's "abuses" stem mostly from the 1974 "reforms" enacted after Watergate. Congress then limited the amount individuals give a candidate to $1,000 per election; total giving to all candidates (directly, through parties or committees) was limited to $25,000 a year. What happened? The limits inspired evasions. Suppressing contributions to candidates encouraged new political-action committees. People give to PACs, which give to candidates. In 1974, there were 608 PACs; now there are nearly 4,000.

Another evasion is "independent spending": groups (the Supreme Court says) can promote a candidate by themselves if they don't "coordinate" with a candidate. The present evasion of concern is "soft money": contributions to parties for "party-building" activities like voter registration. "Soft money" contributions have no limits; so Tamraz could give $300,000. But "soft money" can also be used for general TV ads that mention candidates as long as they don't use such words as "vote for." Does any of this make sense? Not really. Ordinary people can't grasp all the obscure, illogical distinctions.

No matter. The failure of past "reforms" is no barrier to future "reforms." The latest effort is the McCain-Feingold bill now before the Senate. Named after its sponsors (Republican John McCain of Arizona and Democrat Russell Feingold of Wisconsin), it would outlaw "soft money" and try to ban "issue advocacy" ads in the 60 days before an election ("Issue advocacy" ads favor or oppose candidates; the distinction between them and "independent spending" cannot briefly be explained.) Most of the bill flouts the spirit, if not the letter, of the First Amendment:

"Congress shall make no law . . . abridging the freedom of speech . . .; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

The connection between campaign "reform" and the Clinton-Gore predicament has emerged, ironically, in the complaints of some "reformers" that the president and vice president are being unfairly targeted. In The Washington Post, Elizabeth Drew says that Gore behaved like a "klutz," but "klutziness isn't a federal crime." The 1883 law that he and the president may have violated (soliciting contributions from federal property), argues Drew, aimed to protect civil servants from being shaken down by politicians. In The New York Times, former deputy attorney general Philip Heymann says the campaign against Gore aims only to

"destroy the Democratic front runner for president."

All this is true. But it misses the larger point: the campaign-finance laws are so arbitrary and complex that they invite "criminality" or its appearance. Bad laws should be discarded. Rep. John Doolittle of California sensibly suggests abandoning all contribution limits and enacting tougher disclosure laws. The best defense against the undue influence of money is to let candidates raise it from as many sources as possible—and to let the public see who's giving. That would be genuine reform.

Mr. MCCONNELL. Mr. President, also in the Wall Street Journal of October 1, there was a piece by Jonathan Rauch, who is a contributing editor to the National Journal. I want to read a few parts of that.

Mr. Rauch said:

The McCain-Feingold bill being debated in the Senate this week has become the default option for campaign-finance reformers: If you are an editorialist who needs to suggest something better than today's tumbledown system, you press the McCain-Feingold button on our word processor. Well, the system today is rotten, and radical change is needed. But McCain-Feingold, for all its good press and good intentions, is a bad bill. It would do nothing to end the failures of the past 20 years. Indeed, it would unflinchingly compound them.

At the core of today's troubles are two realities that will not yield to any amount of legislative or lawyerly cleverness. The first is that private money—a lot of it—is a fact of life in politics, and if you push it out of one part of the system it tends to re-enter somewhere else, usually deeper in shadow. The second is that money spent to communicate with voters cannot be regulated without impinging on the very core of the First Amendment, which was written to protect political discourse above all.

That is what they were thinking about when they wrote the first amendment, political discourse.

We got into today's mess by defying both of these principles, with predictable results. When reformers placed limits on money spent to support or defeat candidates, lobbies simply shifted to ad campaigns that omitted explicit requests to vote for or against candidates: "issue advocacy," which the courts have ruled is constitutionally protected. And when reformers placed tight limits on contributions to candidates, donors began giving to political parties instead: "soft money."

The distinctions between "hard" and "soft" money, and between "express advocacy" and "issue advocacy," are grounded in legalistic mumbo-jumbo, and so the attempts to enforce them have made campaign law bewilderingly complex without accomplishing any of the law's goals. Campaigns are neither cheaper nor fairer nor less dependent on private money than, say, 30 years ago—just the opposite, in fact. One conclusion you might draw is that the 1970s-style, money-regulating model is bankrupt. Another is that a horse-doctor's dose of the old medicine will finally heal the patient. Enter Sens. John McCain and Russell Feingold.

Among many things their bill would do, two are paramount. First, it would ban "soft money" given to political parties. Second, to make the "soft money" ban work, it would also restrict independent "issue advocacy." Voila—no more money, right?

Wrong. Lots and lots of money, but in different places. Ban soft money, and lobbies would bypass the parties and conduct their own campaign blitzes. Candidates and parties are already losing control of their messages as lobbies—which, unlike candidates and parties, are not accountable to voters—run independent advocacy campaigns.

Mr. President, I see that my friend from Wisconsin is here. I am going to reserve the remainder of my time and ask that the entire Jonathan Rauch article that I just was reading from be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 1, 1997]

VOTE AGAINST MCCAIN, WAIT, CAN I SAY THAT?

(By Jonathan Rauch)

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Among many things their bill would do, two are paramount. First, it would ban "soft money" given to political parties. Second, to make the "soft money" ban work, it would also restrict independent "issue advocacy." Voilâ—no more money, right?

Wrong. Lots and lots of money, but in different places. Ban soft money, and lobbies would bypass the parties and conduct their own campaign blitzes. Candidates and parties are already losing control of their messages as lobbies—which, unlike candidates and parties, are not accountable to voters—run independent advocacy campaigns. The McCain-Feingold bill would accelerate the alienation of politicians from their own campaigns, and, for good measure, it could also starve the parties of funds.

The sponsors are aware that independent advertising might replace soft money: thus the bill's remarkable new limits on all ads that mention candidates within 60 days of an election. In the words of Sen. McCain: "Ads could run which advocate any number of causes. Pro-life ads, pro-choice ads, antilabor ads, pro-wilderness ads, pro-Republican Party ads, pro-Democrat Party ads—all could be aired in the last 60 days. However, ads mentioning the candidates could not." So, for example, I might commit a federal crime by taking out an ad in this newspaper criticizing Sen. McCain for supporting his bill. The Founders would have run screaming from such a notion, and rightly so: You cannot improve the integrity of any political system by letting politicians restrict political speech.

In real life the courts are likely to strike down McCain-Feingold's speech controls, in which case, of course, the limits would not work. But even if the limits were allowed to stand, they still would not work: Everybody would race to game the system by dressing up political expression in absurd costumes, whose legitimacy would be contested ad nauseam in the courts. Maybe my ad couldn't say "Vote against McCain and Feingold," but could it say "Show the promoters of the dangerous McCain-Feingold bill how you feel"? Who would decide?

The potential for speech micromanagement is endless. Imagine the fun lawyers could have with the bill's exception for "voter guides"—a permissible voter guide being (hold on tight, now) any printed matter written in an "educational manner" about two or more candidates that (1) is not coordinated with a candidate, (2) gives all candidates an equal opportunity to respond to any questionnaires, (3) gives no candidate any greater prominence than any other, and (4) does not contain a phrase *"such as"* (my italics), "vote for," "re-elect," "support," "defeat," "reject" or other "words which in context can have no reasonable meaning other than to urge the election or defeat of one or more candidates." Is that clear?

So, after McCain-Feingold, campaign law would become even more complex and mystifying. Politicians would remain mendicants, forced by low contribution limits to beg every day and in every way for donations. Our already weak parties would lose their main source of funds, becoming weaker still. If the speech controls were upheld, political discussion would be both chilled and contorted. And if the speech controls were struck down, political campaigns would be run by lobbies ("independent expenditures") rather than by candidates and parties. Quite a reform.

Even total deregulation would be better than McCain-Feingold, provided disclosure were retained. For that matter, doing nothing would be better. Best by a very long measure, however, would be a combination of deregulation, disclosure and generous public financing for candidates who forgo private fund-raising—a plan which, instead of trying to eliminate or micromanage private money, would give voters an alternative to it, and make the acceptance of private donations an issue in every campaign.

Alas, all of those admittedly imperfect ideas are bitterly opposed by the anti-money

crusaders who gave us the system we have now, and who still predominate in the "reform community." To change their minds, campaign-finance law will probably have to be made worse before it can be made better. That task, at least, McCain-Feingold would perform admirably.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Thank you, Mr. President. Let me, first of all, congratulate the occupant of the chair for his vote yesterday. I heard his comments this morning. The occupant of the chair did the right thing yesterday. He voted for cloture and joined 52 other Senators—a Senator we had not in the past known for sure whether or not he was going to vote for cloture on any occasion, and I very much appreciate that.

I realize that his words are sincere. He does, in fact, support campaign finance reform. It is important that, again, the Senator from Arizona and I signal what we have signaled in the past, and that is that we are very eager to negotiate, whether on the floor or off the floor, to make a bill that would be more palatable to Members on both sides of the aisle.

I think the Senator from Arkansas has indicated some excellent ideas in the past. That is the signal I want to give, despite whatever indications one might feel from the press accounts, which, of course, all of us have to take with a grain of salt on both sides of the issue. The fact is that many of us really would like to change this system, and I believe the Senator who occupies the chair is one of them.

Let me reiterate our offer, which I think we have made good on time and time again, that if modifications need to be made to pass this terribly important bill, we are ready to do it. That is how the junior Senator from Maine became such a tremendous advocate for our cause. She had some ideas that were better than ours, and we incorporated them and moved on to make the bill even better.

So I look forward to working with the occupant of the chair so that, once again, he can feel comfortable voting for cloture as we continue to press this issue on the floor, which we will do until we get the result that the American people demand.

Let me also suggest, this is a point that seems to be missed in this debate frequently. The Senator from Kentucky speaks frequently and eloquently about the first amendment. But the way our system is established, surely if you pass a bill in the Congress, a piece of legislation, a statute, it doesn't amend the Constitution. There is more to the process. The President has to sign the bill, and it has to go up to the United States Supreme Court, unless nobody challenges it. And I have a sneaking suspicion that somebody might challenge this bill if it became law.

So what is the worst-case scenario? The worst-case scenario is that if, in fact, there is a shred of our bill that is unconstitutional, the Supreme Court will say so and strike it down. They know how to do their job. If we do our job, they will do their job. That is exactly what they did in the very famous case of Buckley versus Valeo. They determined that some elements of the bill were constitutional, despite the claim of the ACLU and others that they were not, and they said they were OK.

For example, having a limitation on contributions. It is, obviously, the law now, and the Senator from Kentucky cannot dispute that it is the law, that right now somebody can't give more than $2,000 in the course of 6 years to a U.S. Senate candidate in hard money. That is a limitation. The Supreme Court said it is OK.

On the other hand, in Buckley versus Valeo, the Court said you can't have overall mandatory spending limits because that, in their view, would be a violation of the first amendment.

So what is the threat to the first amendment of passing a piece of legislation about which we have a good-faith disagreement as to its constitutionality? I happen to think it is clear that the major provisions of our bill are constitutional.

I would be the first to concede that the closest case would be the one that the Senator from Kentucky has focused most of his firepower on in this debate, and that is the issue of what I like to call phony issue ads. But I can see that would be something the Supreme Court would have to take a long and hard look at, and I think they should. That is why, Mr. President, I don't support a constitutional amendment to get this done. The first amendment is too sacred.

So, I want to address your concern about the first amendment to tell you that I was, I believe, the first or second Member of the U.S. Senate to come out here and oppose something called the Communications Decency Act. People fell all over each other voting for that bill that would have censored the Internet. I came out here and said, "Look, on the face of this, even though I am not a leading constitutional expert but I have looked at the Constitution, on the face of it, this is unconstitutional." Yet, I believe 84 Members of this body, including the Senator from Kentucky, voted for it, sent it up to the Supreme Court and, guess what? Unanimously that Supreme Court—of which a majority of the Members were appointed by the majority party Presidents—unanimously ruled that that was unconstitutional.

Mr. President, both with regard to your concern that we be flexible and open to other people's ideas, which I think you and I have established a good record on, and with regard to the issue of the first amendment to the Constitution, not only couldn't I agree with you more, but I believe we have a lot to talk about and work together on to achieve campaign finance reform.

Since the Senator from Kentucky continues in his steadfast way to make a record, which I hope one day will get before the Supreme Court—he hopes it won't get that far—let me address a couple of other issues and put a few things of concern to me in the RECORD.

The Senator from Kentucky has been proudly suggesting that the McCain-Feingold bill is dead, and yet we are out here today debating it again, and we will be debating it again. That is because it is not going away. It is because it is not simply a question of various elements of the media saying that the McCain-Feingold bill is a good idea. There are others who are not in the media who, I think, are not easily duped by the media who think we ought to enact some of the things that are in the McCain-Feingold bill.

Let me just put a few of those items in the RECORD. First, I ask unanimous consent that letters from former Presidents Gerald Ford, Jimmy Carter, and George Bush endorsing a soft money ban—a soft money ban, which is the centerpiece of the McCain-Feingold proposal—be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

HOUSTON, TX,
June 19, 1997.

Senator NANCY KASSEBAUM BAKER,
Washington, DC.

DEAR SENATOR KASSEBAUM: First, let me commend you and the former Vice President, Ambassador Mondale, for taking a leadership role in trying to bring about campaign reform.

I hope the current Congress will enact Campaign Reform legislation.

We must encourage the broadest possible participation by individuals in financing elections. Whatever reform is enacted should go the extra mile in demanding fullest possible disclosure of all campaign contributions.

I would favor getting rid of so called "soft money" contributions but this principle should be applied to all groups including Labor.

I congratulate you for working for better campaign finance law enforcement.

With my respects to you and Vice President Mondale I am, sincerely,

GEORGE BUSH.

JULY 17, 1997.

To VICE PRESIDENT WALTER MONDALE:

I am pleased to join former Presidents Bush and Ford in expressing hope that this Congress will enact meaningful campaign finance reform legislation. For the future of our democracy, and as our experience may be emulated by other nations, prompt and fundamental repair of our system for financing federal elections is required.

The most basic and immediate step should include an end to "soft money," whether in the form of corporate or union treasury contributions to federal campaigns, or large and unregulated contributions from individuals. The initial step should also include measures

that provide for complete and immediate disclosures of political contributions and expenses.

To accomplish these and other reforms and to lay the basis for future ones, we also need to develop a strong national consensus about the objectives of reform. It will take more than just the action of this Congress, but fundamental reform is essential to the task of repairing public trust in government in our leaders. We must take significant steps to assure voters that public policy is determined by the exercise of their franchise rather than a broken and suspect campaign finance system.

Please extend to Senator Nancy Kassebaum Baker my appreciation for the work that she has undertaken with you to advance the essential cause of bipartisan campaign finance reform.

Sincerely,

JIMMY CARTER.

JULY 10, 1997.

DEAR SENATOR KASSEBAUM: Our system of financing federal election campaigns is in serious trouble. To remedy these failings requires prompt action by the President and the House and Senate. I strongly hope the Congress in cooperation with the White House will enact Campaign Reform legislation by the forthcoming elections in 1998.

Public officials and concerned citizens. Republicans and Democrats alike, have aleady identified important areas of agreement. These include (1) the need to end huge uncontrolled "soft money" contributions to the national parties and their campaign committees, and to bar solicitation of "soft money" from all persons, parties and organized labor by federal officeholders and candidates for any political organizations; (2) the need to provide rapid and comprehensive discount of contributions and expenditures in support of, or opposition to, candidates for federal office; and (3) the need to repair the system of campaign finance law enforcement by assuring that it is effective and independent of politics.

A significant bi-partisan effort across party lines can achieve a legislative consensus in campaign reforms that will help to restore the confidence of our citizens in their federal government.

I commend you and former Vice President Mondale for your leadership on behalf of campaign reform.

Sincerely,

GERALD R. FORD.

Mr. FEINGOLD. Mr. President, I would like to mention just a sentence from President Bush's letter, who I don't think is usually considered a pawn of the liberal media. He says:

I would favor getting rid of so called "soft money" contributions but this principle should be applied to all groups including Labor.

Of course, our soft money ban in our bill is comprehensive and includes labor.

A letter from President Carter also indicates as follows:

The most basic and immediate step should include an end to "soft money," whether in the form of corporate or union treasury contributions to federal campaigns, or large and unregulated contributions from individuals.

From President Carter.

President FORD indicated in a letter:

. . . the need to end huge uncontrolled "soft money" contributions to the national parties and their campaign committees, and to bar solicitation from "soft money" from all persons, parties and organized labor by federal officeholders and candidates for any political organizations . . .

Mr. President, how can these three Presidents, two from the Republican Party and one from the Democratic Party, be considered pawns of a solely Democratic effort to pass campaign finance reform? On its face it is absurd to suggest a bill led by the Senator from Arizona, a strong Republican, is such a bill. But here are two Republican Presidents saying we should ban soft money. Yet, the effort to kill this bill would prevent the core element of our bill to ban soft money.

Let me add, it is not just former Presidents, Mr. President, it is also former Members of this body and of the other body. Former Members of Congress have endorsed our bipartisan campaign finance reform bill and the end of soft money.

I ask unanimous consent that a statement of former Members of Congress, dated September 29, 1997, be printed in the RECORD.

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

STATEMENT OF FORMER MEMBERS OF CONGRESS

We are pleased to join former Presidents Bush, Carter and Ford in expressing the hope that the current Congress enact meaningful bipartisan campaign finance reform legislation.

The distinguished former Presidents have identified the indispensable core of reform: (1) a ban on "soft money" contributions to the national parties and their campaign organizations, applied equally to contributions of corporate and union treasury funds, as well as to large individual contributions in excess of those permitted by law; (2) complete and rapid disclosure of political contributions and expenses; and (3) effective and politically independent enforcement of campaign finance laws.

Some of us favor additional proposals, including provisions to assure that a ban on "soft money" is not circumvented through campaign advertisements that are thinly disguised as "issue advocacy." Together we believe it is time to test the merits of different or competing ideas through debate and votes, but that any disagreement over further reforms should not delay enactment of essential measures, beginning with a ban on soft money, where agreement is within reach.

Our democracy will be strengthened when the Congress acts to assure the American public that the nation's campaign finance system honors our nation's ideals.

Nancy Kassebaum Baker (R-KS), Howard H. Baker, Jr. (R-TN), David L. Boren (D-OK), John C. Danforth (R-MO), Mark O. Hatfield (R-OR), Abner J. Mikva (D-IL), Patricia S. Schroeder (D-CO), Walter F. Mondale (D-MN), Henry Bellmon (R-OK), Bill Bradley (D-NJ), Thomas F. Eagleton (D-MO), Robert H. Michel (R-IL), Sam Nunn (D-GA), Alan K. Simpson (R-WY).

The original signers of the statement are joined by:

Bella Abzug (D-NY), Wendell Anderson (D-MN), Mark Andrews (R-ND), Bob Bergland (D-MN), Rudy Boschwitz (R-MN), John Brademas (D-IN), William Brock (R-TN), , Clarence Brown (R-OH), Jim Broyhill (R-NC), Beverly Byron (D-MD), Rod Chandler (R-WA), Dick Clark (D-IA), Tony Coelho (D-CA), Barber Conable (R-NY), Alan Cranston (D-CA), John Culver (D-IA), Hal Daub (R-NE), John Dellenback (R-OR), Butler Derrick (D-SC), Tom Downey (D-NY), Don Edwards (D-CA), Mickey Edwards (R-OK), Robert Ellsworth (R-KS), Karan English (D-AZ), James Exon (D-NE), Dante Fascell (D-FL), Geraldine Ferraro (D-NY), Sheila Frahm (R-KS), Bill Frenzel (R-MN), Clifford Hansen (R-WY), Fred Harris (D-OK), Thomas Hartnett (R-SC), Howell Heflin (D-AL), Peter Hoagland (D-NE), Carroll Hubbard (D-KY), Walter Huddleston (D-KY).

Martha Keys (D-KS), Melvin Laird (R-WI), Russell Long (D-LA), Mike Mansfield (D-MT), Marjorie Margolies-Mezvinsky (D-PA), Charles Mathias (R-MD), Ron Mazzoli (D-KY), Paul McCloskey (R-CA), John Melcher (D-MT), Howard Metzenbaum (D-OH), John Miller (R-WA), George Mitchell (D-ME), Frank (Ted) Moss (D-UT), Gaylord Nelson (D-WI), Dick Nichols (R-KS), Leon Panetta (D-CA), Claiborne Pell (D-RI), David Pryor (D-AR), Albert Quie (R-MN), John Rhodes III (R-AZ), Matthew Rinaldo (R-NJ), Peter Rodino (D-NJ), Warrent Rudman (R-NH), Lynn Schenk (D-CA), Richard Schweiker (R-PA), Philip Sharp (D-IN), Paul Simon (D-IL), Jim Slattery (D-KS), W.B. Spong (D-VA), Robert Stafford (R-VT), Al Swift (D-WA).

Mr. FEINGOLD. Mr. President, in that letter, a number of our former colleagues from both Houses of the Congress state:

We are pleased to join former Presidents Bush, Carter and Ford in expressing the hope that the current Congress enact meaningful bipartisan campaign finance reform legislation.

This includes the names of people like the distinguished former Member Nancy Kassebaum Baker, former Senator from Kansas; Howard Baker, Jr., former leader and Senator from Tennessee; former Republican Senator John Danforth of Missouri, who I had the honor to serve with briefly; former Senator Mark Hatfield of Oregon; former Senator Walter Mondale and former Vice President; former Senator Bill Bradley from New Jersey; former minority leader of the other body, Robert Michel; former U.S. Senator Sam Nunn; former Senator Al Simpson, the Senator from Wyoming with whom I disagreed frequently on the floor of the Senate who was among the toughest and most clever opponents you could have on the floor, but he cosponsored the McCain-Feingold bill last session after he made his retirement announcement, and he still supports it. And the list goes on.

Mr. President, I do not think these folks are merely pawns of the media. These folks have been here; they have seen it; they have done it. And they know that spending a tremendous amount of your time in raising money is the corrupting of this process. And many of them, as they announced their retirements, said they were sick and tired of spending their time as Members of Congress raising money. The

killing of the bill, the vain attempt to kill this bill, as it turns out, would prevent the first efforts to get our attention away from raising money and back to the business we were elected to do.

Mr. President, I ask unanimous consent to have printed in the RECORD an op-ed piece that appeared in the July 18, 1997, Washington Post authored by former Republican Senator Nancy Kassebaum, Baker, and former Vice President Walter Mondale calling for bipartisan campaign finance reform and a ban on soft money.

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

[From the Washington Post, July 18, 1997]

CAMPAIGN FINANCE: FIX IT

(By Nancy Kassebaum Baker and Walter F. Mondale)

President Clinton has challenged Congress to "make this summer a time not of talk but of action" in fixing our broken system of campaign financing. We agree wholeheartedly.

Earlier this year the president asked the two of us, a Republican and a Democrat, to assist in the cause of bipartisan campaign finance reform. Although pessimism about the will of Congress to reform campaign finance laws is widespread, we are optimistic that the task can be achieved through a clear focus on necessary and achievable reforms, leadership and determination.

Last month, we submitted an Open Letter to the President and Congress recommending four areas in which to begin, without delay, the task of ensuring that our nation's campaign finance system serves, rather than undermines, the interests of American democracy.

First, Congress should promptly ban "soft money," the huge uncontrolled contributions to national parties and their campaign organizations that have so dismayed the public. This prohibition would do much to slow the flood of campaign money and enable the nation to adhere to the justified premise of earlier reforms, that massive amounts of money from powerful sources distort elections and government.

Second, we must ensure that "soft money" not continue its corrosive work under the this disguise of "issue advocacy." The election law should be tightened to distinguish clearly between media advertisements that are campaign endorsements or attacks and those that genuinely debate issues. to make a "soft money" ban fully meangingful the election law should establish consistent rules for the financing of all electioneering advertisements.

Third, disclosure rules should be broadened to ensure that voters know who is responsible for the accuracy and fairness of campaign advertisements. Increasingly, candidates are bystanders in their own campaigns, not knowing the identity of sponsors of messages that dominate the airwaves close to elections. Also, with today's technology, even last-minute contributions and expenditures can be revealed before Election Day.

Fourth, no reform will be worth much without effective enforcement. The Federal Election Commission must be strengthened. This should include the appointment of knowledgeable and independent-minded commissioners. Additionally, changes are needed to allow for the full and timely resolution of issues through the courts when the commission is deadlocked or cannot act because of lack of funds.

Significant majorities might be found for other reforms. As the debate goes forward, Congress should be encouraged to consider further steps to provide relief from the incessant treadmill of fund-raising. However, we should not delay action on those measures that can pass now.

Time is of the essence. Congressional elections are coming up next year. The presidential campaign for the year 2000 will begin soon after. Each day these elections draw closer, the passage of reform becomes even more difficult. Now is the best time to advance legislation that will provide the American people with a more effective and more equitable election process.

It is no secret that the Senate will be the first battleground for reform. There are honest differences that warrant debate there but also votes on their merits. We are confident that the Senate's leadership will recognize its responsibility to schedule campaign finance reform for early and full debate. And speaking plainly, we further believe that the American public will deem unacceptable any tactic that prevents a majority of the Senate from coming to a final vote.

We appreciate the value of Senate rules on debate. But campaign finance issues are well known to every member. Whatever any senator's individual views on campaign finance issues may be, all senators should unite in one conviction. The future of our democracy requires them to address their differences in public debate on the Senate floor and for their votes on final passage to be recorded.

Most important is to set aside attempts to gain or maintain partisan advantage. The time is now to come together to address the integrity of our national government. Restoring that integrity demands honest, bipartisan campaign finance reform.

Mr. FEINGOLD. Mr. President, I also ask unanimous consent to have printed in the RECORD an opinion piece from last Sunday's Washington Post coauthored by former Presidents Carter and Ford, who actually ran against each other in 1976, calling for campaign finance reform and the end of the soft money system.

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

[From the Washington Post, Oct. 5, 1997]

AND THE POWER OF THE BALLOT

(By Jimmy Carter and Gerald Ford)

When we ran against each other in 1976, the modern campaign finance system was in its infancy; it was the first presidential election governed by strict limits and public financing. Looking back, it is easy to recognize why the reforms of the 1970s were so essential. Today it is disheartening to witness changes that have distorted those reforms and shaken Americans' faith in their democracy.

We have watched as elections have grown more controversial, more expensive, riddled with soft money and less understandable to the average voter. We have watched as participation in presidential elections has declined—plummeting during the last election to the lowest levels since 1924.

Less than half of the voting-age population cast their ballots for president in 1996, and while there are many factors that might contribute to this disturbing figure, we believe that a lack of public trust in government and in our system of democratic elections is a major part of the problem. When people feel disenfranchised from their political system, they stop participating in it. And when that happens, democracy suffers.

We have both worked in our public lives toward the goal of exporting our democratic system to other nations. Our model (or "the U.S. model") must be fundamentally reformed in terms of campaign financing to warrant the faith of other countries.

We can both personally attest that there is no greater honor than to serve your country. Yet the honor of public service is being tarnished by a system of campaign funding that has made many Americans lose faith in the concept of public service as a virtue. That service is diminished when elected officials are forced to spend so much time raising money instead of focusing on the many important issues they were elected to address.

We firmly believe that now is the time to restore Americans' faith in their democracy, their government and their democratically elected institutions. Meaningful, bipartisan campaign finance reform is needed to rein in a system that is out of control.

As a minimal first step, Congress and the president should approve legislation that bans soft money, enhances enforcement of existing campaign finance laws and creates a more accountable disclosure system that informs rather than obfuscates. These are the areas identified by former vice president Walter Mondale and former senator Nancy Kassebaum Baker in their effort to promote reform. It is particularly important to seize this opportunity for reform now so it can improve the next presidential election.

In order to accomplish this goal, both parties must lay down their partisanship and rise to meet this challenge together. Leaders of both parties have demonstrated their ability to work together on critical and contentious issues to do what is right for the country. This is another such issue where cooperation is the only road to results. It is impossible to expect one side to disarm unilaterally in this massive arms race for funds. Rather, both sides must agree that bilateral limits are the only rational course of action to preserve the moral integrity of our electoral system.

One item that we should all agree on is a ban of so-called "soft money" for national parties and their campaign committees. Soft money was initially intended exclusively for "party building" activities but has metamorphosed into a huge supplemental source of cash for campaigns and candidates. It is one of the most corrupting influences in modern elections because there is no limit on the size of donations—thus giving disproportionate influence to those with the deepest pockets.

According to the Federal Elections Commission, both parties raised a record-breaking $262 million in soft money during the 1996 elections. Recent news reports showed that figure will be shattered again in 2000 if current fund-raising rates continue.

These figures make it absolutely clear what is at stake. If Congress does not act now to stem this massive flow of soft money, Americans' cynicism and mistrust of government will only increase. And that step is only the beginning of needed fundamental reform.

We must demonstrate that a government of the people, by the people and for the people is not a thing of the past. We must redouble our efforts to assure voters that public policy is determined by the checks on their

ballots rather than the checks from powerful interests.

Jimmy Carter was president from 1977 to 1981. Gerald Ford was president from 1974 to 1977.

Mr. FEINGOLD. Mr. President, I would like to place in the RECORD as well a couple of items from groups across the country that I think have independent judgment, who are not easily fooled by a media campaign in favor of a bill that would otherwise not have merit. The suggestion that this is all that is going on here is on its face absurd, it is even a little insulting.

But I do not think you can say of the National Council of the Churches of Christ that they were somehow tricked into supporting something that isn't really reform. So I ask unanimous consent to have printed in the RECORD a statement by the National Council of the Churches of Christ endorsing comprehensive campaign finance reform which includes, Mr. President, specific references to a number of the provisions in the McCain-Feingold bill and specifically references the McCain-Feingold bill asking "legislators to oppose amendments currently being offered to the McCain-Feingold measure in an effort to kill its passage." I think it is an unmistakable reference to the Lott amendments.

I ask unanimous consent that it be printed in the RECORD, and a statement by NETWORK, a national Catholic social justice group. The press release endorses the McCain-Feingold reform proposal.

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

NATIONAL COUNCIL OF THE CHURCHES OF CHRIST IN THE USA,
Washington, DC, October 4, 1997.

The National Council of Churches joins with others today to urge legislators to break the logjam which has blocked campaign finance reform efforts for so long and to pass a meaningful bipartisan reform bill. Our long-standing commitment to campaign finance reform grows directly from profound religious faith: every human being is a person of dignity and worth as a child of God. In our democracy a signal of that dignity and worth is a fair and just electoral process where all people are included equitably and with respect.

What a moral affront to buy or sell either the public trust or the individual vote! In our policy statements we have long held that unfair campaign financing violates the moral integrity of public life.

Our support for current campaign finance reform comes from seeing it as an important step in moral correction. Of course, even the proposed legislation is not perfect. Inequities will still need attention. But we believe that such reform can strengthen the control of corrupting processes that attack the very heart of democratic elections. The undue influence of money diminishes the voting power of ordinary citizens.

Further, we are very concerned about widespread disillusionment with public life, and especially political life. Religion means for us God's mandate for the well-being of all people. We have long sought "the common good". We have long stood against religious self-seeking or the private advantage of any religious group. It is not our "good" we seek; it is the "common good". Disillusionment and cynicism over politics and electoral processes must be addressed. We believe that campaign finance reform can be a step toward building "the common good."

Let me add one more piece to our public endorsement of campaign finance reform. In Protestant Christian heritage we have long affirmed what we call "Christian vocation". Many elected public officials see their works as a public trust, and go about it with a genuine sense of religious commitment—a "vocation". They serve God by serving the well-being of all people. When public officials are consumed by constant fund raising, they cannot adequately invest themselves in fulfilling the public leadership role with which they have been entrusted. Our current campaign financing practices inflict frantic demands and exhausting requirements on political leaders. Every sensitivity to them has to insist on reform.

So here we are—I on behalf of the National Council of Churches—to urge support for effective campaign finance reform. We call for prompt consideration and passage of such a reform bill, and urge legislators to oppose amendments currently being offered to the McCain-Feingold measure in an effort to kill its passage. It is rooted in our religious tradition of public morality and the pursuit of the common good. We call on people in churches and other religious communities across the land to support leaders in the Administration and the Members of Congress who have the wisdom and courage to enact genuine reform.

Rev. Dr. ALBERT M. PENNYBACKER,
Associate General Secretary, NCCC.

CATHOLIC LOBBY DEMANDS CONGRESS MOVE ON CAMPAIGN FINANCE REFORM NOW

NETWORK, a National Catholic Social Justice Lobby supports campaign finance reform that promotes greater participation in the election process for all and believes comprehensive reform must include a public financing component as well as spending limits. NETWORK is very disappointed and concerned about the lack of commitment by Members of Congress for real campaign finance reform and demands that Congress top its political maneuvering and bring campaign finance reform up for debate and a vote. "To not deal with campaign finance reform would be an affront to the voice of the people of our country. Project Independence is a clear example of the desire people have for real campaign finance reform" declares Kathy Thornton, RSM, NETWORK's National Coordinator.

NETWORK sees the stripped down version of the McCain (R-AZ)—Feingold (D-WI) campaign finance reform bill S. 25 as a positive incremental step, not as the final answer to reforming the campaign finance system. Therefore, NETWORK does support S. 25, but opposes Senator Lott's amendment because it sees it as a poison pill that is designed to kill meaningful campaign finance reform.

NETWORK, a National Catholic Social Lobby is a membership organization which lobbies, educates and organizes on the federal level from a faith-based perspective promoting economic justice for people who are poor and marginalized.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that statements by Jerome Kohlberg, founder of the Campaign Reform Project, Thomas S. Murphy, and Richard Rosenberg, and a list of two dozen former and current corporate chief executive officers who have endorsed bipartisan, comprehensive campaign finance reform be printed in the RECORD.

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

CRP BUSINESS ADVISORY COUNCIL
(By Jerome Kohlberg, Founder, Campaign Reform Project)

Thank you for joining us this morning, My name is Jerome Kohlberg. I founded the Campaign Reform Project (and its sister organization Campaign for America) for one purpose—to end the influence of money in politics.

Some of you may be more familiar with my past activities in the business world. Perhaps you are curious why a successful businessman is getting involved in this ugly debate. And what's more, why he is persuading other business leaders to follow suit.

Personally, I was never a major political donor. It was not until 1988 when Michael Dukakis ran for President that I began to make substantial political contributions. He was a fellow graduate of Swathmore, and I though he was an honorable man who would make a good President. During that race, I contributed $100,000 in soft money to the Democratic Party.

I continued to support the party through 1992, but became increasingly uncomfortable with the process. Although I wasn't looking for access, I was given the opportunity many times. I could only imagine what someone who was looking for access might get for his or her money. When decisions from the routine to the profound are shaped by who gave money and how much, who didn't and why, and who might in return for what, we have a problem. Clearly, money is undermining, rather than supporting democracy.

Therefore, while I continue to have a great deal of respect for those individuals who choose public service, and I continue to support individual candidates from both parties, I no longer give soft money.

I, and my colleagues on the Business Advisory Council of the Campaign Reform Project, believe these large money contributions distort the system giving unequal weight to the opinions of the rich, the corporations and the labor unions.

Our children and grandchildren deserve a better legacy—a legacy of a responsive and responsible federal government. Therefore, rather than just cease making donations, I want to insure that the campaign finance system is reformed for my grandchildren and, ultimately, for the country. Therefore, I am committing substantial personal resources to this effort because the stakes are too high not to.

I have dedicated funds to both the Campaign Reform Project and the Campaign for America. Both organizations are committed to fundamental campaign finance reform. The Campaign for America joined with Common Cause in Project Independence to collect the signatures of over one million citizens who support campaign finance reform.

With the Campaign Reform Project, we've worked to organize business leaders in support of this issue. Many of our members are elder statesmen from the business community. The presence here today of Mr. Murphy and Mr. Rosenberg illustrates the deep concern they have with this system.

Any many other individuals. Warren Buffett, Alan Hassenfeld, and Arjay Miller,

to name just a few, have joined with us in this fight for reform.

I call it a fight because I know it would be one. While a very sensible and modest proposal toward reform has been offered in the Senate, I fear that there are many who would prefer the status quo.

All of us sitting around this table understand the process for making a deal. We've been deal-makers. We know that closing a deal on campaign finance reform isn't going to be easy. But, we do believe it is possible. The proposal that is pending now before the Senate is a reasonable one. It seems to us that it's a package everyone should support. However, we suspect there are those who may try adding amendments that are likely to make it unreasonable—in other words, kill the deal. We believe that is unacceptable.

Democracy is serious business. Campaign finance reform will help restore some public confidence in our democratic system of campaigns and elections. We are here today to say the system must be changed. I have been pleased that so many business leaders have been willing to put their name to the call for reform as is evidenced by the ad we will run tomorrow. We will continue, over the next weeks, to further galvanize the business community in support of reform. Thank you.

CRP BUSINESS ADVISORY COUNCIL

(By Thomas S. Murphy, Retired-Chairman & CEO, Capital Cities/ABC, Inc.)

It is a pleasure to be here and join Jerry in this important endeavor. As members of the Campaign Reform Project's Business Advisory Council evaluated the prospects for reform this year, it became clear that doing something to curtail the explosion of soft money needed to be a top priority.

All of the improprieties being examined in the Senate Government Affairs Committee are related to soft money. It is a system that has gone out of control.

As you know, in the 1996 election cycle, the parties raised over $260 million in soft money—more than three times the $87 million raised in the 1992 election cycle. What's more, although a Los Angeles Times survey released earlier this week indicated that 26 percent of the nations largest 544 corporations made no political contributions, this percentage was even higher four years ago. Unfortuantely, more and more business leaders feel in order to come out on top, they must play the soft money game.

Therefore, a soft money ban would go a long way toward fixing the most egregious problem. But, it is not enough. It is also necessary to improve the system of reporting contributions. Electronic disclosure would be one step, expanding reporting requirements for independent expenditure campaigns might be another. An FEC with teeth would also be a major improvement.

Our group, the Business Advisory Council, has worked to solicit the support from several of our colleagues for this effort.

We began at the beginning of the year with only a few of us. As you can see from the ad, however, the number of business leaders calling for reform in 1997 has grown substantially.

And this list is a work in progress. Many others, as evidenced by the survey I cited earlier, support these modest reforms which will help restore public confidence in the political process.

We're not naive. We're pragmatic. We believe that Congress can no longer avoid taking action.

CRP BUSINESS ADVISORY COUNCIL

(By Richard Rosenberg, Former Chairman & CEO, Bank of America)

When I first became involved with the Campaign Reform Project it was around a broad set of principles—reducing special interest money in political campaigns, strengthening financial disclosure requirements, leveling the playing field between challengers and incumbents, increasing access to electronic media, and curtailing the cost of campaigns.

When members of the Business Advisory Council met this past spring and summer, we affirmed our support for these principles, but we also focused on what we could accomplish now.

As business executives, we know the value of both short and long term results. We recognize that business has a critical role to play in reforming the current campaign finance system. Nothing would revive reform faster than corporate America halting its soft money contributions. Many business leaders already feel the system has become an industry unto itself, caught up in a perpetual cycle that undermines both democracy and genuine business interests.

So what could we do in the short term? We decided to educate other business leaders and recruit them to join us. We also evaluated the prospects for reform and decided that something had to be enacted this year. We came to a consensus that any reform must include, at a minimum: a ban on soft money and stronger financial disclosure requirements and reporting rules.

Changes in both of these areas would constitute significant first steps. But, I must stress, only first steps. Our long-term agenda focuses on the principles I outlined earlier. I think they are important enough to mention again—leveling the playing field between challengers and incumbents, increasing access to electronic media in order to facilitate more direct communication from candidates, and curtailing the overall cost of campaigns.

BUSINESS ADVISORY COUNCIL

Jerome Kolberg, Founder.

Robert L. Bernstein, Former Chairman/President of Random House.

George T. Brophy, Chairman, President & CEO, ABT Building Products Corporation.

John H. Bryan, Chairman & CEO, Sara Lee Corp.

Warren E. Buffett, Chairman, Berkshire Hathaway, Inc.

William H. Davidow, General Parnter, Mohr, Davidow Ventures.

Walter Gerken, Chairman of the Equity Board, PIMCO Advisors, L.P.

Alan Hassenfield, Chairman & CEO, Hasbro, Inc.

Ivan J. Houston, Retired—Chief Executive Officer, Golden State Mutual Life Insurance Co.

Robert J. Kiley, President, New York City Partnership.

Melvin B. Lane, Former Publisher & Co-Chairman, Lane Publishing Co.-Sunset Magazine.

Morton H. Meyerson, Chairman & CEO, Perot Systems Corp.

Arjay Miller, Dean Emeritus, Graduate School of Business, Stanford University, Former President, Ford Motor Co.

Thomas S. Murphy, Retired-Chairman & CEO, Capital Cities/ABC, Inc.

Sol Price, Price Entities.

Sanford R. Robertson, Chairman, Robertson Stephens & Co.

Arthur Rock, Arthur Rock & Co.

Richard Rosenberg, Former Chairman & CEO, Bank of America.

Jane E. Shaw, Ph.D., Founder, The Stable Network.

Thomas W. Smith, President & Founder, Prescoft Investors, Inc.

Donald Stone, Former Chairman & CEO, MLSI.

Robert D. Stuart, Jr., Chairman Emeritus, The Quaker Oats Company.

Dr. P. Roy Vagelos, Former Chairman & CEO, Merck & Co., Inc.

A.C. Viebranz, Former Senior Vice President, External Affairs, GTE Corporation.

Thomas S. Volpe, President & CEO, Volpe Brown Whelan & Company, LLC.

Mr. FEINGOLD. Mr. President, this one makes an interesting point, that is, that in addition to the various church and other religious groups, in addition to former Presidents, in addition to former Members of Congress, in addition to the hundreds of editorials by liberal papers, conservative papers, moderate newspapers all across the country that have supported McCain-Feingold and believe it has merit, that what we have discovered, Senator MCCAIN and I, the Senator from Arizona and I have discovered, is that there are a whole lot of businesspeople that are tired of being the fall guys of this system.

Under the system, even with hard money, let alone soft money, where they can be asked for hundreds of thousands of dollars, a lot of these CEO's feel like they have become the fall guys of American politics.

I actually had the CEO of one of these companies, the Federal Express Co., come to visit me after last year's episode, where they were able to insert a provision into the Federal aviation bill that allowed them to not have a national union even though, as we very well know, their competitor, the United Parcel Service does have a national union, which they had to contend with recently, but they were able to place a provision in that bill, even though they had not won a vote on any occasion on the particular issue, shortly after they gave each of the two parties—I want to check my notes on this—but I believe they gave them each $100,000 of soft money just a few days—just a few days—before this provision was inserted into the bill.

When I met with the CEO, who is a tremendous entrepreneur in this country, he said he has no choice, in effect, that if this is the way the rules are set up, he has to represent his employees and his shareholders and he has to fight and make political contributions, and he has to play hardball in effect. He did. He won.

You know what? During that UPS strike, Federal Express, which has that protection against such national union advocacy, Federal Express picked up something like 10 to 15 percent of UPS's market share, something they had been trying to do forever.

My point in introducing this item from the business leaders is to suggest that even the business leaders, who

many might associate with the other side of the aisle in many cases, are saying, we are sick and tired of being the fall guys of a system that essentially has the potential to shake them down, otherwise, they are afraid their competitor might get an edge.

It is almost exactly what Mr. Tamraz said when he indicated by paying $300,000 he got the room the other people got that paid $300,000. That is access, and that is how you get in the room, and that is in effect the American way. That seemed to be what he was saying. It is pretty sad that has become the American way.

Even some of the corporate leaders of this country do not want this to become what it has become, which is in effect a corporate democracy, a democracy dominated by big money, not by the average citizen's right to have their vote count the same as others.

Mr. President, I also ask unanimous consent to have printed in the RECORD a statement by Jay Lintner of the United Church of Christ calling for comprehensive campaign finance reform, and a statement from the Church Women United endorsing the McCain-Feingold proposal, and a statement by the Religious Action Center of Reform Judaism in support of comprehensive campaign finance reform.

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

OFFICE FOR CHURCH IN SOCIETY
UNITED CHURCH OF CHRIST,
Washington, DC, October 6, 1997.

PRESS STATEMENT—THE REV. JAY LINTNER

Do we have a democracy or a dollarocracy? Do politicians represent people or money?

Our mythology is democracy. The reality, made very apparent in the elections last Fall, is that politicians are bought and sold in the open market. All efforts at reform have collapsed, and the Senate prepares to filibuster and confuse the issue.

Every other country in the world knows that money rules. Are we the last naive country on earth? Or are we the first country whose guiding ideology may lead us into a new reality? Is the Holy Spirit at work, empowering people to turn the political order upside down?

I'm speaking today on behalf of 18 major denominations and faith groups—AME, Methodist, Episcopal, United Church of Christ, Union of American Hebrew Congregations. We are here to say that campaign finance reform is not just some political, partisan issue. It is a moral issue.

The prophet Isaiah said it well: "Your princes are rebels and companions of thieves. Everyone loves a bride and runs after gifts. They do not defend the orphan and the widow's cause does not come before them" (Isaiah 1:23).

The front page today says that the Capitol Hill princes put 129 pork barrel projects in the recent military construction bill, more money given away in one bill than all the campaign contributions that bought the politicians. Is there some bill here where they've sneaked some money for the widows and orphans?

Can we get moral corruption out of the political process? Politicians count on public apathy, public cynicism, public awareness that this is the way rulers always rule.

This is more than a moral problem. This is a spiritual problem. Have we given up faith in government, in our common community shaping a moral order? No. We sent out 100,000 packets of petitions to our churches and synagogues, and now our petitions are laid at the feet of the capitol.

We will not go away. The gates of hell will not prevail and the gates of Washington will not prevail. We demand a ban on soft money, and we demand much more comprehensive reform that breaks the power of big money buying our electoral process. We want our politicians back, accountable to we the people, not we the dollars.

CHURCH WOMEN UNITED SUPPORTS CAMPAIGN FINANCE REFORM EFFORTS

WASHINGTON, DC, October 6, 1997.—Church Women United (CWU) stands in solidarity today with all citizens concerned over the integrity of our democratic system. In particular, we support the efforts of Senators McCain, Feingold and Thompson and Representatives Shays and Meehan to reform the current system of raising and spending private money to finance election campaigns.

Church Women United is a 55-year-old, ecumenical movement of Christian women from Protestant, Catholic and Orthodox traditions. Since our beginnings, we have worked for a just and peaceful world, with a special concern for women and children. In 1986, CWU adopted a policy in support of campaign finance reform which calls for tougher restrictions on special-interest PACs and spending limits for congressional candidates.

CWU is aware of the increasing role special interest money plays in influencing politicians and policy. Members of Congress are rapidly losing their ability to represent the interest of the common good in favor of a more narrow, wealthy constituency. As such, we view campaign finance reform as one of the major challenges in ensuring that the needs of poor women and children are taken seriously in the formation and implementation of public policy. Until politicians are freed from the pressures of monied interests, it will remain difficult to have the needs of those without means heard.

The McCain-Feingold campaign finance reform bill is a first step at recognizing and correcting the imbalance of power in our political system. We applaud all members of the House and Senate who are co-sponsoring the bill. We encourage others who currently are not supportive to join in these efforts to help make the electoral process more representative of the interests of all U.S. citizens.

STATEMENT OF MARK PELAVIN—RELIGIOUS ACTION CENTER OF REFORM JUDAISM, OCTOBER 6, 1997

On behalf of the Union of American Hebrew Congregations and the Central Conference of American Rabbis, their 860 congregations and 1,800 rabbis, and the 1.5 million Reform Jews throughout the United States and Canada, I am proud to be here today to add our voice to those calling, urgently, for serious campaign finance reform.

Our call for comprehensive campaign finance reform is reflective of the views of many mainstream religious communities. From the pews and pulpits of our churches and synagogues across the nation, we hear that campaign finance reform is not an esoteric technical issue of election regulations, but one that goes to the essence of the ethical and moral life of our nation. We hear people asking:

How can we expect just results from an unjust system, one in which monied interests hold every advantage, and those who most need the helping hand of government—the poor, our children—cannot make their voices heard above the din?

How can we—whose religious calling includes the imperative to speak for the widow and the orphan, for the poor and the children—accept an electoral process which structurally and systematically favors the richest among us?

How can we acquiesce in a system which forces those who seek public office, or who wish to continue in public service, to spend so much of their precious time and energy not raising the nation's moral conscience but raising campaign funds?

If we are serious about seeking justice, *and we are*, then we cannot, *and we will not*, accept such a system.

We stand at the brink of a historic opportunity. Real reform is within reach. But first, the Senate must prove that it is committed to ending the status quo. The Lott Amendment, which the Senate will consider tomorrow, was designed as a distraction, crafted to protect politics as usual. (And how ironic, and revealing, that in attempting to derail vital legislation to open up our political system, Senator Lott and his supporters' first thought is to undermine the political voice of America's working men and women!)

We call on our elected leaders to reject the Lott Amendment and to work toward the creation of a more ethical campaign financing system, a system which will reinforce rather than tarnish the principles of American democracy, a system which can help salvage our collective faith in public service. We pledge our vigorous support in this historic effort.

Mr. FEINGOLD. Mr. President, at this point these are all the items I want to place in the RECORD at this time. But fortunately this debate will continue in one form or another. We will have an important cloture vote shortly on the overall bill.

Tomorrow, there will be two more cloture votes. And it will continue because it is absolutely essential that we do not disgrace ourselves by going home, certainly for the 1998 elections, and even more importantly just going home at the end of this session having displayed to the American people all the abuses of the current system, the areas where the law is insufficient, the areas where there are loopholes in the law, and then to return home and say to everyone, "You know what? We didn't do anything about it. We didn't pass a single piece of legislation."

I don't think any of us on either side of the aisle consider that to be an acceptable outcome.

I would like finally to say again to the Chair, I look forward to working to negotiate the kind of legislation that he can support. And I again thank him for his vote yesterday.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. McCONNELL. Parliamentary inquiry, in a quorum call is the time equally charged to both sides?

The PRESIDING OFFICER. The time is charged to the side which puts in the quorum call, unless consent is granted to divide that equally.

Mr. McCONNELL. Mr. President, I ask unanimous consent that four letters from the American Civil Liberties Union, outlining the constitutional infirmities of the McCain-Feingold bill, be printed in the RECORD. I understand that the Government Printing Office estimates the cost of printing these articles in the RECORD to be approximately $2,500.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, October 1, 1997.

Hon. MITCH McCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR McCONNELL: Ever since the very first version of the various McCain-Feingold campaign finance bills were introduced in the Senate, the ACLU has gone on record to assert that each version was fatally and fundamentally flawed when measured against settled First Amendment principles. Now the Senate is debating a new "revised" incarnation of the bill. While we are pleased that the sponsors of the new version have abandoned some of the more egregious provisions that appeared in earlier versions, the "pared down" bill still cuts to the core of the First Amendment. We once again urge you to reject McCain-Feingold's unconstitutional and unprecedented assaults on freedom of speech and association.

Although the bill has a number of constitutional flaws, this letter focuses on those that impose restrictions primarily on issue advocacy. It is important to note at the outset that the recent letter from 126 law professors, commenting on McCain-Feingold, was silent on the issue advocacy restrictions in the bill, which are the subject of this letter.

1. The unprecedented restrictions on issue advocacy contained in the McCain-Feingold bill are flatly unconstitutional under settled First Amendment doctrine.

The Supreme Court in *Buckley* v. *Valeo* well understood the risks that overly broad campaign finance regulations could pose to electoral democracy because "[discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution." 424 U.S. at 14. The Court recognized that "the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest." 424 U.S. at 43. If any discussion of a candidate in the context of discussion of an issue rendered the speaker subject to campaign finance controls, the consequences for free discussion would be intolerable and speakers would be compelled "to hedge and trim," *Id.*, quoting *Thomas* v. *Collins*, 323 U.S. 516, 535 (1945).

Accordingly, the Court reasoned, under the First Amendment, campaign finance controls had to be limited and could only apply to "communications that in express terms advocate the election or defeat of a clearly identified candidate." Conversely, all speech which does not "in express terms advocate the election or defeat of a clearly identified candidate" must be totally free from permissible controls. "So long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want to promote the candidate and his views." 424 U.S. at 45. And they are free from reporting and disclosure requirements as well.

The Court fashioned the express advocacy doctrine to safeguard issue advocacy from campaign finance controls, even though such discussion might influence the outcome of an election. The doctrine provides a hard, bright-line, objective test that protects political speech and association by focusing solely on the content of the speaker's words, not the motive in the speaker's mind or the impact of the speaker's opinions, or the proximity to an election, or the phase of the moon. The doctrine marks the boundary of permissible regulation and frees issue advocacy from any permissible restraint.

The *Buckley* Court could not have been more clear about the need for that bright line test which focuses solely on the speaker's words and which is now an integral part of settled First Amendment doctrine. It was designed to protect issue discussion and advocacy by allowing independent groups of citizens to comment on and criticize the performance of elected officials without becoming ensnared in the federal campaign finance laws. And it permits issue discussion to go forward at the time that it is most vital in a democracy: during an election season.

The new version of the McCain-Feingold bill once again would obliterate the bright line test of "express advocacy" which the courts have fashioned over a period of 25 years to protect the broad range of issue discussion in America from campaign finance controls. Instead, the bill would impose unprecedented controls on issue advocacy in clear violation of settled First Amendment principles.

The new bill attacks issue advocacy on a number of fronts.

It abandons the bright-line test of express advocacy in favor of a permanent year-round restriction on issue advocacy redefined in an unconstitutionally vague, overbroad and watered-down fashion.

It imposes, in effect, a two-month, 60 day blackout before any federal election on any radio or television advertisement on any issue if that communication "mentions" any candidate for federal office.

It restrains any communication that expresses "support for or opposition to" anyone who is a candidate for office.

These unprecedented restrictions would effectively silence issue advocacy by the countless hundreds and thousands of groups that add to the political debate in America.

These proposals would all undermine the purpose of the "express advocacy" doctrine, which is to keep campaign finance regulations from overwhelming all political and public speech. They would do so by dramatically expanding the statutory definition of express advocacy and thereby impermissibly sweeping an enormous amount of protected issue advocacy within the net of campaign finance regulations.

The current version of McCain-Feingold takes a "new" approach to silencing issue advocacy, but it is no less flawed than its predecessors. Once again, the clear purpose and inevitable effect of the provisions in the revised McCain-Feingold bill will be to shut down citizen criticism of incumbent officeholders standing for re-election at the very time when the public's attention is especially focused on such issues.

Given the fact that the proposed restraints on issue advocacy are targeted primarily at criticism of incumbent legislators during an election season, the danger to the core purposes of the First Amendment posed by such legislation is clear and present.

2. The unprecedented and sweeping restraints on the "soft money" funding of issue advocacy and political activity by political parties raise severe First Amendment problems.

A central critical distinction has informed the Supreme Court's campaign finance jurisprudence. Contributions and expenditures made by federal candidates, or those who expressly advocate their election or defeat, may be subject to regulation. All other political and issue advocacy and discussion—even though it might influence the outcome of an election—may not be subject to governmental control. This constitutional Continental Divide is compelled by the First Amendment and is built upon the concept that only "express advocacy" of the election or defeat of specific federal candidates can be subject to regulation.

Accordingly, while candidate-focused contributions and expenditures and "express advocacy" can be subject to various restrictions or regulations, the Court in *Buckley* v. *Valeo*, 424 U.S. 1 (1976) held that all speech which does not "in express terms advocate the election or defeat of a clearly identified candidate" is totally free of any permissible regulation: "So long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, *they are free to spend as much as they want to promote the candidate and his views.*" 424 U.S. at 45 (emphasis supplied). The purpose of this profound distinction is to keep campaign finance regulations from overwhelming all political and public speech. And it is this distinction which defenders of the constitutionality of a ban on "soft money" continue to disregard.

The same principles that protect unrestrained advocacy by issue groups safeguard issue advocacy and activity by political parties. "Soft money" is funding that does not support "express advocacy" of the election or defeat of federal candidates, even though it may exert an influence on the outcome of federal elections in the broadest sense of that term. It sustains primary political activity by parties such as get-out-the-vote drives and issue advertising. Because it is not used for express advocacy, it can be raised from sources that would be restricted in making contributions or expenditures. Compare *Austin* v. *Michigan Chamber of Commerce*, 494 U.S. 652 (1990) with *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765 (1978).

Indeed, the unrestricted use of soft money by political parties and non-party organizations like labor unions has been invited by *Buckley* ("So long as persons and groups eschew . . ."), authorized by Congress (see 2 U.S.C. sections 431 (8)(A)(I) and (B)(xii) which permit soft money for state elections

and voter registration and get out the vote drives), sanctioned and enhanced by rulings of the Federal Election Commission and acknowledged by the Supreme Court last year in *Colorado Republican Federal Campaign Committee* v. *Federal Election Commission*, 116 S.Ct. 2309 (1996), which upheld *unlimited* "hard money" independent expenditures by political parties on behalf of their candidates.

Most pertinently, the *Colorado Republican* Court reached that conclusion despite arguments that unrestrained soft money contributions were undermining the Act's limitations on hard money party funding:

"We recognize that FECA permits individuals to contribute more money ($20,000) to a party than to a candidate ($1,000) or to other political committees ($5,000). . . . We also recognize that FECA permits unregulated "soft money" contributions to a party for certain activities, such as electing candidates for state office . . . or for voter registration and "get out the vote" drives. . . . But the opportunity for corruption posed by these greater opportunities for contributions is, at best, attenuated. Unregulated "soft money" contributions may not be used to influence a federal campaign, except when used in the limited party-building activities specifically designated by statute." *Id.* at 2316.

And the Court's suggestion that Congress "might decide to change the statute's limitations on contributions to political parties"—which has been taken out of context by defenders of McCain-Feingold's soft money ban—referred to hard money donations.

Accordingly, we submit that McCain-Feingold's sweeping controls on the amount and source of soft money contributions to political parties and disclosure of soft money disbursements by other organizations continue to raise severe constitutional problems. Disclosure, rather than limitation, of large soft money contributions to political parties, is the more appropriate and less restrictive alternative.

McCain-Feingold's labyrinth of restrictions on party funding and political activity can have no other effect but to deter and discourage precisely the kind of political party activity that the First Amendment was designed to protect.

The ACLU continues to believe that the most effective and least constitutionally problematic route to genuine reform is a system of equitable and adequate public financing. While reasonable people may disagree about the proper approaches to campaign finance reform, this bill's restraints on political party funding and issue advocacy raise profound First Amendment problems and should be opposed. The bill has a number of other severe flaws, some old, some new, which we will address in a future communication. But we wanted to take the opportunity to share our assessment of two of the most salient problems with the bill now.

Sincerely,

IRA GLASSER,
Executive Director.
LAURA W. MURPHY,
Director, Washington Office.
JOEL GORA,
Professor of Law, Brooklyn Law School, and Counsel to the ACLU.

QUESTIONS AND ANSWERS ABOUT ISSUE ADVOCACY (WITH SPECIFIC REFERENCE TO THE REVISED MCCAIN-FEINGOLD BILL)

1. WHAT IS ISSUE ADVOCACY?

Issue advocacy can best be defined as any speech relating to issues and the policy positions taken by candidates and elected officials. It can be as simple as a statement like "Senator Doe's position on school vouchers is grievously mistaken." Or it can be as involved as a multimillion dollar campaign of broadcast and print advertisements that spreads the same message. Any group or individual can engage in issue advocacy.

Under current law, a message stops being considered "issue advocacy" if it is accompanied by "express advocacy" or actual statements advocating the election or defeat of a clearly identified candidate for office, i.e. "Senator Doe's position on school vouchers is grievously mistaken and anyone who cares about the separation of church and state should vote against him in November."

Although issue advocacy can leave the impression that a listener should support or oppose a particular candidate, such messages cannot—under current law—be treated (and therefore regulated) as express advocacy by the Federal Elections Commission.

2. WHY IS CONGRESS TRYING TO REGULATE ISSUE ADVOCACY?

During the 1996 elections, groups across the political spectrum engaged in intense issue advocacy campaigns. Many members of Congress felt they lost control of their campaigns because of the unregulated and undisclosed advertising from issue groups. Their concern that elections are "out of control" seems to be the driving force in current efforts to regulate issue advocacy.

Because of this loss of control, some federal lawmakers seem to believe that candidates' interests should trump the right of citizen involvement and speech. Also, many members of Congress believe that issue advocacy became far too political and powerful during the last election cycle. They assert that these issue ads are really a subterfuge for express advocacy communications. Many lawmakers and advocacy groups think that all communications that could influence the outcome of elections should be regulated by statute.

3. HOW WILL THE REVISED MCCAIN-FEINGOLD LEGISLATION AFFECT ISSUE ADVOCACY?

The legislation that the Senate will most likely vote on during the next several days is a revised version of the McCain-Feingold bill. The ACLU will soon be releasing an analysis of the new legislation, but in the meantime, we continue to assert that the issue advocacy provisions of the revised bill are unconstitutional. Such unconstitutional provisions include:

A permanent, year-round restriction on issue advocacy achieved through redefining express advocacy in an unconstitutionally vague and watered-down manner. The key to the existing definition of express advocacy is the inclusion of an explicit directive to vote for or vote against a candidate. Minus the explicit directive or so-called "bright line test," what constitutes express advocacy will be in the eye of the beholder, in this case the FEC. Few non-profit issue groups will want to risk their tax status to engage in speech that could be interpreted by the FEC to have an influence on the outcome of an election.

A two-month black out on all television and radio issue advertising before primary and general elections. The only individuals and groups that will be able to characterize a candidate's record on radio and television during this 60 day period would be the candidates, PACs and the media. It seems this ban would exclude issue advertising on cable, the Internet, in print and in ads on movie screens.

A misleading "exception" for candidate voting records. The voting records that would be permitted under this new statute would be stripped of any advocacy-like commentary. For example, depending on its wording, the ACLU (as a 501(c)(4) corporation) might be banned from distributing a voting guide that highlighted members of Congress who have a 100 percent ACLU voting record as members of an "ACLU Honor Roll." Unless the ACLU chose to create a PAC to publish such guides, we would be barred by this statute even though we do not expressly advocate the election or defeat of a candidate.

Redefining "expenditure," "contribution" and "coordination with a candidate" so that legal and constitutionally protected activities of issue advocacy groups would become illegal. If the ACLU decided to take out an advertisement lauding—by name—Senators for their effective advocacy of constitutional campaign finance reform, this ad would be counted as express advocacy on behalf of the named Senators and therefore prohibited.

The Senate is threatening to erect a Byzantine set of laws that pose a formidable barrier to citizen speech. This barrier to free speech and free participation in the electoral process is like a barbed wire fence. No individual or group should try to scale it unless they are willing to become ensnared in a complicated set of laws that have significant penalties.

These provisions of the new McCain-Feingold legislation would silence citizen speech to give candidates more control over what is said about them prior to an election and throughout the election year. Similar bans and disclosure requirements were contained in the original McCain-Feingold bill.

In addition, many of the pending reform bills in the House and Senate such as H.R. 2183, the *Bipartisan Campaign Integrity Act of 1997*, H.R. 493, the *Bipartisan Campaign Reform Act* (which has evolved into H.R. 1776 and 1777, the *Campaign Independence Restoration Act*, Parts I and II) and H.R. 600, *American Political Reform Act*, among others, would ban or impose burdensome and unconstitutional disclosure on issue speech.

4. WHAT ARE THE PROBLEMS WITH CONGRESSIONAL ATTEMPTS TO REIN IN ISSUE ADVOCACY?

The proposals being considered in the House and Senate have manifold constitutional and practical problems.

A. Constitutional Concerns

All of the proposals violate the First Amendment. Attempts to regulate and require disclosure of issue advocacy through statute and through FEC regulation have repeatedly been declared unconstitutional by the Supreme Court and lower federal courts. The Court has always viewed issue advocacy as a form of speech that deserves the highest degree of protection under the First Amendment. Not only has the Court been supportive of issue advocacy, the justices have affirmatively stated that they are untroubled by the fact that issue advertisements may influence the outcome of an election. In fact, in *Buckley* v. *Valeo*, the justices stated:

"The distinction between discussion of issues and candidates and advocacy of the election or defeat of candidates may often dissolve in practical application Candidates, especially incumbents, are often intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but

campaigns themselves generate issues of public interest. *Buckley* v. *Valeo*, 424 U.S. 1 (1976) at 42."

Those of us who truly understand and defend the phenomenon of issue advocacy freely acknowledge that the advertisements and statements of issue groups do have political impact. In fact, many groups hope that the voters will take candidate positions and voting records into account when voters go to the polls.

For example, groups like the ACLU want to continue to discuss candidate positions on civil liberties issues before, during and after elections, even though we are barred by our own policies from endorsing or opposing particular candidates for public office. Forbidding us to do so would make much of our legislative advocacy irrelevant during large portions of the year. Would we, for example, be permitted to criticize Senator Doe for his position on vouchers after September 4?

The premise of the Federal Election Campaign Act and current campaign reform proposals is that Congress can control the quantity and qualify of all speech that influences the outcome of elections in an attempt to make elections "fair."

The Supreme Court has responded on repeated occasions to this attempt to regulate political speech by invoking the primacy of the First Amendment instead of deferring to the concept of "political speech equalization" asserted by Congress and FECA.

The only justification for any regulation of political speech upheld by the Court has been to guard against the reality or appearance of corruption. Although many have criticized issue advocacy, few, if any, are asserting that it fosters a *quid pro quo* form of corruption that the Court has allowed Congress to guard against.

Defenders of the First Amendment know that the freedom to engage in robust political debate in our democracy will be at risk if the Congress or the FEC is given the authority to ban issue ads close to an election, or evaluate the content of issue ads to determine if they are really a form of express advocacy. The Supreme Court recognized this danger long before it decided *Buckley*. In an opinion issued in 1945 in *Thomas* v. *Collins*, the Court stated:

". . . the supposedly clear-cut distinction between discussion, laudation, general advocacy, and solicitation puts the speaker in these circumstances wholly at the mercy of the varied understanding of his hearers and consequently of whatever inference may be drawn as to his intent and meaning. Such a distinction offers no security for free discussion. In these conditions it blankets with uncertainty whatever may be said. It compels the speaker to hedge and trim. *Thomas* v. *Collins*," 323 U.S. 516 (1945).

Given the Court's concern about the chilling effect regulation has on speech, one can better appreciate the need for a clear-cut standard for limiting the kinds of communications that can be regulated by campaign finance laws. While some are disheartened that the FEC only has clear authority to regulate communications that include express advocacy terms like "vote for" and "vote against," "elect Doe for Congress," etc., others are relieved that the FEC is not free to regulate all political speech.

It is noteworthy that none of these proposals seek to regulate the ability of the media to exercise its enormous license to editorialize in favor or against candidates. If the sponsors of these proposals to regulate issue advocacy have their way, the only entities that would be free to comment on candidates' records would be the press, PACs and the candidates themselves.

With no proven record of corruption, why are citizen groups being ejected from political debate during the crucial period before elections?

B. Practical Implications

The proposed McCain-Feingold statutory limitations on issue advocacy would force groups that now engage in issue advocacy—501(c)(3) and 501(c)(4)—to create new institutional entities—PACs—to "legally" speak within 60 days before an election. The groups would also be forced to disclose all contributors to the new PAC.

Opportunities that donors now have to anonymously contribute to issue groups would be eliminated. Not all members of non-profit organizations want to become members of PACs. Separate accounting procedures, new legal costs and separate administrative processes would be imposed on these groups, merely so that their members could preserve their First Amendment rights to comment on candidate records. It is very likely that some groups will remain silent rather than risk violating this new requirement or absorbing the attendant cost of compliance.

This new provision may trigger Internal Revenue Service review of the non-profit status of groups that elect to create PACs. The IRS may justifiably examine the primary purpose of the issue groups. Groups could face a loss of members and tax deductible gifts for exercising their First Amendment rights.

It is notable that the much ballyhooed Brennan Center constitutional law professors letter recently released by Senators John McCain (R-AZ) and Russ Feingold (D-WI) is conspicuously silent on the advocacy restrictions contained in the bill.

5. HAS CONGRESS PREVIOUSLY ENACTED LAWS REGULATING ISSUE ADVOCACY?

Yes, in 1974 Congress enacted a similar issue advocacy disclosure law that was struck down in federal court. The Federal Election Campaign Act of 1971 was amended in 1974 to require the disclosure to the Federal Election Commission of issue groups engaged in "any act directed to the public for the purpose of influencing the outcome of an election, or publishes or broadcasts issues to the public any material referring to a candidate (by name, description, or other reference) . . . setting forth the candidates position on any public issue, [the candidate's] voting record, or other official acts . . . or is otherwise designed to influence individuals to cast their votes for or against such a candidate or to withhold their votes from such candidate." 2 U.S.C. Sec. 437A.

Such groups would have been required to disclose to the FEC in the same manner as a political committee or PAC. They would have to make available every source of funds which were used in accomplishing such acts.

This provision of the 1974 amendments was challenged by the ACLU as part of the *Buckley* case. When the challenge came before the U.S. Court of Appeals for the DC Circuit (prior to coming before the Supreme Court), the provision was struck down because it was vague and imposed an undue burden on groups engaged in activity that is, and should be, protected by the First Amendment. The D.C. Circuit Court ruling stated:

"To be sure, any discussion of important public questions can possibly exert some influence on the outcome of an election preceding . . . But unlike contributions and expenditures made solely with a view to influencing the nomination or election of a candidate, issue discussions unwedded to the cause of a particular candidate hardly threaten the purity of the elections. Moreover, and very importantly, such discussions are vital and indispensable to a free society and an informed electorate. Thus, the interest group engaging in nonpartisan discussions ascends to a high plane, while the governmental interest in disclosure correspondingly diminishes."

It is noteworthy that the FEC did not appeal this aspect of the Circuit Court's ruling.

6. HAS THE FEDERAL GOVERNMENT AND THE FEDERAL ELECTIONS COMMISSION TRIED TO REGULATE ISSUE ADVOCACY IN A WAY THAT WOULD TREAT IT AS EXPRESS ADVOCACY?

It certainly has. In one early telling incident, three elderly citizens with no connection to any candidate or political party published an advertisement in early 1972 in The New York Times that condemned the secret bombings of Cambodia by the United States. The advertisement also called for the impeachment of President Nixon and printed an honor roll of those members of Congress who had opposed the bombings. The honor roll included Senator George McGovern.

Although the ad was a classic example of speech protected by the First Amendment, it violated a federal campaign finance law, which effectively barred such expenditures on the ground that they could influence the upcoming presidential election by criticizing President Nixon and applauding one of his possible opponents, Senator McGovern. On the basis of this law, the U.S. government sued the three in federal court, seeking to enjoin them from publishing such ads, and wrote a letter to the Times threatening them with criminal prosecution if they published such an ad again.

The ACLU represented the three citizens and won. But the FEC has tried to regulate issue advocacy repeatedly since then. As recently as October 5, 1995, and on March 13, 1996, the FEC attempted to issue regulations severely circumscribing the rights of issue advocacy groups to communicate information on candidates.

In fact, the FEC has a terrible track record of trying to broadly interpret current FECA statues to encompass issue advocacy speech. While it is impossible to go into the facts of every case, with the narrow exception of *FEC* v. *Furgatch*, 869 F.2d 1256 (9th Cir. Cal. 1989), the Supreme Court and the lower courts have repeatedly rebuffed the FEC in this area.

In addition to Buckley, we suggest you look at the following decisions: *United States* v. *National Committee for Impeachment*, 469 F.2d 1135 (2d Cir, N.Y. 1972); *American Civil Liberties Union* v. *Jennings*, 366 F. Supp. 1041 (D.D.C. 1973); *FEC* v. *AFSCME*, 471 F Supp. 315 (D.D.C. 1979); *FEC* v. *Central Long Island Tax Reform Immediately Committee*, 616 F.2d 45 (2d Cir. N.Y. 1980); *FEC* v. *NCPAC*, 470 U.S. 480 (1985); *FEC* v. *NOW*, 713 F. Supp 428 (D.D.C. 1989); *Faucher* v. *FEC*, 928 F.2d 468 (1st Cir. Me. 1991); *FEC* v. *Survival Education Fund*, 65 F.3d 285 (2d Cir. N.Y. 1994); *FEC* v. *Christian Action Network*, 110 F.3d 1049 (4th Cir. Va. 1997); *FEC* v. *GOPAC*, 917 F. Supp. 851 (D.D.C. 1996); *Maine Right to Life Committee* v. *FEC*, 98 F.3d 1 (1st Cir. Me. 1996); and *Clifton* v. *FEC*, 114 F.3d 1309 (1st Cir. Me. 1997).

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, April 14, 1997

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: On February 20, 1997, I wrote to you on behalf of the

American Civil Liberties Union urging our strong opposition to S. 25, the Bipartisan Campaign Reform Act of 1997. In that letter, we set forth the reasons why we believe that bill is "fatally and fundamentally flawed when measured against First Amendment values."

Thereafter, a letter was sent to Senators John McCain and Russell Feingold by the Brennan Center for Justice at NYU School of Law. That letter asserted that the ACLU's analysis of the constitutionality of S. 25 was based on arguments which had been rejected in the *Buckley* case and would not command majority support on the current court. Despite the eminence of its author, however, the letter is incomplete and incorrect in a number of key respects. We appreciate this opportunity to demonstrate why and to respond to the charge that we presented "distorted descriptions of existing constitutional law."

Those provisions of S. 25 which seek to induce candidates to adhere to spending limits in Senate campaigns and penalize those who refuse, which severely restrict political action committees and which likewise restrain contributions to political parties are not justified by *Buckley* or later cases. They will not survive strict scrutiny. The provisions of the bill which assault independent political activity and invade the absolutely protected sphere of issue speech are precisely condemned by *Buckley* and its progeny and are all but *per se* invalid. The entire sweep of the bill, including the greatly expanded enforcement powers given to the Federal Election Commission, is worse than the sum of its parts. It is as objectionable an assault on political freedom as were the provisions of the Federal Election Campaign Act at issue in *Buckley*.

Preliminarily, we would note that our condemnation of three of the most extreme provisions of the bill—the total and complete ban on *any* political contributions by political action committees (Section 201), the sweeping new public disclosure requirements targeting people who give as little as $50 (Section 304) or even $20 (Section 101) to a Senate candidate, and the xenophobic ban on political contributions by lawful resident aliens—went unremarked in the Brennan Center letter. Nothing in *Buckley* would justify the constitutionality of these provisions, and we would welcome the Brennan Center's joining us in denouncing them.

I. S. 25: THE UNCONSTITUTIONAL OFFER YOU CAN'T REFUSE

Replying to our assertion that "S. 25's coercive and punitive scheme designed to compel candidates to accept spending limits in Senate elections and to penalize those who refuse, violates First Amendment principles," the Brennan Center asserts that this is an argument that the ACLU lost in the *Buckley* case.

There are three reasons why this is not so and why *Buckley* does not control the validity of these provisions of S. 25.

First, we didn't lose that argument in *Buckley* because we never made it. The primary contention was that the Presidential public funding scheme discriminated against those candidates and parties whom it excluded, not that it exacted unconstitutional conditions and limitations from those whom it benefited, nor that it coerced compliance by penalizing those who declined the offer.

Second, the *Buckley* Court did state that Congress could condition acceptance of public funds on a candidate's agreement to abide by specified spending limits, because a candidate may decide voluntarily to forego private fundraising and accept public funding. But a candidate or party was free to reject that offer and choose to try to raise and spend more money than the conditional limits would permit, without regard to what opposing candidates or parties did. The choice of one candidate did not affect the rights of others. Whether that conditional funding scheme would survive close scrutiny under the Court's unconstitutional conditions doctrine is a substantial question.

But the scheme in S. 25 is not just a conditional funding scheme which requires candidates to give up rights in order to get benefits and which penalizes non-complying candidates by denying them free television prime time, half-priced purchased and discounted mass mailings rates. S. 25 is also a contingent benefits scheme whereby the exercise of protected campaign spending rights by a noncomplying candidate triggers statutory fundraising benefits to his or her complying opponent. Thus, if any noncomplying Senate candidate exceeds the applicable spending limit by only 5% the complying candidate's spending limit is raised tenfold by 50%. Likewise, if a noncomplying candidate's expenditures exceed 155% of the limit, the complying candidate's ceiling is again raised tenfold to 200%. And in both instances, the contribution limits for the complying candidate, but not the noncomplying one, are *doubled* from $1,000 to $2,000, making it easier for the complying candidate to raise funds to "drown out" the noncomplying candidate. Adding insult to injury, noncomplying candidates are subject to more burdensome disclosure requirements in order to enforce the triggering mechanism that raises the spending limits and contribution caps for their complying opponents.

Further, the law mandates that 60% of all contributions must be raised in state in order to be eligible for the benefits. Residency requirements can be the basis for who can vote in an election but should not be the basis for who can speak about an election. See *McIntyre* v. *Ohio Board of Elections*, 517 U.S. (1995). Moreover, in-state limitations could deprive particular kinds of underfinanced, insurgent candidates of the kind of out-of-state support they need. Just as much of the civil rights movement was fueled by contributors and supporters from other parts of the nation, so, too, are many new and struggling candidates supported by interests beyond their home states. This proposal would severely harm such candidacies. Perhaps that is its purpose.

In addition, Congress is our national legislature, and although its representatives come and are elected from separate districts and states, the issues that are debated are, by definition, national issues that transcend district and state lines and may be of concern to citizens all over the nation. When such issues become central in certain campaigns, people and groups from all over the country should be entitled to have their views and voices heard on those issues. Any other approach takes a disturbingly insular and isolated view of political accountability and the obligations of a Member of Congress.

The clear purpose and patent effect overall of this conditional funding scheme is to chill and deter, dollar for dollar, any candidate from trying to mount an effective high-spending campaign. With this contingent limitation scheme, incumbents, who will almost always opt for the public funding, have arranged a way to have their cake and eat it too. That scheme, which coerces candidates to accept the limitations by penalizing them if they do not, is a far cry from anything sustained in *Buckley*. It is an offer that few can refuse.

II. S. 25'S ATTACKS ON PACS

The bill whose constitutionality the Brennan Center vouches for would totally and entirely ban PAC contributions to Senate candidates, a wholly unprecedented restriction of the rights of literally millions of Americans, most of them small donors in the $25 to $100 range, to pool their resources to amplify their voices. Such small-donor PACs affiliated with groups running the gamut from the National Abortion Rights Action League, the Human Rights Campaign Fund and Emily's List, on the one hand, to the National Right to Life Committee, the Christian Coalition and the National Rifle Association, on the other, would be denied the right to support the candidates of their choice.

Nothing in *Buckley* sustains such a radical restraint on the right of freedom of speech and association. *Buckley* upheld a $5,000 limit on political action committee contributions to individual federal candidates, not the $0 limit, total ban that Section 201 of S. 25 would impose on all Senate campaigns.

Even the "fall back" provision that would impose a 20% cap on the amount of PAC contributions that *any* Senate candidate could receive operates, effectively, as a $0 limit, total ban once that limit is reached. Once any Senate candidate has received PAC contributions totaling 20% of the applicable spending limit, all other groups are barred from supporting that candidate and effectively silenced. In *Buckley* the Court said that "[g]iven the important role of contributions in financing political campaigns, contribution restrictions could have a severe impact on political dialogue if the limitations prevented candidates and political committees from amassing the resources necessary for effective advocacy." 424 U.S. at 22. The Court found that the contribution limits there survived close scrutiny under that test, in large part precisely because the Act, though limiting individual contributions to $1,000, permitted PACs to contribute five times that amount, and provided for a proliferation of PACs to fill the fundraising gap. *Id.* at 23, 29–30. A total or near-total ban on PAC contributions would fail the *Buckley* test.

That is why reducing the PAC contribution ceiling to $1,000 is also extremely suspect. In 1976 dollars, that would be about a $350 ceiling on contributions. It is simply incredible to believe that the *Buckley* Court would have upheld that low a limit on individual or PAC contributions, especially when so many PACS are small donor PACs where the concern with corruption is attenuated. The Brennan Center letter is simply wrong in its assertion that "in the years since *Buckley*, the Supreme Court has upheld every contribution limit that has come before it in an election context." (p. 2). In *Citizens Against Rent Control* v. *Berkeley*, 454 U.S. 290 1981), cited in our earlier letter, the Court, by a vote of 8 to 1, invalidated a $250 limit on personal contributions to local referendum campaigns. S. 25's limits would be similarly vulnerable.

III. S. 25'S ATTACKS ON ISSUE ADVOCACY AND SPEECH

One of the central tenets of the Supreme Court's campaign finance jurisprudence has been the critical distinction between contributions and expenditures made by federal candidates, or their campaigns or those who expressly advocate their election or defeat, on the one hand, and all other political and

issue advocacy and discussion and activity, even though it might influence the outcome of an election, on the other. This constitutional Continental Divide is compelled by the First Amendment and is built upon the concept that only "express advocacy" of the election or defeat of specific federal candidates can be subject to regulation.

It is not that there is an inherent distinction between issue speech and electoral advocacy. Quite the contrary, as the *Buckley* Court recognized: "For the distinction between discussion of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application. Candidates, especially incumbents, are intimately tied to public issues involving legislative proposals and governmental actions. Not only do candidates campaign on the basis of their positions on various public issues, but campaigns themselves generate issues of public interest." 424 U.S. at 43. But *Buckley* held that if any mention of a candidate in the context of discussion of an issue rendered the speaker or the speech subject to campaign finance controls, the consequences for the First Amendment would be intolerable.

Accordingly, while candidate-focused contributions and expenditures and "express advocacy" can be subject to various restrictions or regulations, the Court clearly held in *Buckley* that all speech which does not "in express terms advocate the election or defeat of a clearly identified candidate" is totally free of any permissible regulation: "So long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, *they are free to spend as much as they want to promote the candidate and his views.*" 424 U.S. at 45 (emphasis supplied). The purpose of this profound distinction is to keep campaign finance regulations from overwhelming all political and public speech.

The effect of the distinction has been manifold. It is the express advocacy concept that defines the notion of "soft money" which is political funding that is used for party-building, get-out-the-vote activities and generic advertising ("Vote Democratic"), all activities which do not "expressly advocate" the election or defeat of specific federal candidates. Because it is not used for such express advocacy, it can be raised from sources that would be restricted in making contributions or expenditures. It is the express advocacy concept that separates an illegal corporate expenditure advocating the election or defeat of a specific candidate from an allowed issue advertisement discussing public and political questions. Compare *Austin* v. *Michigan Chamber of Commerce*, 494 U.S. 652 (1990) with *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765 (1978). It is the express advocacy concept that defines and cabins the concept of independent expenditures and determines the permissibility of coordinated expenditures. It is the express advocacy concept that protects the myriad on non-partisan, issue-oriented groups like the ACLU in their right to comment on and criticize the performance of elected officials without becoming ensnared in the federal campaign finance laws. See *Buckley* v. *Valeo*, 519 F.2d 817, 832 (D.C. Cir. 1975).

And it is that critical constitutional distinction which S. 25 seeks to blur beyond recognition.

A. Soft Money

As indicated, soft money is funding that does not support "express advocacy" of the election or defeat of federal candidates, even though it may exert an influence on the outcome of federal elections in the broadest sense of that term. It sustains primary political activity such as get-out-the-vote drives and issue advertising. That is why, contrary to the Brennan Center's letter, the relevant precedent is not *Austin* which involved express advocacy by corporations, but *Colorado Republican Federal Campaign Committee* v. *Federal Election Commission*, 116 S.Ct. 2309 (1996), which upheld *unlimited* independent expenditures by political parties on behalf of their candidates.

Indeed, the unrestricted use of soft money by political parties and non-party organizations like labor unions has been invited by *Buckley* ("So long as persons and groups eschew . . ."), authorized by Congress (see 2 U.S.C. sections 431 (8)(A)(I) and (B)(xii) which permit soft money for state elections and voter registration and get out the vote drives), sanctioned and enhanced by rulings of the Federal Election Commission and acknowledged by the Supreme Court in last year's *Colorado Republican* case. In that case, and despite a brief filed by the Brennan Center with charts and graphs detailing large individual and corporate soft money contributions to the two major parties and contending that "soft money contributions to local political parties have cascaded into a flood of dollars from corporations, labor unions, and wealthy donors that threaten the integrity of the Act's federal contributions restrictions. . . ." (Brief, p. 8) the Court nonetheless stated:

"We recognize that FECA permits individuals to contribute more money ($20,000) to a party than to a candidate ($1,000) or to other political committees ($5,000). . . We also recognize that FECA permits unregulated "soft money" contributions to a party for certain activities, such as electing candidates for state office . . . or for voter registration and "get out the vote" drives. But the opportunity for corruption posed by these greater opportunities for contributions is, at best, attenuated. Unregulated "soft money" contributions may not be used to influence a federal campaign, except when used in the limited party-building activities specifically designated by statute." *Id.* at 2316.

Accordingly, S. 25's sweeping and convoluted limitations on the amount and source of soft money contributions to political parties (Section 211 to 213) and disclosure of soft money disbursements by other organizations (Section 211) are not justified by precedent. Disclosure, rather than limitation, of large soft money contributions to political parties, is the appropriate remedy.

Nonetheless, we recognize that during the last election cycle, many candidates for federal office spent as much time responding to issue advertising and independent expenditures as they did campaigning against the advertising emanating from their opponents. The solution to this problem is not to tamp down on issue advocacy, independent expenditures or soft money contributions in a vague, overbroad and unconstitutional manner. Rather, Congress should lift the individual and PAC contribution limits so that candidates have better control and access to the larger sums of money necessary to finance their own campaigns, subject, of course, to timely and appropriate disclosure.

B. Independent Expenditures

The Court has repeatedly stated that independent expenditures are at the core of the First Amendment's protection because they embody citizen commentary on government, politics, and candidates for elective office. See *Buckley* v. *Valeo, supra; FEC* v. *National Conservative PAC*, 470 U.S. 480 (1985); *Colorado Republican Federal Campaign Committee* v. *FEC, supra*. In our initial letter we identified a number of ways in which S. 25 burdens and restrains these core First Amendment rights.

First, S. 25 broadly expands the definition of "coordination" so that virtually any person or group who has had even the most casual interaction with a candidate or a campaign is therefore barred from making independent expenditures. Section 405.

Second, the bill imposes a number of new and burdensome reporting and disclosure requirements on those who would make such expenditures. Sections 241, 405. For example, *any* person or group who spends more than $1,000 to place a small political advertisement in *The New York Times*—a very small ad—within three weeks of an election must file a report with the government within 24 hours of when they *arrange* for the ad—before it even runs. Section 241. Failure to do so can result in civil monetary penalties or injunctive suits by the Federal Election Commission. And what triggers the application of these extensive new controls is any political content which the government might deem "express advocacy" under the patently unconstitutional definition of that concept contained in this bill. See *infra*.

Ignoring these serious concerns, the Brennan Center letter focuses solely on the question of coordination between a party and its candidate. Section 404. But even there the letter ignores the fact that the *Colorado Republican* case rejected the validity of a conclusive conclusion of impermissible coordination whenever a party made an expenditure in favor of its candidates. Yet S. 25 replaces the rejected automatic conclusion with an all but conclusive factual presumption of coordination and therefore limitation.

C. Issue Advocacy

S. 25's worst assault on settled First Amendment principles is its efforts to obscure the bright line test of "express advocacy" that has been fashioned by the courts for 25 years to protect the broad range of issue discussion in America from campaign finance controls. The *Buckley* Court could not have been more clear about the need for that bright line, objective test which focuses solely on the speaker's words. That test is an integral part of the First Amendment, no less than the "actual malice" rule of *New York Times Co.* v. *Sullivan*, 376 U.S. 254 (1964) in defamation cases, or the "incitement test" of *Brandenburg* v. *Ohio*, 395 U.S. 444 (1969) in subversive advocacy cases.

Indeed, the ACLU's initial encounter with campaign finance laws was to defend against their very first use to try to muzzle a small handful of dissenters who had published an advertisement in *The New York Times* criticizing the President of the United States. The government claimed that the ad was "for the purpose of influencing" the outcome of the 1972 Presidential election. The government was resoundingly rebuffed, and the courts ruled that the campaign finance laws could not be used in such an open-ended fashion to control issue speech. *United States* v. *National Committee for Impeachment*, 469 F.2d 1135, 1139–1142 (2d Cir. 1972); see also, *American Civil Liberties Union* v. *Jennings*, 366 F.Supp. 1041, 1055–57 (D.D.C. 1973, three-judge court); *Buckley* v. *Valeo*, 519 F.2d. 817, 832 (D.C. Cir. 1975, en banc); *Buckley* v. *Valeo*, 424 U.S. at 42–45 and 76–80. Instead, "express advocacy" would be the bright dividing line between campaign advocacy and issue speech.

Now, S. 25 attempts to replace that time-honored concept with the kind of vague and

over broad formulas that *Buckley* and other courts rejected, and the circle has turned full round. *Buckley* said the First Amendment required that the law could only regulate "expenditures for commutations that in express terms advocate the election or defeat of a clearly identified candidate for federal office." *Id.* at 44, 80. The very language and concepts that the *Buckley* Court rejected as permissible definitions of regulatable electoral advocacy have now reappeared in this bill. In *Buckley* the Court rejected a triggering provision that regulated advocacy speech "relative to a clearly identified candidate." S. 25 regulates advocacy speech that "refers to a clearly identified candidate." Section 406. and *any* communication by a political party to the public which "refers to a clearly identified candidate" would be subject to regulation, without more.

Beyond that, First Amendment rights would turn once again on such vague and subjective concepts as whether the communication "conveys a message" that advocates the election or defeat of a particular candidate or that "a reasonable person would understand as advocating the election or defeat" of a candidate and that is "made for the purpose of advocating the election or defeat of the candidate as shown by . . . a statement or action by the person making the communication, the targeting or placement of the communication, or the use by the person making the communication of polling, demographic, or other similar data relating to the candidate's campaign or election." Publication of "box core" voting records would be allowed only if "limited solely to providing information about the voting record of elected officials on legislative matters and that a reasonable person would not understand as advocating the election or defeat of a particular candidate." That's how incumbents would impede dissemination of information about their voting records and official actions.

In an effort to defend these suspect provisions, the Brennan Center letter distorts the meaning of the concept of "independent expenditure" as defined by the Court. A communication cannot be defined as an independent expenditure because it is "designed to affect the outcome" of a federal election or because the speaker's "purpose and effect was to advocate the election or defeat of an identified candidate" or because the speaker's "predominant intent" was to do so. The courts have rejected these subjective tests as treacherously dangerous boundary lines to mark First Amendment rights. Under the First Amendment, an independent expenditure is *only* one which "expressly advocates the election or defeat" of a specific candidate. And references to "so-called 'issue ads'" or "phony 'issue ads'" (Letter, pp. 5, 6) cannot change that fact. It is not surprising that the letter cites no precedent for its support of a bill which would undue 25 years of bright line protection for issue-oriented speech.

S. 25 remains "fatally and fundamentally flawed when measured against First Amendment values." It contains 87 pages of tortured twists and turns seeking more and more limits on political funding and therefore on political speech. As we all know, that approach has not worked, and we think it will not work, politically or constitutionally. We think it is time instead, to explore ways to expand political participation and opportunity that do not entail restricting political speech such as meaningful and constitutional public financing. We look forward to working with you to do so.

Sincerely,

IRA GLASSER,
Executive Director.
LAURA W. MURPHY,
Director, Washington Office.
JOEL GORA,
Professor of Law, Brooklyn Law School, and Counsel to the ACLU.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, February 20, 1997.

Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCONNELL: I am writing this letter to set forth my views and those of the American Civil Liberties Union National Office with respect to the constitutionality of S. 25, the Bipartisan Campaign Reform Act of 1997. A year ago, I presented the opposition of the American Civil Liberties Union to S. 1219, last year's campaign finance bill. Once again, you have a bill before you which is fatally and fundamentally flawed when measured against First Amendment values. And one again we must oppose it.

The ACLU has long maintained that limitations on contributions and expenditures used for the purpose of advocating candidates and causes in the public forum violate the First Amendment. Under the First Amendment, as properly construed in *Buckley* v. *Valeo*, 424 U.S. 1 (1976), Congress cannot ration or restrict the political funding that nourishes and sustains political speech. "In the free society ordained by our Constitution it is not the government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign." 424 U.S. at 51.

I was an ACLU staff attorney who helped shape our pleadings and argued before the Court in the *Buckley* case, which was a landmark of political freedom. And, as a Professor of Law at Brooklyn Law School, I have worked with the ACLU on these issues ever since. Just last year, the continuing validity of the First Amendment principles recognized in *Buckley* was reaffirmed by the Supreme Court, by a wide 7 to 2 margin, in *Colorado Republican Federal Campaign Committee* v. *Federal Election Commission*, 116 S. Ct. 2309 (1996), a ruling which struck down limitations on independent expenditures by political parties.

In a number of critical respects, S. 25 runs afoul of these cherished principles. For example:

S. 25's coercive and punitive scheme, designed to compel candidates to accept spending limits in Senate elections and to penalize those who refuse, violates First Amendment principles.

The ban and severe limitations on political action committees cuts to the heart of freedom of association.

The unprecedented restrictions and controls on raising and spending "soft money" by political parties and even non-partisan groups trammel the First Amendment rights of parties and their supporters in a manner well beyond any compelling governmental interest and violate the ruling in the *Colorado Republican* case.

The radically expanded definition of "coordinated" expenditure will improperly restrict the core area of independent electoral speech and wreak havoc on freedom of association.

Worst of all, the new definitions of what constitutes "express advocacy" are so vague and overbroad that they transgress the great Constitutional Divide between partisan electoral advocacy, subject to some regulation, and the absolutely protected sphere of issue discussion, subject to no permissible restraint. For twenty-five years courts have fashioned and fostered that bright-line distinction in order to protect the core values of the First Amendment. S. 25 seeks to undo those carefully crafted categories and obliterate those constitutionally compelled distinctions.

The reduced record keeping threshold for contributions and disbursements, from $200 down to $50, or for "eligible" candidates as low as $20, is a gross invasion of political privacy.

The ban on political contributions by persons not eligible to vote is an insult to the First Amendment which guarantees free speech to all within our shores.

Last, but by no means least, the new enforcement powers given to the Federal Election Commission to go to court in the midst of a campaign to enjoin "a violation of this Act" pose an ominous and sweeping threat of prior restraint and political censorship.

Let me elaborate briefly on these concerns.

1. S. 25's coercive and punitive scheme designed to compel candidates to accept spending limits in Senate elections and to penalize those who refuse, violates First Amendment principles.

Title I of the bill, providing "spending limits and benefits" for Senate campaigns, is an attempt to coerce what the law cannot command, a backdoor effort to impose campaign spending limits—which almost always benefit incumbents—in violation of essential free speech principles and the doctrine of unconstitutional conditions. The provisions for "voluntary" expenditure limits and other campaign funding controls, imposed in order to induce candidates to accept ceilings and restrictions on political speech and penalize and disadvantage those who will not do so, raise serious First Amendment problems.

The receipt of public subsidies or benefits should never be conditioned on surrendering First Amendment rights. That would penalize the exercise of those rights. See *Perry* v. *Sindermann*, 408 U.S. 593, 597 (1972); *FCC* v. *League of Women Voters*, 468 U.S. 364 (1984); *Board of County Commissioners* v. *Umbehr*, 116 S. Ct. 2342 (1996). Since candidates have an unqualified right to spend as much as they can to get their message to the voters, and to spend as much of their own funds as they can, and to raise funds from supporters all over the country, they cannot be made to surrender those rights in order to receive public benefits.

In *Buckley* the Court suggested that Congress might establish a system where candidates would choose freely and voluntarily between public funding with expenditure limits and private spending without limits, so long as the non-participating candidate remained free to engage in unlimited private funding and spending. In that setting, the purpose of the public financing of Presidential campaigns was "not to abridge, restrict or censor speech, but rather to use public money to facilitate and enlarge public discussion and participation in the electoral process, goals vital to a self-governing people." 424 U.S. at 92–93.

S. 25 fails this test, for its overall purpose and effect are to limit speech, not enhance it. The bill imposes substantial penalties on those disfavored, non-complying candidates who will not agree to limit their campaign expenditures, while it confers significant fund-raising benefits upon those privileged candidates who adhere to the limits. Privileged candidates get free broadcast time, and

sharply reduced broadcast and mailing rates. Disfavored candidates must pay double promotional costs for the very same communications. The bill contains triggers which dramatically raise the spending ceilings and the contribution caps for privileged candidates whenever disfavored candidates threaten to mount a serious, well-funded campaign, or whenever independent groups speak out against a privileged candidate.

In effect, the bill tries to insure that privileged candidates will always be able to counteract the messages of disfavored candidates and their supporters. The law stacks the deck against the candidate who will not agree to limits, which will usually be the challenger trying to defeat an incumbent. In short, this scheme does everything possible to enable the candidate who agrees to spending limits to overwhelm the candidate who does not. That is not a level playing field. Lower courts have been quick to invalidate such one-sided, lopsided "voluntary" schemes. See *Shrink Missouri Government PAC* v. *Maupin*, 71 F.3d 1422, 1426 (8th Cir. 1995) ("We are hard-pressed to discern how the interests of good government could possibly be served by campaign expenditure laws that necessarily have the effect of limiting the quantity of political speech in which candidates for public office are allowed to engage."); *Day* v. *Holohan*, 34 F.2d 1356 (8th Cir. 1994).

2. The various limitations on PAC contributions violate freedom of speech and association.

Section 201 of the bill would ban all political contributions by political action committees. This would cut to the heart of the First Amendment's protection of freedom of political speech and association. The bill would give a permanent political monopoly to political parties and political candidates, and would silence all those groups that want to support or oppose those parties and candidates. PACs come in all sizes and shapes and provide vehicles for millions of Americans to amplify their voices. There is not a word in *Buckley* or any case which suggests that the Court would uphold a total ban on PAC contributions to federal candidates and still all those voices. Frankly, this is just political grandstanding. That's why there is a "fall back" provision which would impose a $1,000 cap on PAC contributions, which is also of very doubtful constitutionality. See *Committee Against Rent Control* v. *Berkeley*, 454 U.S. 290 (1981); *Meyer* v. *Grant*, 486 U.S. 414 (1988); *Carver* v. *Nixon*, 72 F.3d 633 (8th Cir. 1995). In any event, this provision is fatally overbroad because it treats all PACs alike, even those made up only of small contributors.

Likewise, the ban on "bundling" of individual PAC contributions would abridge the freedom of association which the Supreme Court has recognized as a "basic constitutional freedom." *Kusper* v. *Pontikes*, 414 U.S. 51, 57 (1973). As the Court has pointedly observed, "the practice of persons sharing common views banding together to achieve a common end is deeply embedded in the American political process." *Citizens Against Rent Control* v. *Berkeley*, 454 U.S. 290, 294 (1981).

Finally, the cap of 20% on PAC contributions that may be received will simply make it harder for candidates to raise funds, intrude upon freedom of speech and association and act like yet another backdoor effort to limit overall campaign expenditures, all in violation of *Buckley's* core principles.

3. The unprecedented controls on "soft money" are unjustified restraints on political parties and other organizations, as are the restraints on coordinated expenditures.

Sections 211, 212, 213 and 221 of the bill would severely limit and restrict the sources and use of soft money by political parties and other organizations. The new sweeping limitations and controls on "soft money" contributions to and disbursements by political parties and other organizations, federal, state or local, would expand the reaches of the FECA into unprecedented new areas, far beyond what any compelling interest would require. The reach of these proposals is breathtaking and unprecedented.

Indeed, just last June, the Court cast grave doubt upon the constitutionality of these various provisions. By a 7 to 2 margin, the Court ruled that even candidate-focused, "hard money" expenditures by political parties were fully protected by First Amendment principles and the *Buckley* precedents. In *Federal Election Commission* v. *Colorado Republican Federal Campaign Committee*, supra, the Court gave full constitutional protection to unlimited party independent expenditures and invalidated the FEC rule that treated all candidate-focused, independent party expenditures as though they were "coordinated" with the candidate and therefore subject to limitations. In language powerfully relevant here the Court held: "We do not see how a Constitution that grants to individuals, candidates, and ordinary political committees the right to make unlimited independent expenditures could deny the same right to political parties." 116 S.Ct. at 2317. The case for thorough protection for "soft money" is even stronger, since it is used by definition for voter registration, get-out-the-vote, "generic" advertising like "Vote Democratic" and other party-building activities.

Equally significant, the Court squarely rejected the sweeping claims that soft money spent by political parties was "corrupting" the system and had to be stopped: "We also recognize that the FECA permits unregulated 'soft money' contributions to a party for certain activities. . . . But the opportunity for corruption posed by these greater opportunities for contributions is, at best, attenuated." 116 S.Ct. at 2316.

Finally, Section 404, the new provision that tells political parties that they can continue to make "coordinated" expenditures on behalf of their candidates only if they forfeit their *Colorado Republican Committee* right to make independent expenditures supporting that candidate is yet another example of how this bill coerces the surrender of one constitutional right in order to exercise another. That kind of coercion should be rejected out of hand.

4. The new restrictions on independent expenditures improperly intrude upon that core area of electoral speech and impermissibly invade the absolutely protected area of issue advocacy.

Two basic truths have emerged with crystal clarity after twenty years of campaign finance decisions. First, independent expenditures for "express" electoral advocacy by citizen groups about political candidates lie at the very core of the meaning and purpose of the First Amendment. Second, issue advocacy by citizen groups lie totally outside the permissible area of government regulation. See *Buckley* v. *Valeo*, 424 U.S. at 14–15, 78–80, *First National Bank of Boston* v. *Bellotti*, 435 U.S. 765 (1978); *FEC* v. *Massachusetts Citizens For Life*, 479 U.S. 238, 249 (1986). This bill assaults both principles.

First, Section 405 of the bill vastly expands the concept of "coordinated" expenditures so that virtually any person who has had any interaction with a candidate or a campaign is therefore barred from making independent expenditures. These definitions and limitations embody an impermissible kind of "gag order by association." See *De Jonge* v. *Oregon*, 299 U.S. 353 (1937). Second, if significant independent expenditures are made "in support of another candidate or against" an eligible, privileged candidate, the spending limits of the latter are raised to make it easier to counteract the independent. speech. Finally, new and expanded reporting requirements are imposed on independent speakers. All of this is designed to chill and deter core electoral advocacy.

Worst of all is S. 25's blunderbuss assault on issue-oriented speech. The weapon is an unconstitutional expansion of the definition of "express advocacy" in order to sweep classic issue speech within the zone of regulation as independent expenditures. The bill abandons the bright line test of express advocacy (words which in express terms advocate the election or defeat of a candidate, such as "Vote for Smith," "Vote Against Jones," "Elect," "Defeat"), a test which the Supreme Court held was mandated by the First Amendment. Instead, Section 406 of the bill would treat as express advocacy any communication "that conveys a message that advocates the election or defeat of a clearly identified candidate" or, worse, "that a reasonable person would understand as advocating the election or defeat or a candidate." A safe harbor provision, for a communication that "is limited solely to providing information about the voting record of elected officials on legislative matters and that a reasonable person would not understand as advocating the election or defeat or a particular candidate" is circular and no safe harbor at all. Indeed, the prospect of subjecting free speech rights to the post facto assessment of a "reasonable person" test would undo decades of First Amendment jurisprudence designed to protest First Amendment rights against the vagueness and uncertainly of such a standard.

This provision attacking issue ads and legislative advocacy would sweep in the kind of essential issue advocacy which *Buckley* and cases predating *Buckley* by a generation, see *Thomas* v. *Collins* 323 U.S. 516 (1945), have held immune from government regulation and control. It seems to be targeted exactly against the kind of voting record, "box score" discussion that emanates from the hundreds and thousands or issue organizations that enrich our public and political life. In *Buckley*, the Court adopted the bright line test line test of express advocacy in order to immunize issue advocacy from regulation: "So long as person or groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spends as much as they want to promote the candidate and his views." Id. at 45.

Most significantly, the Act at issue in *Buckley* contained a similar provision regulating issue-oriented groups because of their "box score" ratings of public officials and comparable activities. That provision was unanimously held unconstitutional by the en banc Court of Appeals, without any further appeal by the government. See *Buckley* v. *Valeo*, 519 F.2d 817, 832 (D.C. Cir 1975). Circuit Judges running the gamut from Bazelon and Wright to Robb and Mackinnon were unanimous in their condemnation of that effort to control issue speech. The new and expanded definition of "express advocacy" in S. 25 is similarly, grievously flawed.

5. The bill gives unacceptable new powers of prior restraint and political censorship to the Federal Election Commission.

With all of these problems with the bill, particularly those that pertain to issue advocacy and independent expenditures, giving the Federal Election Commission sweeping new powers to go to court to seek an injunction on the allegation of a "substantial likelihood that a violation . . . is about to occur" is fraught with First Amendment peril.

Where sensitivity to the core constitutional protection for issue advocacy is concerned, the Commission has, in the words of one appellate judge, "failed abysmally." See *Federal Election Commission* v. *CLITRIM*, 616 F.2d 45, 53-54 (2d Cir. 1980)(Kaufman, C.J. concurring). And ever since then, non-partisan, issue-oriented groups like the ACLU, the National Organization for Women, the Chamber of Commerce, Right-to-Life Committees and many others have had to defend themselves against charges that their public advocacy rendered them subject to all the FECA's restrictions, regulations and controls. The kind of "chilling effect" that such enforcement authority generates in the core area of protected speech makes the strongest case against giving the Commission additional powers to tamper with First Amendment rights.

S. 25 is not the way to reform campaign finance. It is bad constitutional law and bad political reform. True reform would expand political participation and funding, without limits and conditions, not restrict contributions and expenditures by which groups and individuals communicate their messages to the voters.

Thank you for the opportunity to set forth these views.

Sincerely,

JOEL M. GORA,
Professor of Law,
Brooklyn Law School.

Mr. MCCONNELL. Mr. President, there was an editorial in Friday's Wall Street Journal entitled "The Beltway's Hale-Bopp" with regard to the bill before us today. And I ask unanimous consent that that be printed in the RECORD.

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

[From the Wall Street Journal, Oct. 3, 1997]

THE BELTWAY'S HALE-BOPP

Campaign finance reform, also known as McCain-Feingold, isn't merely a legislative proposal. Campaign finance reform is now a religion.

Somehow in the past several years, campaign finance reform transmuted from a cause into a belief system. It is the Beltway's version of the Heaven's Gate cult, in which the powers attributed to the Hale-Bopp comet have been transferred to the McCain-Feingold bill. It has become the mothership that will transport the American people away from the failings of modern politics and toward a purer system of government. One can almost hear the pundits' plaintive chorus preparing for the bill's passage: "Knock, knock, knockin' on heaven's door."

Interestingly, most of the McCain-Feingold cult's adherents aren't run-aways or overworked computer programmers. Instead, they hold down jobs in the print and electronic media. Articles and editorials evangelizing for McCain-Feingold pour forth like a river. An acquaintance of ours had the misfortune of finding herself flying cross-country recently seated next to a McCain-Feingold fundamentalist. It was an arduous six hours.

We raise these matters not in a spirit of rank partisanship (the Anti-Partisans being another aborning Beltway cult, incidentally), but out of concern for these loved ones. By nature, our media brethren are a skeptical lot. A managing editor once told us that some of his reporters declined his entreaties to get involved in the life of their local communities because "it might compromise my objectivity." Normally, excepting the occasional marches on behalf of abortion rights, these are hard cases.

So how else, other than religious belief, to explain why so many have become so attached to a legislative proposal that is objectively unconstitutional, that would cheerfully allow federal bureaucrats to regulate political speech while shrinking from, as if from sunlight, the regulation of pornography?

One of the two most important components of McCain-Feingold would explicitly forbid "issues ads" that mention a candidate's name within 60 days of a federal election. The Supreme Court made no dent with a whole series of decisions starting in 1976 with Buckey v. Valeo, which held that the law may be able to limit contributions, but that limits on expenditures, even from the personal fortune of an actual candidate, violate the Constitution. But the crusade rolls on even in the face of a Supreme Court decision as recent as last year's Colorado Republican Party v. Federal Election Commission, in which the court struck down limitations on official party spending on behalf of its candidates. That is to say the second half of McCain-Feingold, the ban on "soft money," is also unconstitutional. Justice Breyer wrote for the court: "The independent expression of a political party's views is 'core' First Amendment activity."

Then, of course, there is the phrase with which the First Amendment closes, about making no law abridging the right "to petition the Government for a redress of grievances." That is, lobbying. Now admittedly the Founding Fathers were rationalists who lived in the shadow of the long-ago Enlightenment. In our newer age no stronger article of faith abides around the Beltway than that anyone who "lobbies" the Congress about their grievances against, say, the Clean Air Act, is corrupting the vestal virgins who inhabit that place. McCain-Feingold, according to Senator McCain, would thwart the lobbies from interfering with the deliberations of Congress. That is to say, the politicians who command a third of all the money in the Gross Domestic Product want to pass laws against taxpayers trying to influence them.

At the end of the day we remain skeptics, less so of McCain-Feingold than of its advocates' professions of nonpartisanship. The problem with campaign finance as it exists is not so much the inevitable corruptions, but that these corruptions are so secret, as the tortuous hearings of the Thompson Committee have proven. Full disclosure—daily, publicly, electronically—of contributions from whatever source, from cloistered Buddhist nuns to ethanol fanatics, would let voters decide for themselves which imperfect soul they wished to vote into office.

Mr. MCCONNELL. Further, Mr. President, there was an op-ed piece in the Washington Times by Peggy Ellis of the Cato Institute entitled "10 Big Lies About Campaign Finance Reform. . . ." I ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Times, Oct. 7, 1997]

10 BIG LIES ABOUT CAMPAIGN FINANCE REFORM . . .

(By Peggy Ellis)

Lie No. 1: The American people are clamoring for campaign finance reform. Outside of Washington and the political elites, campaign finance reform finishes at the bottom of the list of issues people care about (3 percent). Most voters believe that whatever reforms are passed, politicians will find a way around the new rules (73 percent). By huge margins, voters are less likely to vote for their member of Congress if they vote for reforms that are unconstitutional (88 percent), make it easier for them to get re-elected (71 percent), make it more difficult for citizens' groups to inform voters of candidates' voting records (80 percent) or increase the relative power of the media (69 percent) (Tarrance Group, June 1997).

Senator Mitch McConnell, the Kentucky Republican known as the "Darth Vader of campaign finance reform," won re-election last year with a 160,000 vote margin—without the endorsements of the two largest newspapers because of his stance on "reform" and with the maximum contributions allowed by law from the tobacco companies. Rep. Linda Smith, Washington Republican, won her first election while being hugely outspent by the incumbent. She then became the darling of campaign finance reformers and almost lost.

Lie No. 2: Only wealthy special interests have access to members of Congress. Poppycock. The first item on all members' calendars is, and will always be, constituents. Members of Congress meet with lobbyists and policy experts all day long and then go vote the way they want to. Further, it is part of every legislative aide's job to meet with all sides to best prepare their boss for whatever the issue might be. As Senator Bob Bennett, Utah Republican, said at a recent hearing, "I'll tell you who has access to me—anyone registered to vote in the state of Utah."

Lie No. 3: Banning soft money is the only way to ensure that the scandals of the '96 presidential election don't happen again. The best way to make sure the abuses of '96 don't happen again is to punish those who have broken the law. Soft money was banned in the original 1974 rules and the 1976 election was run without soft money. Parties were so strapped for cash that traditional activities such as bumper stickers and get-out-the-vote drives were sharply curtailed. One of the primary purposes of the 1979 amendments to federal election law was to restore soft money. Traditional party-building activities are clearly not what the reformers want to control. It is the issue ads run by the parties—which are the essence of First Amendment protected speech. To eliminate this distortion, eliminate the limits on party contributions to their candidates. It is bizarre that political parties cannot give directly to their candidates as much as they want. No claims can be made of a corrupting relationship between a candidate and his or her political party. And for those who want to open up the political process and loosen the grip of incumbents political parties are the one group that will always support a challenger.

Lie No. 4: You can constitutionally control issue advocacy. It is often forgotten that in

the original 1974 amendments to the Federal Elections Campaign Act, Congress sought to limit issue ads, just as many do now. The Supreme Court overturned these rules. Nothing is more central to the core of what our country was founded on than the ability of private individuals and groups to discuss, criticize and protest their elected officials and those that seek office. A 20-year string of court decisions reaffirm that free and unencumbered political speech enjoys the highest First Amendment protection and cannot be regulated by the federal government.

Lie No. 5: Most issue ads are "thinly veiled campaign ads" and, therefore, can and must be regulated by the Federal Election Commission. Nothing is more central to the First Amendment than the rights of individuals and groups to participate openly and freely in our nation's political debate. Reformers and misinformed senators claim that, since issue ads are clearly intended to influence an election, they should be regulated. Buckley vs. Valeo anticipated this argument. Of course, the Court held, these ads are intended to influence elections, but our First Amendment rights are so central to our political freedom that unless the words "vote for" or "vote against" are used, these ads are issue advocacy and cannot be regulated by the government.

Lie No. 6: McCain-Feingold will open up the system. In fact, McCain-Feingold could be renamed the Incumbent Protection Act. The stratospheric incumbent re-election rate we have today is a direct result of the 1974 rules. Contribution and spending limits and tighter controls on issue advocacy are blatant incumbent protection. All the distortions in the current system are results of the 1974 rules—the 90 percent incumbent re-election rate, the explosion of issue advocacy and soft money and the increase of millionaires in office, the amount of time candidates have to spend raising money, the increase in the relative power of the media and celebrities. More of the same is not the answer.

Lie No. 7: Buckley was a 5-to-4 decision and "a close call," vulnerable to future court tests. On the contrary—we have years of court decisions reaffirming the central findings of the Buckley decision. In the area of issue advocacy alone, in the years since Buckley was decided, both the Supreme Court and lower courts have, time and time again, reaffirmed the reasoning and holding of that decision as it pertains to the protection of issue advocacy. The 126 "constitutional scholars" currently said to endorse McCain-Feingold do not endorse the issue advocacy restrictions at all—only the soft money and spending limits. In fact, the Fourth Circuit was so disturbed by the FEC's attempts to redraw the lines defining issue advocacy that the court demanded in April that the FEC pay Christian Action Network's court costs.

Lie No. 8: Campaign costs are spiraling out of control. This "explosion" is outside of candidate spending. Candidate spending was virtually flat from 1994 to 1996, with an explosion of issue ads outside of the campaigns themselves. The answer, however, is not to trample the First Amendment rights of private individuals, but to lift the contribution limits on parties and candidates. Let the money spent on many of the issue ads flow directly to the candidates. As for the anger many members have at private groups expressing their views and—absolutely—trying to influence their election: too bad! Politics and political campaigns belong to the people, not to the candidates and certainly not the federal government. The right to seek to persuade fellow citizens at election time is as fundamental as the right to vote itself.

Lie No. 9: Obscene amounts of money are spent in political campaigns. Congressional candidates spent approximately $740 million in 1996. This is only slightly higher than the approximately $700 million spent in 1994. It's a lot of money—but not when compared to what we spend as a society in other areas. These congressional totals average less than $4 per eligible voter. If you look at every race in the country, from dog catcher to president, the amount spent is less than $10 per eligible voter. As a society, we spend more on potato chips, Barbie dolls, yogurt and a host of other commodities than we do on politics. While many of us may like Barbie dolls and potato chips more than we like politics, only politics has control over every aspect of our lives.

Lie No. 10: We must control the amount of money spent in campaigns because candidates and members of Congress have to spend all their time raising money. It is the ridiculous $1,000 contribution limit that has limited the ability of challengers to raise the money they need to mount a successful campaign—and the reason members of Congress have to spend so much time raising money. The answer is not to control the amount candidates can spend, which would only further entrench incumbents, but to eliminate the contribution limits. Let the money flow directly to the candidates and, with almost-instant electronic disclosure, let the voters decide.

Mr. AKAKA. Mr. President, today at noon, we have another opportunity to invoke cloture on S. 25, the McCain-Feingold campaign finance reform bill, which I support. I am sorely disappointed that yesterday, the Republican majority once again successfully blocked going to the bill.

After yesterday's two votes, the majority leader said that campaign reformers should just give up—that the bill's chances for enactment in this session of the 105th Congress were dead.

I do not believe that the American people should be denied the benefit of campaign finance reform that would, in my opinion, level the playing field so that running for Federal office would not be so strongly influenced by money.

It is amazing to me that after several months of public hearings by the Senate Governmental Affairs Committee that anyone doubts the critical need to rewrite our campaign funding laws. Throughout the course of the hearings we have witnessed example after example of the misuse of our campaign finance laws.

And yet there remains a real crisis in the Senate over our inability to enact any campaign finance reform legislation. Moreover, this wholesale disdain for ending the money chase through substantive finance reform fuels the distrust held by the American public of Congress and their belief that Congress does not wish to clean up its own house.

Our committee has examined allegations of foreign money influencing Federal campaigns, the use of Federal facilities to raise funds, contributors donating in another's name, and access to Congress and the White House linked to campaign donations. Like my colleagues, I support prosecution by the Department of Justice of these allegations if it is appropriate. We have also had an opportunity to hear from expert witnesses on how they would reform the funding of elections.

Mr. President, we can no longer allow the mad hunt for money to drive our elections. Nor can we ignore the dramatic increases in soft money donations, the problems associated with unregulated independent expenditures and issue advocacy, and the improper use of tax-exempt organizations.

And yet, despite the tremendous explosion in campaign expenditures and the dismay over the political system expressed by the voters, there remains steadfast opposition to reforming our Nation's campaign finance laws, as evidenced by yesterday's votes.

I was hopeful, although perhaps too optimistic, to believe that S. 25, the McCain-Feingold campaign finance reform bill would be embraced by most Members of the Senate. I was wrong.

With less than 50 percent of voting age Americans going to the polls in the last election, so much is at stake. The public's deep distrust of this Nation's elected officials by the voters will continue if the only thing that comes from the Senate's investigation into campaign finance abuse allegations and the abbreviated debate on S. 25 is political rhetoric and finger-pointing.

The Republican majority has seen fit to stifle the efforts of those Senators who support reforming the Nation's campaign finance laws. The only hope I see in passing such reform at a future date lies with the American voter. It will be up to the people of this great democracy to demand that their Senators support campaign finance reform. There will be no campaign finance reform until there is a nationwide movement to stop the campaign finance abuses uncovered by the Senate Governmental Affairs Committee.

S. 25, the Bipartisan Campaign Reform Act of 1997, was modified in good faith, in an attempt to craft a bill more acceptable to the opposition. Unfortunately, it did not pass muster with those opposing it. In spite of yesterday's defeats, we have another chance to proceed to S. 25 by invoking cloture today.

Americans deserve a Government that works hard for their interests and not just the interests of monied contributors. Our citizens deserve a more responsive, efficient, accountable and representative Government.

Mr. CHAFEE. Mr. President, the Senate has the opportunity to improve the system by which we finance our elections. Yesterday, the Senate had before

it two proposals: one sponsored by Majority Leader LOTT and Senator NICKLES; the other sponsored by Senators MCCAIN and FEINGOLD. Much of the discussion of these proposals, both here in the Senate and in the media, characterized them as mutually exclusive. For the most part, Republicans were expected to support the Lott proposal, and all 45 Democrats and a handful of Republicans were committed to voting for McCain-Feingold.

The paramount goals of any true effort to reform the system of financing elections for Federal office must be to reduce the influence of special interest money on elected officials and to level the playing field between incumbents and challengers. The partisan division that has created the procedural situation in which the Senate found itself yesterday suggests that these goals are not yet at hand. Although the proposals before us are not the final resolution to the problems that afflict the current system of campaign fundraising, they do provide a good starting point.

I voted for cloture on both the Lott proposal and on the underlying McCain-Feingold bill. Do I think that the majority leader's proposal is flawless? Of course I don't, no more than I think the McCain-Feingold bill provides all of the solutions to the outrages of the 1996 elections. But, I also do not agree with those on the other side who have called the Lott amendment a poison pill. The truth is that together these proposals establish a sound starting point for a reasonable debate on campaign finance reform. It's time to let the process go forward. The Lott amendment should be opened up to improvements, just as the McCain-Feingold bill should be amendable.

As I see it, the goal of the Lott amendment is meritorious. It is to give union members some say over the political uses of their money. Today, union dues are used to support or oppose particular candidates without any authorization from the dues payers. McCain-Feingold takes a small step to address this problem, which amounts to compulsory contributions to candidates. Under the McCain-Feingold bill, dues paying, non-union members would be eligible for a refund if they disagreed with the political uses of their dues. That takes care of an estimated 1 million workers, but 16 million union members are left without any control over the political uses of their funds. That seems fundamentally unfair.

Senator LOTT's amendment seeks to address this unfairness. According to the Lott amendment, unions would be prohibited from using dues for political purposes, including lobbying, unless individuals gave prior written consent. As I understand it, the prior consent requirement is viewed by opponents to be onerous, and, I think, the limitation on lobbying simply doesn't apply to the issue at hand—Federal election campaigns. As many know, Senator SNOWE and others—who feel as I do, that this debate should move forward in an effort to find common ground—have been working to refine this proposal. A vote for cloture on the Lott amendment is a vote in favor of moving the process forward. It is a vote in favor of opening up the Lott proposal to improvements.

I also voted for cloture on the McCain-Feingold bill. Senators MCCAIN and FEINGOLD have made considerable improvements to their bill. They have worked to accommodate the concerns of other Senators, particularly Senator COLLINS who has worked hard to move this process forward. I continue to have concerns about some of the provisions of the bill. The treatment of independent expenditures is not wholly satisfactory to me, although Senator MCCAIN assures me these provisions were suggested by top experts on Federal elections. I filed amendments that I believe could improve the McCain-Feingold bill, but, of course, the Senate cannot get to the point of debating the merits and flaws of the bill unless cloture is invoked.

As far as I am concerned, the most important problem to be addressed this year is one that barely existed a few years ago, the explosion of soft money in the process. Not too many years ago, many of us were here debating whether PAC's, political action committees, should be able to contribute $5,000 per candidate, per election. We worried that these PAC contributions might appear to give special interests too much influence. But the soft money explosion has made those amounts seem like pocket change. I believe that if all else fails, we must deal with the soft money problem, and we must take steps, at least, to impose disclosure requirements on the money that is spent on so-called issue ads. We also should seek common ground on the Lott amendment. The Senate has the opportunity to make these important changes in the current fundraising system by invoking cloture on both the Lott amendment and the underlying McCain-Feingold bill.

Mr. MACK. Mr. President, the key issue in this debate is a simple one: Will we enforce the campaign laws already on the books or not? Will we concoct some new layer of confusing and complex rules and regulations to distract the voters from the real issue, or will we do the right thing? Are we going to insist that campaigns and candidates follow the current rules, or are we going to keep changing the laws each time there is a new scandal? If we can't—or won't—even enforce the laws we have now, what makes us think that a new set of laws will be more effective?

The Senate and the American people have witnessed a flood of testimony in recent weeks and months about illegal foreign contributions, influence peddling, and money laundering at the highest levels of our Government. The Attorney General has finally called for an investigation in the face of mounting evidence that, to many of us, clearly warranted a special investigator months ago.

Now, here we are debating a bill on the floor of the Senate that will not only add new regulations and restrictions to the people's ability to participate in the election of their own representatives, but which ignores the violations of campaign laws that apparently have already taken place.

How does that play with the American people? I doubt it goes over too well. Sure, Americans are distrustful of all the money in campaigns. They are right to be suspicious when they read about Buddhist nuns being used to funnel foreign money into a Presidential campaign or the Lincoln bedroom being used to cozy up with big-money campaign contributors.

And they are also right to be dubious of what is going on here, because I think they understand and we are not tackling the real issue at hand. We are trying to divert their attention away from the simple fact that our campaign laws are not being enforced. This is the kind of cynicism that justifies the American people's distrust and apathy toward Washington politicians.

History teaches us that when any law is not enforced, whether campaign law or any other law, the people lose confidence in the system, whether it is the criminal justice system or the electoral system. When violations of the law go uninvestigated and unpunished, we send the message that the law doesn't matter. We destroy one of the core principles of our government—that we are a nation of laws, not of men—and the law applies equally to everyone—not just to some and not others.

We aren't doing anything to restore the American people's confidence in their Government until we begin to deal with this fundamental issue: Do the current campaign laws matter enough to be enforced or are they just an arbitrary system that can be followed or ignored depending on what is convenient for a campaign? The answer to this question must be emphatic—the laws that are here to protect our political system must be enforced vigorously. Nothing less is acceptable.

Mr. President, there is a second reason the voters are dubious about our seriousness for cleaning up campaign finance violations. Many of these voters are angry that their hard-earned money goes to candidates they don't agree with. This happens through what essentially is extortion by the unions. Many hard-working union workers have part of their paycheck sent to political campaigns they don't support.

Yes, by codifying the Beck decision, this bill tries to make sure that non-union members don't have their paychecks extorted for political use. But union members are left in a position of having to choose between their job or their first amendment right to support the candidate of their choice. With more and more union members voting Republican in recent years, it's no wonder that the liberal union bosses are working to make sure this form of political blackmail is protected.

Some will say this is no different than PAC's using their money to support candidates that a contributor may not agree with. Well if the Sierra Club or the National Rifle Association or any other similar group uses your money to support a candidate you disagree with, you can stop giving your money to that group and its PAC. It's a voluntary choice. But that's not possible in a union—at least not without putting your job at risk.

No, Mr. President, this effort does nothing to fix what's broken. There are all sorts of schemes to make television stations give candidates free air time, and to regulate what can and can't be said in political commercials. And there are even provisions that would have the Federal Government establishing State and local campaign restrictions. All of this adds up to putting chains around our fundamental first amendment rights.

The courts have repeatedly held that communications which do not expressly advocate the election or defeat of a candidate are not subject to regulation by the Government. But the proponents of this bill would make the Federal Election Commission into the politics police. They would determine whether a reasonable person would know that an ad is advocating the election or defeat of a candidate or not. This would send a chill through our political process. Now the Government would decide what is reasonable or not. It is exactly the kind of temptation to tyranny that the Founding Fathers were protecting the American people from when they adopted the first amendment.

Supporters of this bill contend there is too much money in politics. What they're saying is, they think there's too much free speech, too much involvement by free people expressing their views. But isn't that exactly what we want—more involvement and more participation? More candidates are running for office now than ever. Voters now have more options than ever. Placing further limits on speech will effectively drive more citizens from the process.

We should stop this misguided effort and do what the American people really want—and that is to enforce the laws that have been on the books for years. Only by doing so will we restore their confidence in the political and electoral system that is supposed to send us here to do their bidding.

Mr. President, I urge all my colleagues on both sides of the aisle to make enforcing our current laws the No. 1 priority and put aside this effort to construct yet another monstrosity of bureaucracy and complexity that will add to American's skepticism of Washington.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the quorum call time be equally charged to both sides.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There remains 5½ minutes on each side.

Mr. DORGAN. If I might, claiming the time remaining on our side, just make a comment about the pending business.

We will shortly be casting another vote on cloture on the issue of campaign finance reform. The vote is going to be whether we invoke cloture on the McCain-Feingold campaign finance reform bill.

Now, it is interesting, as we have been watching this develop over the recent days, we have seen a form of legislative cholesterol clogging and plugging the system so that at the end some can say, "Well, we have considered campaign finance reform but they have, in effect, killed it." That has been the plan all along.

I mentioned yesterday that the great illusionists in America are those who can convince people they have seen something that doesn't exist. We had that yesterday in which there was an assertion that we were presented with a debate on campaign finance reform, but the debate didn't really exist because no one was able to offer any amendments on campaign finance reform. The bill was brought to the floor by someone who wanted to kill it, so he bound it up with a tight rope—what he called filling the tree with amendments, a tree of amendments—so that no one else could offer any amendments, and then filed a cloture motion designed to kill campaign finance reform.

The fact is this system doesn't work. The campaign finance system in this country is broken. There is too much money in campaigns. I have showed the chart out here on a number of occasions when I have spoken about it. The red line on the chart on campaign spending goes straight up. And yet we have people in this Chamber and across the Capitol who believe the problem is we don't have enough money in politics, there is not enough money in campaigns. What on Earth are they thinking about? We need to reduce the amount of money in campaigns.

One of the issues that is involved in this legislation is soft money. We ought to abolish soft money, the legal form of cheating from the old campaign finance reform. For every rule there are people who try to figure out how to get around it, over it or under it. In soft money, the growth in the explosion of so-called soft money is the growth and explosion of legal cheating in campaign finance, and we ought to change it.

There are only two sides to this issue: Those who want to reform the system, and those who are insisting the current system is just fine.

There are a majority of us in this Chamber, we believe, who will vote for McCain-Feingold, for campaign finance reform, if only we can get it up on the floor of the Senate for a vote. I hope today, or perhaps tomorrow if further votes on cloture occur, that we will have an opportunity to demonstrate that, if we can get the bill to the floor of the Senate, it will have a majority vote.

On my side of the aisle, 45 Members, every single Member, has signed a letter saying we support this kind of campaign finance reform. We had three, four, five Members on the other side of the aisle who have supported it. If we can get it up for a vote, we will pass campaign finance reform. But there are those who have tried to ride this into a box canyon somewhere from which there is no escape because they by design want to kill campaign finance reform because they believe there is not enough money in politics. They want more money in American politics. I have no idea where they get that sort of notion.

The American people know better. The American people support with an 80-percent margin the need to pass campaign finance reform by this Congress. I urge my colleagues to vote for cloture. Vote for cloture on the McCain-Feingold bill and breathe some life into campaign finance reform and let's do what the American people know we should and what the American people know we must—reform the system by which we finance American campaigns, because the current system is broken.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we are about to vote on a cloture motion on what is, without question, a very important issue to all of us and to the country at large. In fact, it is so important that this morning the President of

the United States cried out, "Save me from myself. Save me, please. I'm off to Philadelphia to raise money, and if you don't save me by passing the new law, I may do something wrong, or I'm going to have to do what I'm going to do anyway."

Well, Mr. President, I'm sorry, but all I ask you to do is to abide by the law that is on the books of the land today. That is what I do. That is what the Senator who just spoke does. I doubt that Senator DORGAN ever has attempted to violate campaign law. I know he hasn't. He is an honest man. He makes sure he doesn't because he hires an attorney and he hires an accountant and he keeps himself legal because what we live under today is a well-regulated campaign finance system.

I am absolutely amazed that when the American family sits down at night the first topic of the dinner table is not what about that campaign finance reform they are talking about on the floor of the Senate; I suspect that family is talking about what happened to the child who was lost on the streets of America today, or that classmate of your son or daughter whom you found out got arrested for drugs, or some other issue like that. That makes a heck of a lot more sense to the average American than the phenomenal, political, and media hype that has been built over the last 3 or 4 months about campaign finance reform.

Mr. President, if I have heard it once, I have heard it 100 times, spoken from the other side of the aisle, "Oh, they all do it." No, we don't all do it. I just came out of a campaign and I didn't violate a law nor was I accused of violating a law. I raised money legally. I'm sorry if you have to use a smoke cloud or subterfuge to argue your political point of view. It is wrong.

Mr. President of the United States, it is wrong to say that everybody does it, because not everybody does. I am not about to save you, Mr. President, from yourself and from going to Philadelphia today to raise money. Last I checked, you touched out of here voluntarily. You left this city voluntarily. And yet that was the argument that was used by the President of the United States today. "Well, the Senate yesterday didn't pass a law so I got to go do it again." Sorry, Mr. President, that isn't the issue here.

The Supreme Court yesterday spoke out very, very clearly when they said you can't deny the right of a citizen to speak out, you can't deny advocacy in a free speech society. This Senate can talk all of the politics it wants. It can line up all of the 30-second sound bites it wants, but it cannot violate the Constitution nor will the Court allow us to.

In this instance, I would love to quiet the voice of an advocate who disagreed with me, and I had many of them last year in my campaign. I had over a quarter of a million spent against me, and I will tell you, I don't think the ads were right. In fact, I think they were wrong. I think they failed to tell the truth. But in a free society, doggone it, now and then you have to withstand somebody who doesn't agree with you and you have to withstand somebody who may tell a lie about you. If you are in public life, that is a darn fact, the sureness of what will happen, and we all know that.

What is wrong about it? Nothing is wrong about it. Oh, I could see where we should adjust some things, but I will tell you right now, if we are going to say to a certain citizen in our society, "You are going to provide money whether you want to or not, and that money is going to make it into the political system whether you want it to or not," and our colleagues on the other side of the aisle will not allow that to happen, they will not allow the average citizen to have full, voluntary participation, then there will be no reform for this Senator to vote for.

That will not happen if I have the ability of most Senators to block issues from coming to the floor. If we are going to talk about major campaign, we must talk about fairness, we must talk about equity, and we must talk about the right of the citizen in free speech and voluntarism.

So today I stand with pride in my defense of the Constitution and the right of the citizen. I will oppose cloture on this bill, not out of an embarrassment or not out of shame, but out of pride for the system that can work when you play by the law.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BUMPERS. Mr. President, let me just say McCain-Feingold may be dead as most people around here seem to believe. I have always believed the American people can have anything they want any time they are unified. The time is fast approaching when the American people are going to demand that we change a system that is rotten to the core. McCain-Feingold goes a long way in that direction. It doesn't go nearly far enough to please me personally, but at least it will be a beginning.

The two things you can do to restore people's faith in the American Government and Congress, the two things you can do that will instill more confidence than anything else would be to balance the budget and change the way we finance campaigns.

I have heard all the sophistry about the constitutionality of this bill. I just want to tell you, when it comes to free speech, you can hang your hat on free speech if you want to, but the thing that makes this system rotten is that a guy who can afford to belly up for $100,000 gets a lot more free speech than some guy giving $25. The reason he doesn't give $25 is because he knows it gets him nothing—not even good government.

So I plead with my colleagues, for God's sake, let's do something that the vast majority of the American people want us to do—that is, to level the playing field for all parties. You don't have a democracy when the people we elect and the laws we pass depend on how much money we raise for it.

I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on S. 25, as modified, the campaign finance reform bill:

Thomas A. Daschle, Carl Levin, Joseph I. Lieberman, Wendell Ford, Byron L. Dorgan, Barbara Boxer, Jack Reed, Richard H. Bryan, Daniel K. Akaka, Christopher J. Dodd, Kent Conrad, Robert G. Torricelli, Charles S. Robb, Joe Biden, Dale Bumpers, Carol Moseley-Braun, John Kerry.

CALL OF THE ROLL

The PRESIDING OFFICER (Mr. SESSIONS). By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 25, a bill to reform the financing of Federal elections, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—52

Akaka	Feinstein	McCain
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Inouye	Reid
Bumpers	Jeffords	Robb
Byrd	Johnson	Rockefeller
Chafee	Kennedy	Sarbanes
Cleland	Kerrey	Snowe
Collins	Kerry	Specter
Conrad	Kohl	Thompson
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Feingold	Lieberman	

NAYS—47

Abraham	Bennett	Burns
Allard	Bond	Campbell
Ashcroft	Brownback	Coats

Cochran	Gregg	Nickles
Coverdell	Hagel	Roberts
Craig	Hatch	Roth
D'Amato	Helms	Santorum
DeWine	Hutchinson	Sessions
Domenici	Hutchison	Shelby
Enzi	Inhofe	Smith (NH)
Faircloth	Kempthorne	Smith (OR)
Frist	Kyl	Stevens
Gorton	Lott	Thomas
Gramm	Lugar	Thurmond
Grams	McConnell	Warner
Grassley	Murkowski	

NOT VOTING—1

Mack

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 47. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997—MOTION TO PROCEED

Mr. LOTT. Mr. President, I move to proceed to Calendar No. 188, S. 1173, the so-called ISTEA legislation.

The PRESIDING OFFICER. The question is on the motion. Is there debate?

Mr. LAUTENBERG. Mr. President, was that a unanimous-consent request?

Mr. LOTT. No. Mr. President, if the Senator would yield, it is a motion. But it is debatable. I understood the Senator from New Jersey intended to debate the motion.

Mr. LAUTENBERG. Yes.

Mr. LOTT. Could I inquire of the Senator from New Jersey how long he thinks that he would need to do that?

Mr. LAUTENBERG. I can speak for myself, I think, about the bill that I want to explain but I can't certainly speak for any other colleagues.

Mr. LOTT. I am not asking for a specific hour, just some general—an hour or two.

Mr. LAUTENBERG. It is not my intention to tie the Senate up with this for some indefinite period—not at all—but I do want to discuss some of the problems that I see with the bill.

Mr. LOTT. Does the Senator think an hour is about what he is thinking about?

Mr. LAUTENBERG. I am not going to enter into a time agreement.

Mr. LOTT. I am not asking for an agreement—just for the information of all Senators so we know when there might be some further action—just some general idea of the time expected.

Mr. LAUTENBERG. In fairness to the majority leader, who I have found to be an understanding person, I would take the time necessary; probably—I do not know—an hour or so.

Mr. LOTT. That would be fine. Will the Senator require a rollcall vote?

Mr. LAUTENBERG. No.

Mr. LOTT. I yield the floor, Mr. President.

The PRESIDING OFFICER. Who seeks recognition?

Ms. MOSELEY-BRAUN. Will the Senator yield?

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, if we can achieve order in the Chamber, it would be easier for us to communicate.

The PRESIDING OFFICER. Will the Senate come to order?

The Senate will come to order.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the Chair.

Mr. FORD. Mr. President, I make a point of order that the Senate is not in order.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Kentucky is correct. The Senate is not in order.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, once again, I thank you.

Mr. President, we are about to consider a radical departure from the structure as we have known it to take care of our highway and transportation needs for the next 6 years. But I view this approach as somewhat premature and want to discuss what some of the problems are with it. As a member of the Environment and Public Works Committee, and also, Mr. President, as having been the chairman of the Senate Transportation Subcommittee of Appropriations, and currently the ranking member, I view it from a particular vantage point.

So I want to use this opportunity to alert my colleagues to some of the problems that I see with the bill and those opportunities perhaps to change it. I know, Mr. President, that when I discuss concerns with this bill that I also reflect——

Mr. BAUCUS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. Will the Senate please come to order? The Senator from New Jersey has the floor and has the right to be heard.

Mr. LAUTENBERG. Mr. President, I thank you and the Senator from Montana.

Mr. BAUCUS. Mr. President, the Senate is still not in order.

The PRESIDING OFFICER. Will the Senator from New Jersey hold for a moment? Will those having conversations please take them to the Cloakroom so we can hear the Senator from New Jersey?

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, once again I thank you. I sense that the excitement about the comments that I want to make has just overtaken the Senate and it is hard for people to settle down. But if they will settle down and listen, their fondest dreams will be realized.

Mr. President, I think we ought to take some time to pause before we talk about amendments to the bill known as ISTEA to consider what it is that we are about to discuss, and amendments we will be offering once we are engaged in debate about the bill. But before we start that debate, again I want to point out what I think are some of the serious discrepancies in its development.

I am not alone in my concerns about it. As I have indicated, other States—I know my friends and colleagues from Illinois have distinct concerns about it. I was particularly interested in a discussion that we had just a while ago in a conference with some of the Democratic Members to learn some of the facts about Illinois roads that I am sure the senior Senator from Illinois will want to discuss. Our colleagues from Massachusetts have some misgivings about the bill. The Senators from Maryland have also indicated the fact that they are not happy with what has been offered in this bill. My colleagues across the river in the State of New York have indicated to me that they are looking seriously at the bill, as other States not exactly in the Northeast corner have also indicated—as I mentioned, the State of Illinois. I know there are some concerns in the State of California and some concerns in the State of Pennsylvania. Again, I will not speak for those Senators, but those are the States where the formula change wound up dealing with these States in a fairly negative fashion.

So, Mr. President, as we begin to discuss bringing this bill to the floor for discussion, it is time, I think, to begin debating not simply the motion to proceed but the substance of the bill.

This 6-year authorization bill which governs transportation spending and planning is going to set the future of every State's transportation system into the next century. As we go forward with this debate, we better be sure that the serious transportation needs of the American people, of their businesses, of their jobs, of their regions, and their States are being met by this bill.

Frankly, there is some good to be said for this legislation. I have my doubts that ultimately it achieves the goal that the distinguished chairman of the Environment and Public Works Committee and the distinguished ranking member are seeking. Those are not the objectives that we see being met as we discuss the reauthorization of ISTEA.

Transportation, as we all know, is not just about roads, rail, and bike trails. It is about the economy. It is about jobs. It is about moving goods efficiently and effectively. It is about building better communities. It is about a quality of life that surrounds our transportation networks or, in

fact, is developed as a result of efficient and competent transportation infrastructure. It is about smart investment. It is about protecting our environment and human health. It is about quality of life in its fullest expanse. It is about making sure that we do what we can to leave a clean environment for future generations. It is about being more independent and not simply just asking other countries to supply us with oil at whatever price they determine the market will bear. We never know when that changes, as we saw if we look at history back just a couple of decades.

So this is far more than simply, again, roads and rails and waterways. It is about quality of life. It also, frankly, tells us what America is going to be doing in the next century to be more competitive in this global marketplace. That is a very serious question for us, because as we see the European Union forming to establish its economies, we know they are going to be using the latest in technology. They have far, far better rail and transit systems than we see typically in our country—high-speed rail. We see roads where the pavement endures a far greater period of time than do those in our country and in our States.

So we have to think very long and hard about how this Congress is going to make its mark on transportation investments and policies for the next 6 years. The question is, Does this legislation fully address the needs of the national transportation system and provide necessary funding and guidance where it is most needed? Do we consider transportation issues as if they affect the whole country? Because whether they are about roads in New Jersey or roads in Illinois or roads throughout the Northeast or North-South, the fact is it has a bearing on the way society functions, the way our country's economy produces.

Sometimes those issues get lost, Mr. President, when we see the regional differences kind of expand, when we see that now suddenly in the closing period when the original version of ISTEA was produced, there is a change being attempted in a very short period of time to change formula, to change the way we function. I do not care which party is in power or which region of the country has more seniority. The fact is that we have to work together as a national enterprise because otherwise we will pay a price that is not yet seen nor understood.

When we talk about a transportation bill, do we consider such critical factors as relieving choke points of congestion, ensuring adequate infrastructure in ports and along corridors to necessitate the free flow of goods, providing sufficient access to remote areas of the country. I know that we hear from Senators whose States are more rural than mine or some of the States that I have named in my list, but that does not mean that those people ought not have available transportation facilities so that they can get their children to school or get to the marketplace or get to their jobs. I am honestly concerned about that. The Senators from the more rural States know very well that Senator FRANK LAUTENBERG from New Jersey has tried to preserve things like essential air service so that communities are not suddenly isolated and removed and not able to communicate with the rest of the world outside their direct boundary.

Ms. MOSELEY-BRAUN. Will the Senator yield for a question?

Mr. LAUTENBERG. Does the bill ensure that the most heavily traveled corridors and highways are fully maintained and upgraded to handle not only the traffic of today but the expectations for traffic tomorrow? So as I said at the beginning of my statement and as we are seeing, I have my doubts.

Ms. MOSELEY-BRAUN. Will the Senator yield for a question?

Mr. LAUTENBERG. I will be happy to yield for a question.

Ms. MOSELEY-BRAUN. I would like to put a question to the Senator from New Jersey. The Senator's points are very well taken and particularly the point that the Senator makes with regard to the synergies, if you will, between different types of transportation modalities and how all of them come together in this ISTEA legislation.

I would like to call to my colleague's attention a picture really that I shared earlier this morning concerning the pivotal role as almost a hub State that Illinois plays in terms of national transportation. Because our State, Illinois, is situated kind of in the middle of the country as it is and goes from north to south, as it turns out, most of the commodity flows—this is from 1993—as you can see, most of the commodity flows go through the State of Illinois. Whether from California on the west, Florida on the south, Florida-Texas, or from the east coast, they come together at the hub in Illinois.

Yet, having said that, it is also a fact that Illinois right now is suffering from inadequate attention to the convergence of transportation and transit activities in the State. We have seen in my State real difficulties with road funding to begin with. I have some headlines here: "Illinois Roads in Shambles," and then it goes on with report after report regarding the dismal shape of Illinois roads. "Illinois Roads Among the Worst in the Nation." That is on the road part of the equation.

On the transit part of the equation, it is also news back in my State that there have been reductions in service for public transportation, moving people from place to place so as to give a breadth, if you will, to the economic activity in the State.

So with both the road aspect of funding as well as the transit function, Illinois winds up being a hub State. Actually, in addition to being a hub State, Illinois is a donor State. We wind up contributing more to the funding of our interstate highway program than many other States. We are way down there in terms of dollars sent to Washington and dollars received back.

My question to my colleague would be whether or not the formula with respect to highway funding takes into adequate account the importance of the hub activities, of the convergence of transportation modalities in a State such as Illinois and whether or not this legislation addresses the transportation needs of the country by failing to adequately do so?

Mr. LAUTENBERG. I thank the Senator from Illinois for her question because it ties exactly into things that I see. The situation is not dissimilar, as I am sure the Senator is aware, from my State of New Jersey. Much as Chicago and environs in Illinois are just at the crossroads where the traffic flows east and west from the rich agricultural sectors of our country to the export opportunities at the ports on the east coast or the marketplaces on the east coast and to the places where habitation is large and the materials have to move rapidly in order to get there at an appropriate time for the product to be effective in the marketplace, we have the same thing. Our corridor is north-south.

If one travels north-south in New Jersey, it helps originate some of the jokes that frankly I don't like about, "You live in New Jersey. What exit?" People, trying to make jokes—again, I think poor jokes—think of New Jersey as a large highway with some occasional rest stops along the way. But we carry that traffic. We want to play our role in the national being, in the national economy.

We try to make it convenient for the trucks and the traffic to pass through expeditiously, but we can't do it unless we have particular funding addressed to those issues. Why should New Jersey be the recipient of foul air created by that incredible amount of vehicular traffic when it is not ours? We do not gouge the travelers at our service stations or towns. Our prices are in keeping with the marketplace because we want it to be a comfortable place. We don't want the trucks and everybody else to wind up in traffic congestion, spewing foul air. But we cannot pay for it entirely by ourselves. We are being asked to carry a load for the whole sector of the country. The Senator is right on the mark, and I hope she will take note of that as she evaluates this bill that is being proposed.

Ms. MOSELEY-BRAUN. Will the Senator yield for another question? Is it not a fact that the original ISTEA, Intermodal Surface Transportation

Act, referred to the needs of local and interstate commerce, the national and civil defense? And, in so doing, makes direct reference to the needs of the various States to work together to collaborate in behalf of our national interest in commerce, in both local commerce and national commerce, as well as our defense needs? And is it not also a fact, therefore, that to the extent that this legislation focuses in just on miles of road as opposed to these goals of the act, that it not only creates a burden for the States so affected, but also creates a burden for the country in failing to meet the express goals of the original legislation?

Mr. LAUTENBERG. We certainly must consider that. If one looks back to the origination of the highway system, going back into the 1950's, much of that was designed to assure that, if necessary, our defense capability was strong, that we could move the traffic, move the equipment, move the personnel rapidly through our society. And that cannot be ignored. So that all of these things relate to the same needs.

That emphasizes the fact—and once again I am grateful to my colleague and friend from Illinois—it emphasizes the fact that this has to be considered a national enterprise. And, suddenly, one region's gain against another's does little for the country. It may look like a new sector is gaining something. They gain nothing if they don't have the marketplace, if they don't have the access, if we can't move our troops and equipment, Heaven forbid at a critical time, rapidly and efficiently. Then we have lost a lot more than the simple gain from an adjustment, untimely as this one, frankly, seems to be.

Ms. MOSELEY-BRAUN. If the Senator will yield, I suggest the biggest threshold challenge that we have to overcome in this debate is a matter of one's perspective. If indeed this is seen as pitting one State's interest against another State's interest, then one can arrive at a formula that rewards the powerful and "who is on the committee," and all kinds of factors that have nothing to do with commerce, with our national civil defense, with transportation or, indeed, our economy.

If, on the other hand, our perspective is one of those larger goals that were pointed to in the original act, then that would lead to a formula in the first instance that would produce a very different result, or a different result than the one that we see here.

So I ask my colleague whether or not it is his impression, since he has worked so diligently and closely on this matter over time, whether or not the formula itself may be flawed in that it sets up this competition among and between the States instead of requiring us to focus on what is in the interests of our country, what is in our national interests, what is in the interests of transportation as a generic label for all the ways we move goods and services and matters of interest around, within the United States.

Mr. LAUTENBERG. My answer is that if there was—and there has been—a concern about the formulas by which funds were distributed, that a review is certainly in order. But the review, in my view, ought to take place in an orderly fashion so it can be debated here on the floor, so it can be debated in the respective committees. There are several committees that have jurisdiction over parts of this. So it takes a little bit of time to get this done.

Now, because we have procrastinated so long in getting this done, it seems we have to rush to put in the new bill. Something that affects so much of the way we function as a society I think deserves more than a rush to judgment. Frankly, my offhand suggestion would be that we extend the current bill for a period of time. And I think 6 months would be a disaster; probably a year, so that we can consider in a thoughtful forum what we ought to be looking at.

The Senator mentioned something very interesting. Right now there has been a change in the manner, the philosophy of the way this body operates. Power has moved in a particular direction. But what goes around comes around, as is said. Are we going to be looking at changes in structure for something as important as our transportation infrastructure differently every time there is a power shift? If it's Democrats one time and Republicans the next; if it's western one time and eastern or southern or central the next, will we therefore at that point in time suddenly make changes that take care of our region? Do you know what that will produce? Everyone knows what that will produce: Chaos. It will produce competition at the worst level.

I see it now in State after State, where some States are willing to modify their environmental requirements, willing to modify their labor requirements, to try to steal business from another State. What good does it do us in the final analysis? It does us no good because eventually the price is paid. I am going to talk about that a little bit later.

My State is a State that has prospered. We benefited from some of the ingenuity that went into the development of the industrial revolution. Much of it took place in the State of New Jersey. Edison and his numerous inventions were largely out of New Jersey. We have a high-technology business in pharmaceuticals and electronics and computers. As the Senator knows, I was in the computer business before I came to the Senate. Some days, ruefully, I look back, especially payday. But the fact of the matter is that we are a high-technology State and thus we have been able to create a pretty good job market.

The result is that New Jersey is No. 50 among States—last—in getting a return on the tax dollars it sends here to Washington. And I hear about it from all of my constituents, let me tell you. They don't understand why it is we are sending money down here and, where we have a slight advantage, which has been in ISTEA, the transportation bill, suddenly now it is being taken away. The question is being asked back home, whether by a newspaper or in town meetings or just individual discussions: Are they after New Jersey again? Do they want to make us pay more of our tax dollars into the national interest so States that are poverty stricken or don't have the job network or don't have the economic infrastructure that we have, they want to take it again from New Jersey? My answer, unfortunately, has to be, "I think so." Because that is the way it looks, based on what the formulas are.

I want to see the day when we stand on the floor of this U.S. Senate and we talk about distributions of tax dollars received here in Washington. Maybe what we ought to do is put this under an umbrella that says everybody gets 100 cents on the dollar. Every State, send your money to Washington, you get it back. We will see how the roads that cross through some States function; and we will see how welfare, and how education assistance, and nutrition for children gets taken care of in those States.

Ms. MOSELEY-BRAUN. If the Senator will yield for another question?

Mr. LAUTENBERG. Please.

Ms. MOSELEY-BRAUN. That seems to me exactly the point. When you base a formula on per capita income, what happens then is, No. 1, just at the outset you wind up penalizing those States that are contributing the most.

There is an interesting quote out of the Advisory Committee on Intergovernmental Relations, which I want to call my colleague's attention to, which says, "Per capita income is not a proxy for State wealth."

That is exactly what is happening, using that as a proxy for State wealth. It is much to the point. It is not just a matter of sharing. Because, if anything, I would encourage the Senator from New Jersey and my colleagues to think about this as something in which we are called upon to share. We are called upon to share resources in our national interest to see to it that the transportation needs of our country are adequately addressed.

But what we have here, it seems to me, is a formula that is flawed—No. 1, in regards to the numbers that go underneath it that are used to determine State wealth, on the one hand. It seems to be flawed also in not giving adequate consideration to the use and reuse and overuse, in some instances, of transportation modalities, whether they are roads or highways or transit

systems. The fact is, the more people you have the more these systems are going to be used. Just like any other physical thing, the more that it is used the more it deteriorates.

So we have a situation in which infrastructure, as a fundamental issue, is addressed in this legislation based on a series and a host of factors and considerations that may not adequately comprehend that this infrastructure is infrastructure that serves all of our needs. It's not just New Jersey's roads or Illinois' roads. It's roads through which American products will move, roads over which Americans travel, transportation that allows for an American economy. All of us have an investment and a stake in seeing to it that all of the States that form the crux of our economic mix get adequately served by the allocation that this formula represents.

So, my question to my colleague—and this will be my last question to my colleague—my question to my colleague is whether or not he believes that it will be possible for us to engage with the committee and others—I am not a member of the committee but at the same time have tried to interact with the committee that made this decision—but whether or not, if we were given the additional time to take up these questions, in terms of whether the formula presently being used to allocate resources actually meets the needs of our country—if given additional time we might be able to reshape some of the integral parts of that decisionmaking in way that it would more closely serve the goals of the Transportation Act?

Mr. LAUTENBERG. Once again, I say to my colleague from Illinois, I agree fully with the response that was elicited, because of the nature of the question. It is our Nation. It is a national goal. It is a national objective and we have to keep that in mind.

I know the Senator from Illinois shares my view that when an emergency comes in our country, and whether it be floods or earthquakes or tornadoes, our hearts are breaking here. I say, this was across party lines, both parties. When we saw the people in North Dakota and South Dakota and States like that during the flood, I never voted against funding for FEMA, for our Federal Emergency Management Agency, or those actions that were taken to get a community restored after a natural disaster. It is then and then only, it seems, that we are reminded that we are a national unit, that we are a national federation, that we are one country.

Suddenly we will spring into action when it comes to relieving the distress that results from a natural disaster; a consequence. We have to keep that in mind when we look here at what we are doing on the floor of the U.S. Senate today. That is, ensuring that all States in all parts of the country are treated with a degree of fairness. I know we will hear from other colleagues who say: Well, New Jersey has been a donee State, gotten back more than it has sent down in gasoline tax.

I say yes, that is true. That is true. It was the only place, as I mentioned earlier, that we could make up for the deficiency in return on our tax dollars that we usually get from the transmissions that we make. So this is why I am so intent on making sure that this new piece of legislation, this reauthorization, this NEXTEA, or whatever we want to call it, reflects the fact that New Jersey is being shortchanged here as are these other seven or eight States, drastically shortchanged, and that we want to try to restore it if he we can and bring sense to the thing. We will have an earnest debate, however long that takes, to see that the adjustments are properly made.

The Intermodal Surface Transportation Efficiency Act, known as ISTEA, expired less than 2 weeks ago. ISTEA in its origination was far-reaching and visionary, and we ought to keep that as a theme for what we are doing now. It declared for the first time that the interstate system was complete and that transportation policy and planning should shift the focus from building eight-lane highways to improving the transportation systems in our communities.

Earlier transportation policies specifically encouraged people to abandon existing communities and cities in favor of new development in previously untouched green spaces—the suburbs.

(Mr. THOMAS assumed the chair.)

Mr. LAUTENBERG. Mr. President, the suburbs have become the residential location of choice, and traffic patterns have shifted accordingly. I have seen it, once again, in my own State, and I have seen it in bordering States, where a new highway will be built which is designed to serve traffic that exists there and traffic that might develop. Within no time—and I say this, again, coming from the most densely populated State in the Union—in no time, there are traffic jams on those highways, be it Highway 78, Highway 24 or Highway 80. I can give you the list of highways that were built which looked like they were the highways of the future and, before you know it, they are the highways of yesterday, because people took advantage of the opportunity to move out of town: "Let's get out of here."

It hasn't spoken very well of our urban policy, I will tell you that, because what happened in the grand design that emerged in the early fifties by my former commander in chief, also the commander in chief of the Senator from Rhode Island, then became President, was a system for national highway transportation that had an unfortunate consequence. The distinguished Senator from New York, Senator MOYNIHAN, often talks about how it enabled people to leave the problems of the cities behind, move out to the suburbs and, as a consequence, we have had the despair that has followed in the cities because the revenue bases were taken away from them.

We found out that that is not a particularly good policy for America and that we have to make sure we have a balanced transportation network, one that permits a city dweller to get to work in another part of the city or another city, just as it does to aid the rural resident in getting to his or her place of work and the needs that each of the families has.

A 1996 report conducted by the Eno Transportation Foundation entitled "Commuting in America II," found that today, the dominant commuting flow pattern is suburban, with 50 percent of the Nation's commuters living in the suburbs and over 41 percent of all jobs located there, up from 37 percent in 1980. Suburban areas are now the main destination of work trips. The report also found there was a substantial increase in reverse commuting, central city to suburbs, commuting rose from 9 percent share of growth over the decade from 1970 to 1980 to 12 percent from 1980 to 1990.

However, earlier transportation policies also discouraged land use planning, creating new and growing congestion around new and growing communities. While our cities died, our metropolitan areas grew too quickly and overwhelmed the infrastructure. So there is a paradox here: In one way, the cities were falling moribund and, in another way, suddenly these metropolitan areas just grew around them and became almost the definition of—certainly far more than a metropolis. The suburban sprawl drew industry to the suburbs and drained cities of income and jobs. This trend continues today and is even expanding.

The effect of this trend on such critical issues as quality of life, safety, the environment and economic development is undeniable. I want to read from a study by the Surface Transportation Policy Project. It said:

> One of the most far-reaching effects of our transportation spending patterns is the increasingly spread-out pattern of American cities. The results of this new pattern range from the loss of open space—

We know that happens regularly.

> sprawl consumes a million and a half acres of farmland each year—to more driving and the problems it creates.

One study found that vehicle miles traveled per household increased by 25 to 30 percent when residential density is cut in half. Just think about it. Vehicle miles traveled per person increased by 25 to 30 percent when residential density was cut in half.

Do you know what that means, Mr. President? Cars, cars, cars, cars, cars.

And how do you handle them efficiently is a large question. We have talked at times about the elimination of Amtrak as a real possibility if we don't tend to its capital needs, the elimination of our only major intercity passenger rail service in the country. Look at what happens if that disappears.

If it disappears, the airspace between Boston and Washington would require that we put up 10,000 737 flights a year or more. Can you imagine? Right now, look at Newark Airport. It is beautifully designed, a very progressive airport. Constant delays. Why? Because the airspace above the airport cannot accommodate the number of flights we would require.

Look at the highways. It would put hundreds of thousands of cars or more per year on the highways between Boston, New York, and Washington. Not a terribly good idea.

ISTEA was designed to try and grapple with these problems in trends in a fair, sound, and efficient manner. It sought to employ sounder land-use planning by incorporating communities into the process. It recognized good transportation policy does not mean simply pouring more concrete and asphalt. Instead, it focused on moving goods and people in a way that makes the most sense for our Nation, our States, our economy, and our communities.

ISTEA increased planning and flexibility and placed emphasis on local decisionmaking, encouraged new technology and made environmental and social needs a priority. I saw some of that new technology in place yesterday when a coalition of firms appeared in the Capitol and showed us what might be by way of new transportation opportunities with the use of technology.

They talked about an experiment near San Diego, CA. A 7.2-mile section of road was equipped with magnets. We heard from someone from the Department of Federal Highways about a ride that she was taking at fairly high speeds, the normal speed for this section of the country on these highways. She suddenly realized that her driver was reading USA Today looking at the sports section.

I asked if he got in the back seat and she drove the car. She said, no, he was still in the front seat behind the wheel, and here he was reading a newspaper as he was traveling along at 60 to 70 miles per hour. They employed new technology, and when they equip the cars with the appropriate transmission and receiving response from the magnets on the highways, they are able to move along with the traffic. You can go to sleep if you want to, and if the traffic slows, the vehicle slows.

It is a wonderful thing, but it needs investment. In order to do that, we have to make sure that our transportation planning incorporates all of these suggestions, as well as more highways and more transportation opportunities are made available.

I know that in the New York-New Jersey region, there is a new technology to pay tolls. It is relatively painless until you get the bill, and then you see it has been a daunting experience. But with just a little device put on the windshield, you can ride through tolls on the George Washington Bridge, and the other bridges and highways around the New York area. It is going to be expanded. It shows what can happen when there is cooperation among various agencies on a bi-State basis. You can improve things without impairing any State's right to grow and develop. It is working very well. That is just a small precursor of what we might expect in the future if we employ technology properly.

Those are the kinds of things that we have to think about as we invest in our transportation system.

ISTEA is where this regard for technology really developed. It was then called Intelligent Vehicle Highway Systems. I was the author of much of that part of the bill. I tried something different. I tried to develop what we might call intelligent drivers. It was an impossible task, Mr. President. So instead, we tried to develop intelligent technologies so that the car would take over driving; it didn't have to depend on the driver's emotion to keep it cool and keep it straight.

It worked very well. The advances are just beginning to develop. That is so consistent with what our future planning ought to be about that we have to make sure that everything is encompassed in this very important piece of legislation.

ISTEA increased planning and flexibility, placed emphasis on local decisionmaking, encouraged new technology and made environment and social needs a priority.

ISTEA strongly reaffirmed the Federal commitment in transportation planning and investment. While the Nation's existing infrastructure continues to decay and we face reduced budgets, economic competition demands ever increasing efficiency and growth. Federal policy should continue to emphasize these goals while empowering local and regional governments to make their own decisions on transportation investment. As we approach the close of the 20th century, we need to build upon ISTEA's successes to prepare for more intense global economic and technological competition.

Transportation investment has a direct and indirect impact on our economy and society. Transportation by itself generates 20 percent of the gross domestic product. Each billion dollars invested in transportation produces more than 25,000 construction-related jobs. A sound, efficient, and innovative transportation system will make a major contribution to national efforts to match the productivity of our trading partners.

As we begin to consider the next surface transportation reauthorization bill, we need to think more deeply about what it is that we really want to achieve. The most important goal is to ensure a sound transportation system, one that recognizes that commerce and travel does not necessarily stop at a State's border. It recognizes that we are a nation of States and not autonomous nation-States. Our economy depends on the free and efficient flow of goods. It depends on one sector taking advantage of its natural opportunities, be it agriculture or lumber or other things, while another State takes care of its availability of energy and another takes advantage of its ability in telecommunications and electronics.

That is what makes us the Nation that we are. I have great respect for the farming and agricultural population of our country. The exchange of opportunity for them is important to me. I cooperate, as I said earlier, when they need flood control measures or irrigation opportunities. That then ought to beget reciprocation from those parts of the country when we look at a State like New Jersey, an industrial State.

The distinguished occupant of the chair is not at liberty to answer, but I will pose a rhetorical question. That is, which State has the most horses per acre of any State in the country? I will answer because I know that the occupant of the chair, being a Senator from Wyoming, would love to respond, but I will take advantage of my position having the microphone to answer. It is New Jersey. New Jersey has more horses per acre than any other State in the country.

That surprises people because they think of us as having more smokestacks than any other part of the country. Well, the fact is that New Jersey is a place where people like to live, horses like to live, and we raise them. We do not have, I do not think, the bucking bronco type that we see in Wyoming, but we have horses fleet of foot and the headquarters of the equestrian society in this country.

So we are interconnected, interrelated. That is what intermodal talks about. Simply put, that means the success of our transportation policy cannot always be measured by an evaluation of dollar-for-dollar return on gas consumption or other criteria that denies real transportation problem solutions and trends confronting the entire Nation.

I would wager—and I have traveled across most of this country, so that I have seen small cities in less populated States—one thing I have noticed is that they all have something in common, the cities in my State and the

cities in other States. They have traffic congestion at the wrong time—at perhaps the right time, because that is when people are commuting from work and from school and from home and shopping and all of those things.

Our policy should not be designed to pit State against State but should be designed for effective, efficient, and economically sound transportation, while at the same time it encourages rational and reasonable planning and new construction to meet anticipated new growth.

As I have said, I fear that for all of its good intention, this bill does not succeed in accomplishing this goal. We need one national transportation policy to promote a national system. In an era of a shrinking budget, the least we should do is prioritize our investments, the least that we should do is to ensure that our existing transportation system is adequately maintained and preserved before there are significant investments in new capacity.

Unfortunately, the incentive at the State and local level is to build new roads, complete with ribbon-cutting ceremonies and all of the hoopla that goes along with an occasion like that, but to rather do that, it seems, than the less glamorous job of investing in the proper maintenance of existing roads. That is a less glamorous pursuit and does not get the same kind of interest. But if you are driving along and you are bouncing on potholes and you can't get by road construction projects, it is quickly understood.

Since 1991, more than half of the highway money available for repairs and to be spent in metropolitan areas has been diverted to State departments of transportation to pay for the construction of new highways. This, in my judgment, is a bad way to invest. Building a new road costs far more per mile than repairing an existing one.

New roads in metropolitan areas have been estimated to cost as much as $1 billion a mile. And I can give a specific example in the New York metropolitan area. In contrast, the Federal Highway Administration estimates that it costs approximately $1.26 million for 1 mile of pavement reconstruction on urban highways.

Put another way, the way to fix what we have in favor of building new capacity also costs money. The FHWA estimated the cost of routine maintenance of pavement in good condition at about 8 cents per square foot, whereas the cost of rehabilitating failed pavement was closer to 80 cents per square foot—10 times the amount that it would require if it was maintained in good condition.

There is another thing, and we have been reading a lot about it of late, and that is the time that pavement lasts in other countries, especially in Europe, is far, far longer than we see in our country. We ought to be looking at that problem as we review our highway needs to see whether we can get longer use out of existing roads without having, again, construction blockades and things of that nature.

This bill as written abandons ISTEA's programs that place emphasis on preservation and maintenance of the existing infrastructure in favor of laying new roadbed. In my opinion, we are headed in the wrong direction. We must first take care of what we have rather than spend billions of dollars on new paving.

Mr. President, I have not risen to speak in order to deny new transportation needs. That is not my mission, because I have had a long record of involvement with transportation. I am in the Senate now 15 years and have been involved with transportation for all of those years, because in my State transportation is the lifeblood of our existence.

So I favor spending more money on transportation infrastructure. I favor the modality of rail and high-speed trains and aviation and highways and waterways. We are now seeing a proliferation in the New York area of ferries crossing the Hudson River and the East River to get people from State to State without having to wait for long lines through tunnels and bridges and congestion, and working very well.

So all of these things have to be considered. I want us to invest in all of them. What I am talking about this very day is to consider that these are national obligations and we ought to invest accordingly.

Any legislation we consider and pass should recognize the fact that what we face in critical transportation corridors is crumbling infrastructure, roadways that are falling apart and unable to bear the load they carry.

My plea here is for prudence and sound economic policy. What I am talking about is ensuring that our tax dollars are used wisely and well and that our transportation policies will meet the real needs of both today and the next century.

We underinvest in our transportation infrastructure, Mr. President. Our Nation's future standard of living depends on our infrastructure. Yet, for many years we have failed to make needed investments, and Americans are paying a price for this failure. In metropolitan and suburban areas throughout our country traffic congestion has become a major problem. Commuters waste hour after hour sitting in traffic. They sit in their cars unproductive, tempers running away from them, time lost, time away from families, away from spouses, away from children. It is a terrible waste of time, and it is eroding the quality of life for millions of Americans.

Our roads are not being maintained. Potholes mar our streets and highways. Bridges are deteriorating. Our railroads and transit systems are not being maintained sufficiently nor being invested in sufficiently to take advantage of new technologies.

Too many airports are underequipped, and delays are rampant. The sky can be used far more efficiently than we are using it. We get tied up with weather delays in this country. In other countries, some of them have figured out how to land in weather in which it is almost ground zero. It is because the technology is available. We do not use those techniques in our country. The scope of these problems is enormous, Mr. President.

In 1994, the Federal Highway Administration estimated that 57 percent of all roads have been allowed to deteriorate into poor quality, into mediocre or fair condition. They also estimated that 30 percent of major urban roads suffer from congestion.

According to the 1995 National Bridge Inventory, there are 186,000 structurally deficient or functionally obsolete bridges. That is a terrible condition. We have seen the bridge collapses. We have seen tieups around bridges. We have seen sudden emergency calls to replace the bridges which cannot be done in a hurry. We ought to be taking care of the maintenance of these things in a proper fashion.

Mr. President, failing to meet our transportation infrastructure has real economic needs. One study estimated that congestive roads in our Nation's 25 largest urban areas costs motorists $43 billion annually in wasted time and fuel— $43 billion. I guess when it is said like this, the impact isn't real. When it is translated into costs per person or cost per family, it comes down to a significant burden that we all have to carry.

Another study estimates that American motorists spent an additional $21.5 billion in extra vehicle operating costs in 1994 as a result of driving on roads in poor or fair condition.

I will not identify the community, but I was driving Friday night, it was after dark, about 8 o'clock at night, and I hit a pothole that was so deep that I thought the wheels fell off my car. I got out to see if there was any damage, and I could not see it. But this thing was 1½ feet deep. Imagine hitting that if you are going 30 miles an hour and suddenly—and it had to be 2 feet wide, so it caught the wheel very, very fully.

We see it all the time in all the States across the country. I hear about the condition of roads. The Senator from Illinois held up a newspaper article in which it said Illinois had among the worst roadways in the country. Well, I think that can be imagined by lots of people as they travel the roads in their own States. It is an inexplicable condition that arises around when we say that we want things to be better but we are unwilling to make

the investments in maintenance and care that we ought to.

Meaning no slight to the auto and truck repair industry, with statistics like these it is clear that at least one sector of our economy will continue to prosper if these conditions are not addressed.

According to the Department of Transportation, in 1994, $57 billion in capital investment would have been required from all levels of Government just to maintain—now that is in 1994, $57 billion would have been required just to maintain 1993 conditions in performance. Imagine that. In 1 year we created a need for $57 billion in capital just to maintain the level of quality that existed on our roads.

In 1993, by comparison, we spent only $40 billion on highway and transit capital investment compared to the $57 billion that would have been required a year later.

In other words, to simply maintain current conditions and performance on our highway and transit systems we would have to have increased investments by over 40 percent. This kind of dramatic underinvestment, Mr. President, simply cannot be sustained without our entire country paying a severe price in the long run. Keep in mind, Mr. President, that what we need to do more than simply maintain current conditions of performance if America is going to compete successfully in the future, we need to make improvements, as well. There is just no escaping the need for a greater commitment of resources.

For example, to invest in all those highway improvements that would yield greater benefits than costs, the Department of Transportation estimates we would have to invest $80 billion. In other words, to improve conditions to optimal levels based on economic and engineering factors, we have to double our current capital investment in highway and transit.

We, in this body, often talk about the importance of the marketplace in driving the economy. Well, Mr. President, I have owned, started, and operated a business and I know firsthand that investment in the long term is required. The first question that we should ask of any legislation that purports to address transportation needs is whether in the long term it is going to help or hinder our Nation's ability to compete effectively in the global marketplace, and whether it will meet the needs of our citizens on a day-to-day and year-to-year basis.

I feel especially strongly about the importance of transportation because in my State, as I said earlier, it is critical.

Mr. SARBANES. Will the Senator yield?

Mr. LAUTENBERG. I am happy to yield to the Senator.

Mr. SARBANES. This transportation bill is critical to every Member of the Senate. It is highly critical to every State, is it not?

Mr. LAUTENBERG. It certainly is. To answer the question of the Senator even more broadly, the fact of the matter is that in this change in program some States have had adjustments that are as high as 48 or 50 percent over their previous year, while other States took a cut. So when the Senator asks is it critical to every State, absolutely.

In a State like that of the Senator from Maryland or my State, it has a unique character because of the crowded conditions under which our people live—densely populated States, metropolitan States.

Mr. SARBANES. If the Senator will yield further for a question, I simply ask the Senator, in fact, my State is the second-highest traffic density on the urban interstates of any State in the Nation. You may be No. 1. Now, that makes a very important point.

The purpose of the Federal Highway Program is to provide a high-quality road system. I understand the claim of donor States and I am not trying to minimize that. I think attention has to be paid to that.

On the other hand, I always thought that the system was directed toward the system's needs. The purpose is to construct an interstate highway system that serves the entire country, and I think if you are going to have real equity in the distribution of highway funds you need to look at things like urban areas of highway traffic density, high volume of vehicle miles traveled per lane mile, other systems that indicate how heavily the infrastructure is being used. I understand in rural States they have a different kind of problem and we need to take account of that as well.

One of my difficulties with this bill, and I ask the Senator whether it is the same, if he has the same perception, is that this aspect of developing an interstate highway system—of course, we built the system. Much of it now needs repair and rehabilitation

Mr. LAUTENBERG. Or maintenance.

Mr. SARBANES. In my State, we have not yet finished the interstate system. We have some very pressing problems in the western part of my State with respect to certain interchanges. It was not done the way it should have been done to begin with, and we now have to address that problem.

I say to the Senator from New Jersey, I take it it is your perception, as well, that these considerations of system need and the needs of the heavily urban areas in which there is this very heavy, heavy traffic, have not been adequately addressed in this legislation.

Mr. LAUTENBERG. I could not agree more.

What has happened is the proposed formula is a much more mathematical exercise. It says if you put in this dollar's worth of gas tax, that you have to get back your dollar's worth of investment in the highways.

On the other hand, States like yours and States like mine get a far less return on our total tax dollars, those dollars sent to the Federal Government, than many or most States in the country. In my case, we happen to be number 50 in return on dollars that we send down to Washington. This was one place that there was an opportunity to regain some of the advantage that was rightfully ours, and it is being ignored.

So to answer the Senator's question, there are many conditions that ought to be evaluated in terms of a national transportation investment that go beyond simply the dollar-for-dollar return on gas tax. It ought to consider what contribution does the State of Maryland, does the State of Rhode Island, does the State of New Jersey make to the national economy, to the national well-being as a result of having its roads available and open and in decent condition so that traffic that goes from place to place—from the market, from the farm to the port, from the factory to the airport—what kind of a return ought we to get for that? What kind of compensation ought we get for that?

Mr. SARBANES. If the Senator will yield further, I think he is addressing a very important point.

Let me give an example from my State. Maryland has one of the highest density levels on urban interstate in the country, as I said before, second. Apparently, New Jersey is first. The Baltimore-Washington region interstates are the second most congested in the Nation. Now, my colleagues can appreciate this because they are here in Washington and they have some experience with this highway network I am talking about.

We are in the center of the I–95 corridor, the north to south corridor. This corridor generates a huge amount of commercial and passenger traffic. It is adjacent to the Nation's Capital which generates additional commercial and personal through traffic. We are serving not just our own needs but national needs by having a first-rate interstate system here. In fact, we have a disproportionately large responsibility for complex infrastructure projects that need maintenance and rehabilitation. These projects—I–95, the Capitol beltway, the Baltimore beltway, I–70—all carry through traffic generated outside the State of Maryland. Now, there are other States along the eastern corridor—New Jersey is an obvious example—that are sort of through States. In other words, a lot of highway traffic is moving through those States, going from one point to another point, and neither point related to the State through which they are passing.

Yes, we have to invest significant amounts of money, not only the Federal share that we receive, but State and local share as well, in order to maintain this highway network if we are going to maintain the existing infrastructure and have the efficient movement of freight and passenger traffic.

Now, my perception of this bill is it does not adequately address that consideration, that that is one of the things that has not been focused on.

The formula allocation represents a very significant drop for my State from 1.72 to 1.51. The amount of money now that is provided for the interstate discretionary program, as I understand it in this legislation, is severely limited. As I understand it, and I ask the Senator from New Jersey, there is only $140 million a year nationwide for both interstate highways and bridges, is that correct?

Mr. LAUTENBERG. That is correct, and it is an appropriate deficiency to note.

By the way, as the Senator talks about the State of Maryland and a change in formula, ours goes from 2.82 to 2.41. There is a difference of more than 15 percent in just that change in formula.

The Senator was not in the Chamber when I talked about the fact that if changes were necessitated in formula, they should have been debated at length. They should have had the appropriate kind of committee reviews. I know the Senator sits on the committee where transit needs are considered. We have the Commerce Committee involved with aviation and rail, we have the Environment Committee on which I sit and under whose auspice this bill is presented for highway and road travel. To suddenly change that formula without considering the national aspects of the requirements that Maryland has imposed upon it or that New Jersey has imposed upon it—Maryland happens to be in a critical location in terms of our defense needs. If there is an emergency, we have to be able to move troops and equipment through in a hurry. That readiness costs something to maintain.

There is also a requirement, I know the State of Maryland shares with New Jersey an interest in having high-speed rail service pass through your State and commuter rail service. Look at the success we have seen just with the establishment of WAMATA. The investments in those areas are critical if we are going to have a national perspective.

Can you imagine a system to serve the Capital and environs that isn't contributed to in significant measure by the Federal Government? As it happens, it is, but it describes very poignantly the need that exists when you participate in a national scheme.

Mr. CHAFEE. Could I make a correction? The Senator from Maryland was in error in a statement.

Mr. LAUTENBERG. I am happy to yield for a response.

Mr. CHAFEE. There was only $140 million available for interstate repair and maintenance. That is in the Secretary's discretionary account and that is exactly what he has under the currently existing ISTEA measure, but divided among the States it is some $6 billion—with a "b" for billion.

So it is a long way from the $140 million the Senator thought was all that was available.

Mr. SARBANES. The amount that is divided among the States, as I understand it, is a formula allocation.

Mr. CHAFEE. That is right.

Mr. SARBANES. I recognize there is a formula allocation. Here is the problem, and I am glad the Senator interjected because I think it is very important to focus on this problem. I understand the committee's problem. The committee had to do a formula allocation, Members are at them from all over the place, about the formula allocation.

Now, I concur with the Senator from New Jersey, and I appreciate his continuing to yield to me for a question. We didn't know what the formula figure was going to be until the committee came out with the formula figure, and then we were presented with this formula figure. So we take a strong hit on the formula which I think does not adequately recognize the kind of transportation challenges with which we are confronted which have a national import.

Now, in addition to the formula allocation, there are also other moneys that are available in the legislation—various discretionary programs. The interstate discretionary program is one, the public land highways is another, the Appalachian regional highway program is yet another, and there are others, as well, which can be used if the committee is saying to us we can't do the formula allocation in a way that takes into account all of these considerations. Then the least the committee should do is have these other programs which can then be used to offset the unfavorable impact of the formula allocations. It is my perception that that hasn't been done, as well.

Now, we have one unique problem in my State that I want to bring to people's attention, and that is, the Federal Government owns the Woodrow Wilson Bridge; it is federally owned. It is the only facility on the interstate system in which that is the case. Now, the committee has provided $900 million, and that is certainly an important step forward, but it is barely over half of what would be required to get a new Woodrow Wilson Bridge, which every expert agrees is necessary.

Now, the States have indicated that once a new bridge is done, they are willing to take over the responsibility of maintaining it from then on out. But it is clearly unfair to dump the responsibility upon them that was not met by the Federal Government. There is no way the States can pay for this thing. Maryland receives, under the formula allocation, a little over $300 million a year in Federal highway money. We are going to need, for one bridge, $1.6 to $1.8 billion, and this legislation provides $900 million. I think it is the Federal Government's responsibility, frankly, to deal with the problem of this bridge. They need to face up and deal with that problem. Once they have dealt with it, then it can be shifted over to State responsibility. But you ought not to dump this responsibility, which the Federal Government failed to meet, upon the State. So this is a whole list of the kind of problems we are talking about, which this legislation fails to come to grips with.

(Mr. SANTORUM assumed the chair.)

Mr. CHAFEE. Well, if I might say to the Senator from Maryland, $900 million gets you a pretty good bridge, I think, if the Senator is discouraged by only $900 million for the bridge. I appreciate their approach to that as well. There have been some estimates that go as high as $1.6 billion. But the Senator ought to be aware of what the House proposal is.

Mr. SARBANES. I am aware of what the House does. I am not arguing the House bill.

Mr. CHAFEE. The House bill left it entirely up to Virginia and Maryland. So I would hope that the Senator would be somewhat grateful for what the Senate is doing.

Mr. SARBANES. Well, I think we indicated that we understood the committee has done something. I am pointing out that it is not adequate to meet the problem. This is a pressing problem in the interstate system. The House approach would actually create a gaping hole in the interstate system. I think the committee recognized that problem at least. But, again, I am talking about this in the context of the other things that are happening in this legislation. If the committee came to me and said, look, we have to redo a formula allocation, we understand the problems it creates for you, we understand you have some other pressing highway needs, and we are trying to help you address those, but that hasn't happened. Any effort to try to get at that hasn't met with any success.

I understand the committee has a difficult job and I, frankly, have been supportive of the effort to try to find more money with which the committee can work. I say to my friend from New Jersey, isn't it a fact that if more money were available, it would be easier to work out these problems?

Mr. LAUTENBERG. Absolutely.

Mr. SARBANES. Some of us have supported the committee in its effort

to find more money, and you come in and you are confronted with a bill like this.

Mr. LAUTENBERG. I had an opportunity earlier today to talk about that. I will soon yield to my good friend from Montana. I had an observation earlier today in a discussion that we had in miniconference out here that more money is more money, except that if more money comes and we continue to lose our share, it doesn't do what we think it ought to do, which is to improve the system generally, but not at the expense of our respective States. That is really the nub of our discussion.

If the Senator from Montana is asking if I will yield for a response, I am happy to yield without losing my right to the floor.

Mr. BAUCUS. I thank the Senator. This is basically a discussion here on the bill. Obviously, it is the goal of the committee and the Senate to come up with a fair highway bill. That is what the Senator from Rhode Island is attempting to do and the Senator from Virginia, who was on the floor, the Senator from Montana, and the two Senators now speaking seek that same goal. It is also true that we are in a transition.

This country is changing. The country, in 1997, is not what it was in 1987, not what it was in 1980. The fact is that, in 1991, in an ISTEA bill, the highway bill, this Congress essentially did not update data. It just took the 1980 data. That is, lane and miles traveled, vehicle miles traveled. We even used a postal roads component which was enacted maybe at the turn of the century. We used very old data when we wrote the ISTEA bill that we are now currently operating under. It is just unfortunate.

At the same time, in the earlier ISTEA bills—not the one before us, but current law and the earlier one—the main effort was to complete construction of the interstate system. That was the main purpose of the program in the first place. The current ISTEA bill—not the one on the floor, but current law—based its formula essentially, as I said, on old data and upon completion of the interstate program, and that is what we did.

In 1991, we just built upon the earlier data, which was data for the completion of the interstate. And in this last ISTEA, we then apportioned more dollars to States which were completing their interstate system, compared with States that were not completing their interstate system. And the current law basically completes construction—not maintenance, but construction—of the interstate system. And so now, in 1997, the new transportation bill we are writing is one that recognizes that the interstate system has been completed. We are now moving toward maintenance and intermodal systems, intelligent highway systems, and other programs to modernize, update, and make sure that the current transportation bill is no longer based upon older data, but rather is based upon current data.

That means that those States that got a lot of interstate completion money in the last several years are not going to get the same additional dollars in this bill for the very simple reason that their interstates are completed. On top of that, many States built their interstates financed with tolls. That is, Federal dollars were not sent to those States; rather, those States charged their motorists tolls and they built their own interstates, feeling that either they wanted to do it earlier or that way was a better way to do it, et cetera. A lot of these States, after completing construction of their interstate systems, based upon tolls, have now come back to the Congress—in fact, in the last ISTEA bill, they were able to convince this Congress that they should get reimbursed again, even though those interstate systems were paid for by tolls. This Congress paid Federal money again on top of the completion of the interstate.

So we have some States with lots of dollars in the last several years of the interstate system—that is, States with lots for interstate completion and States with what is called interstate reimbursement dollars going to those States. I know this is not a comfortable position for some of these States to be in when they look at only the dollars because, obviously, those States would like to have a percentage increase again in the current years over the past dollars they have been receiving, even though their interstate construction, which is more expensive in maintenance, is complete, and even though those States got interstate reimbursement dollars on top of interstate systems that were financed by toll roads.

So here we are trying to write a bill which recognizes, again, the completion of interstate construction and rather moves toward the current new era which, as I mentioned, recognizes the completion of the interstate construction. Now, the Senators make a very good statement and point when they talk about congestion and the number of miles—the amount of congestion on I-95 or on the eastern corridor. In fact, as the Senator from Maryland said, Maryland ranks second in the Nation in urban congestion. That is a fact. The State that ranks No. 1 is California. New Jersey is not too far down the list.

My thought here is that we have the challenge before us of trying to address what I think are legitimate concerns and that is the congestion factor that the Senators talk about. We are operating under very severe constraints; that is, the amount of dollars in this ISTEA bill is pretty tight, based upon the budget resolution, the President's proposal to Congress, and the increase in ISTEA dollars in this bill is not as much as was the increase in ISTEA dollars in the last ISTEA transportation bill. So it would be my thought that we find a way to amend this bill so that, in effect, if not this year, at least next year, there are potentially more dollars available, and in a way that certainly it may recognize the concerns of the Senators.

I am not prepared at this point to say what that might be. There needs to be more discussion to determine that. But I think that if the amendment that we know is going to come up is passed, there might be a way to address that. You certainly have the assurance of this Senator to work in the context of that amendment to see if we can potentially address some of the concerns the Senators have. But the main point is that we are trying to work this all out. We hear what you are saying. There are many opportunities: there are amendments, there is a conference, and it is my hope that we can pass a bill which is fair to all regions of the country. You have my assurance that I will do all I can to achieve that goal.

Mr. LAUTENBERG. Mr. President, I hear the Senator from Montana's interests and concerns. I know that he is sincere. We have worked together for many years, as I had with the chairman of the committee. But if this bill goes as it is, the chances for recovery, I think, are pretty slim. And once in place, we will be running uphill to try and recover.

What I would rather see is some kind of a consensus developed that includes the States that are now disadvantaged. I was looking at the States and I see that percentage points in a State that borders both of our States—Pennsylvania—is down to 20-some percent from its formula share from where it was —22 percent, I think. We can't deal in this room, at the moment, with the poor fate that befell Pennsylvania. I don't know how their Senators are going to respond to it. I think if an adjustment is going to be made in the formula, there has to be a period of transition so that States are held harmless from where they were as adjustments take place. This isn't to suggest that review is out of order, not at all. I think reviews of the formula are always in order. But I think the Senator from Maryland made an important contribution to this debate when he highlighted the national interests and national obligations that some of our States have, being corridor States, as expressed earlier by the Senator from Illinois. A corridor that runs east and west produces a lot of traffic through the State of Illinois.

Mr. SARBANES. Will the Senator yield for a moment?

Mr. LAUTENBERG. Yes, I will.

(Mr. ALLARD assumed the chair.)

Mr. SARBANES. My State has one of the Nation's great ports, the Port of Baltimore.

Mr. President, the road network from that port to the West is critical for the commerce of the Nation—not just for the commerce of Maryland, but for the commerce of the Nation. A proper system of access for the movement of goods is extremely important to the economic health of the country. So all of this needs to be taken into account. We are on a major corridor for the movement of passengers and traffic north and south, and because of the port, we have a major corridor that goes to the Midwest that is critical for the economic activity in the Midwest. In many respects it is more critical for the economic activity in the Midwest than in my own State. Those things need to be considered in this legislation.

The Woodrow Wilson Bridge that we talked about—and I think the chairman is right, they have certainly done a better job than they have done in the House. But we still have to get up to a point where we can do this bridge, and this level will not allow that to happen. That is a major link on the entire interstate highway system. Every expert who has examined it says the bridge needs to be replaced within the next 5 to 6 years. We have to move on that project.

Those are items that could be addressed I think in this legislation.

I also agree with the Senator from New Jersey. If you are going to start adjusting the formula in recognition of, let's say, population shifts, which is what the argument is that is being made, at the least—of course, I argue that you have to look at system needs in a much more significant way than I think has been done in this legislation. But leaving that to one side, at the very least, the transition period has to, in effect, cushion the impact of it so that States don't all of a sudden find themselves unable to carry through on committed transportation projects which are essential for the vitality of their economy. That is what the whole issue is that we are discussing here.

Mr. LAUTENBERG. Mr. President, the Senator is right. The fact of the matter is that among the items that have to be considered in establishing a proper formula has to be the amount of mileage recorded within the States' roadbed systems. In my State we have north-south I-95, east-west through to I-80, and all kinds of cargo and material pass over these roads and cause enormous traffic congestion in New Jersey. Our roads are beat up, with heavy trucks taking more than their fair share of the abuse. We stand there and kind of grin and bear it. But it is in the national interest.

If one wants to use an analogy, we have to look at what happens in environmental legislation. New Jersey, being in the location that we are on the east coast, is the unfortunate recipient of material carried by the prevailing winds from west to east. They carry all of the pollutants and all of the particulate that is thrown up by stacks across the rust belt, or the iron belt, or the steel belt in the midwestern States. Some of that material travels hundreds of miles to arrive at its place of deposition, which is New Jersey, Maryland, and New York, in the eastern States.

So, as we consider environmental legislation, we try to accommodate what causes the problem. The problem is caused by the energy and industrial nature of things from the Midwest. That is part of the formula. Here we are saying, listen, as we create new formulas, we ought to debate them more thoroughly and let's talk about the congestion on our roads that we receive as a result of being a corridor State.

New Jersey is a corridor State. Commerce travels in the Northeast and the rest of the country. Over 60 billion—with a "b"—vehicle miles are traveled on my State's roads annually. Our State is the Garden State. It is one of the most important links in our Nation's transportation system.

The Senator from Maryland talked about the value of the port. I know that the Senator from Rhode Island, the chairman of the committee, is trying valiantly to improve the efficiency of the port outside of Providence by making sure that there is rail access and truck access that is good. I respect him. And, frankly, I see it as a positive thing for my State of New Jersey. Could it be competitive? Of course, it could be competitive. But I don't look at it that way. I think our country is obligated to continue to produce to the best of our ability to the maximum of our capacity. So we need these facilities.

So whether it is specifically located in New Jersey or Maryland or Rhode Island, the fact of the matter is that what happens in the West, what happens in the South, and what happens in the center of the country depends very much on the capacity of our States in the East to be able to help their export market, which is such a big part of things, and also the industrial market because parts go from one place to another and assemblies are done in different States often than where most of the parts are manufactured. It is an essential part of our national being. Ten percent of the Nation's total freight either originates, terminates, or passes through New Jersey. Almost 60 percent of this tonnage is strictly through traffic. Imagine that, 10 percent. Goods traveling just 24 hours on a truck from New Jersey will reach a market of 40 percent of the population of the United States and Canada—over 100 million people.

Mr. President, these aren't just cars from New Jersey; they are vehicles from every State in the Nation, as well as Canada, Mexico, and other nations.

In short, and to rephrase an old joke—I don't like jokes about my State—but if you are traveling on the east coast and you don't go through New Jersey, you just can't get there from here.

Millions of people travel along New Jersey's highways. They travel from the South, the West, New York City, Boston, and New England. People in New York and New England on their journeys travel to places like the sea shore, Florida, Washington, DC, the Eastern Shore, or trying to get to Long Island Sound and sallying up out of Rhode Island and those places. So we have to make sure that our roads are efficient and functioning, and that we are not drowning in pollution.

Every day 324,000 tons of goods made in my State of New Jersey are transported on New Jersey's roads by 134,000 trucks. Many of these trucks are coming from the ports of Newark and Elizabeth. They are transporting cars and other goods that arrive from countries like South Korea, Great Britain, Germany, Taiwan, and Indonesia. The entire port of New York and New Jersey is the busiest port on the east coast. Despite the critical importance of New Jersey's infrastructure to the Nation, it is in dismally poor shape and getting worse by the hour, by the day, and by the week. Nearly 20 percent of New Jersey's interstate mileage is in poor or mediocre condition, and more than 45 percent of our bridges are in deficient condition. They are functionally obsolete in many cases.

Mr. President, New Jersey's roads and bridges take an unbelievable pounding in hot summers, and harsh winters take a huge toll on our infrastructure. Road salt in the winter and ocean salt year round add to the damage.

In addition, New Jerseyans and those who travel through my State often face unbearable congestion. Travelers in cars and trucks struggle for hours every day with New Jersey's highway stops and starts, and our heavily used roads and bridges are badly in need of additional maintenance.

Mr. President, the status of New Jersey's transportation infrastructure has a direct effect on the State and the region's economic vitality and on every resident's quality of life. But more importantly, it affects the entire Nation's economic vitality. The future challenges to that infrastructure are ominous. In the next 6 years there probably will be more travel on our roads, more cargo coming into our ports, and more rapid deterioration of our transportation infrastructure. That is not a particularly pleasant prospect, and I think that we have to prepare for it in the best possible way. The best possible way is to recognize that States like mine and those such as the State of

Maryland have unique conditions that have to be met.

I once again would like to review and restate the number of States that are included—Maryland, New Jersey, Pennsylvania, Ohio, California, and Massachusetts, to name but a few. There are eight States in all that seem to have the heaviest share of the load. Unfortunately, the ISTEA bill before us does not adequately respond to the challenge that we face. It doesn't address New Jersey's growing needs.

Note that the highway title addresses density on highways, or congestion. While it recognizes the particular situation of some States, when it comes to heavily used, densely populated urban States with significant commerce and trade traffic, the bill is virtually silent. If a State's motorists choose to not guzzle gas, either by using mass transit, walking, or biking, this bill will penalize them. Therefore, it has to be improved. I am not saying that New Jersey should get more than its fair share. I am simply saying, Mr. President, that it should and must get its fair share—nothing more, nothing less. The bill just doesn't do that.

Mr. President, there is another bit of word and verbiage that goes into the debate on highways. We talk about donor States and donee States. The distinguished colleague of ours from Louisiana said you can't explain that to the folks back home and said they want to see whether or not their road and their infrastructure is getting attention, whether the potholes are being filled, and whether the roads are being maintained in a suitable fashion.

So I get tired of hearing complaints that emanate from the so-called donor States. To make it very simple for any who might be listening or watching, donor States are those that send down more in tax revenues, gasoline taxes in particular, than they get back. The others are called donee States. The donor States complain about how they don't get their fair share of highway and transit funding. Many of those donor States do quite well when one examines the total of Federal return on the dollar. Many of these States simply don't have the same needs as New Jersey and other high-density transportation corridors.

Mr. President, when it comes to defense spending, spending by the Interior Department, agriculture spending, many urbanized, densely populated States come out year after year after year as big losers. But we have not said yet that the Government must spend as much on national parks in our region as we spend in western States. We have not yet demanded an equal share of the defense spending or an equal share of agricultural spending. It is not realistic. Those States that now have these investments being made have particular needs.

Those needs strike me as being part of the national requirement. If there is a national park in Colorado, I would like to see it maintained because in visits by my constituents or my family or people from around the country, I want them to be proud of it. I want them to say, why, there is nothing prettier than Estes Park and other parks that exist in Colorado, and so it should be. I want to make sure if airspace is needed so that our airplanes can fly and practice and train—our Air Force Academy is in the State of Colorado—we continue to invest in that and in that skill we have. I think it is going to be more required in the future. But a large part of that investment vests in Colorado. So what. It is part of my national interest.

Or an equal share of agriculture spending. New Jersey is still called the Garden State, and despite the density of population that we have—the most densely populated State in the country, I remind everybody—about 25 percent of our State is still forested, and that is really pleasant to see. I see it often from airplanes. We have one reserve that is a million acres today. But we are not looking for assistance with our agriculture, even though our farmers perform an important service for the community, because these demands are unrealistic. They do not take into account the real needs of the entire Nation. They do not consider that there is a benefit for all Americans by strategically focusing resources to meet critical problems.

I said earlier and I repeat, when floods took over the Dakotas and parts of Minnesota or Missouri, I wanted us as a country to help out, and I was very vocal about it. I felt it was a responsibility that we had, again, to confirm that we are one nation.

The fact is each State has its own individual needs, and they change from time to time. New Jerseyans send $15 billion more per year to Washington than they receive in total Federal dollar return—$15 billion more. The Federal Government's job is to apportion funding where need is greatest, and sometimes we swallow hard and we say, if one State has a higher need for family spending, welfare, OK, we are willing to take some share of that.

On the other hand, Mr. President, when it is our turn, I think we ought to get some consideration. The one area where we are a donee State is transportation, and that is because there was some recognition that so much of the Nation's traffic load was carried by the State of New Jersey. But now the intention is to change it. If I may say so—and I do not mean to castigate—the fact is that it was almost whimsical in its development, because States like mine took some pretty big hits.

Well, my State and my region's needs are largely in transportation. That is our equivalent to agriculture for Iowa and Nebraska and those States. We are in the most densely populated part of the country, with some of the most highly traveled and congested roads. Anyone who has driven the New Jersey Turnpike, Route 1, Atlantic City Expressway, Interstate 80 can attest to these needs. As I have already noted, many of these vehicles on these highways are from States other than New Jersey. My kids used to love to play a game when they were little. We would write down the States from the license plates that we saw, and we would get pretty close to 49 besides ours because there were so many. I didn't always enjoy being in the middle of that confluence of traffic, but at least it kept the kids seated.

Mr. President, New Jersey isn't just asking from the Federal Government transportation dollars. We are investing our own funds in our infrastructure as well. State and local governments in New Jersey spend more highway dollars per lane mile than any other State in the Nation—our money, reinvested in our infrastructure. We made this commitment to transportation simply because our needs were so great. But that does not excuse getting our fair share from the Federal Government.

There is nothing in any study, census projection, or economic trend to indicate that these needs will diminish in the future. In fact, quite the opposite is true. Some States are arguing that they should get back at least 90 percent of those payments they have made into the highway trust fund. But I still think that their needs have to be examined before that return is justified. It is part of a contribution to the national well-being, and it makes no sense to take away funds from regions that have greater needs.

I remind everyone that we are a single nation, one nation, and not a collection of autonomous sovereignties. Can you imagine what would have happened if at the Constitutional Convention our delegates included a clause in the Constitution mandating that each State must get back from the Federal Government 90 percent of what it paid in taxes? What would have happened to our country? We have people now who individually say, well, I don't want to pay for this. We have people from extremes on the right like militia who say, I don't want to pay for the kind of liberal judicial system that we have, or I do not want to pay for that program or this program. Then we have people on the other side who say, I am unwilling to have my dollars go for defense needs. But we say, too bad; you are an American; you are part of American society. You are part of a great nation. You are part of a country the likes of which has never existed on this Earth before and perhaps never will again. But we say, that's your obligation. We are one country. We are one people with sometimes different actions, but we come together when we have to.

Those of us old enough to have served in World War II saw it, as did the distinguished chairman of the Environment Committee, who had a very distinguished war record. Mine was not so distinguished, but I did what I had to in Europe in World War II. We came together as a country. We sometimes forget that obligation, that we are one nation and we ought not to pick at one another's opportunities or advantage and say, OK, you've got this because you are a donee State and therefore we are going to take it away from you.

Unless the whole picture is examined, it is not a complete one. We certainly never could have maintained our great national parks and forests; we could never have saved thousands of family farms from bankruptcy in difficult economic times; we could never afford to pay for emergency relief from earthquakes, floods or hurricanes; we would certainly not have a national transportation system; some States would have paved roads and some States would have dirt roads; there would be no interstate highway system, no airports in rural areas if we said it wasn't part of the national responsibility.

I repeat that I am a supporter of essential air service for which the Federal Government pays a significant subsidy. For every passenger that flies into some of those airports, the Federal Government will pay two or three times, four times the cost for the seat because we do not want to see those communities isolated. They are very dependent. So we say, OK, it is part of an obligation we have. We certainly wouldn't have a national passenger rail system. It may be more regional than national, but it travels through important regions of the country. I don't know of any State, as infrequent as Amtrak rail service might be, that wants to give it up very quickly. We would not have a space program; we would not have a National Science Foundation; we would not have the National Institutes of Health; more importantly, we probably would not exist as a nation because we would have no national defense, no Army, Navy, National Guard, Air Force.

Thanks to the wisdom and forethought of our Founders, there is no minimum guarantee clause in the Constitution except to protect the individual rights. Perhaps some in New Jersey think we might be better off if there were. We have a high per capita income, but we ought not to be penalized for it. We make our contribution in many ways. The fact is our Nation is stronger because Federal aid has been provided to areas with the greatest needs, and that is the way it ought to be.

I want to talk for a moment about another matter that is important to my State, mass transit. Good public transit increases the efficiencies of existing roadways, especially in congested areas where many people live. Transit is essential to rural, suburban and urban residents. It is a cost-effective solution to health care access, a key to successful welfare reform, and an environmentally sensible way to meet commuting needs. It is an increasingly important service for the elderly, for persons with disabilities, for students and those who cannot afford a car.

Anyone who questions the necessity for transit services only has to visit some of the more populated States like New Jersey or New York or California, where they do not have enough public transportation, or Maryland or the District of Columbia. The most densely populated State in the Nation, New Jersey has also the most vehicle density on its roads. Located between two heavily populated metropolitan areas, New Jersey is known as the corridor State. Over 60 billion vehicle miles are traveled on New Jersey's roads annually. The ability of trucks and cars to move freely on New Jersey's roads directly affects our economy. It affects the congestion, which has a dramatic effect on the individuals living there.

It is also a primary commuter State. Millions of New Jerseyans face serious commuter problems each day. In many areas of New Jersey there is nowhere else to put a new road. Many of our people work in New York City, and their residences are in New Jersey. Or in the southern part of our State, many of our people work in the city of Philadelphia. They have to be able to get back and forth to work. But we simply can't build ourselves out of congestion. That is why my State is so heavily reliant on mass transportation. Nearly 10 percent of the New Jersey work force uses mass transit.

We have a line just recently created called the Midtown Direct, a project in the urban core, which is a program very successful thus far, designed to bring together railroad connections that exist throughout our State into New York. Midtown Direct was one part of it, and it was inaugurated 1 year ago. Within weeks, the ridership doubled its projections.

Transit in New Jersey is well used and well supported. Nationally, transit has also proven to reduce congestion and, of course, save dollars.

A 1996 report conducted by the Federal Transit Administration found that the annual economic loss to U.S. business caused by traffic congestion is $40 billion, and the additional annual economic loss if all U.S. transit commuters drove instead would be $15 billion. So we are looking at huge differences in our economy.

It is also obviously good for the environment. According to the Federal Transit Administration, transit use saves 1.5 billion gallons of auto fuel in our country each year, 1.5 billion gallons. If one wants to worry about what happens to America's independence, one need only look at the quantity of imported oil that we are bringing into the country. Transit is energy efficient, and the less gasoline used the less the United States is dependent on foreign oil.

Americans also see direct public health benefits from transit use. According to the Environmental Protection Agency, up to 110 million Americans breathe air that is unhealthful. The American Lung Association estimates that the national health care bill for air-pollution-related illness is $40 billion a year. Transportation sources cause 40 to 60 percent of pollution that produce ozone, and 70 to 80 percent of carbon monoxide emissions. Nearly one-third of carbon dioxide emissions, the most significant greenhouse gas, comes from transportation sources. And, on this debate, no matter how detached or how unbelieving a person might be, one cannot be unconcerned about what we see happening with our climate, what can be happening with our health in this country. Much of the problem, in my view, emanates from the fact that we have these emissions in ever-increasing quantities in this country, as much as we fight against it.

The fastest growing source of carbon dioxide emission is the transportation sector. Transit produces real environmental benefits. On average, riding transit instead of driving cuts hydrocarbon emissions that produce smog by 90 percent and carbon monoxide by more than 75 percent. One person using mass transit for a year instead of driving to work saves our environment 9 pounds of hydrocarbons, 62 pounds of carbon monoxide, and 5 pounds of nitrogen oxides.

It doesn't stop there. Over the past 30 years, the U.S. transit industry and its riders have prevented the emission of 1.6 million tons of hydrocarbons, 10 million tons of carbon monoxide, and 275,000 tons of nitrogen oxides into the air; the importation of 20 billion gallons of gasoline; and the construction and maintenance of the 20,000 lane-miles of freeways and arterial roads and 5 million parking places to meet demands, saving at least $220 billion a year.

Transit is an important part of our Nation's transportation system, and we ought to ensure that it is afforded the same priority as other modes of transportation.

It is obvious, this bill also needs to address a crucial safety question, and one that I have worked on very hard over the years. That is, in the pursuit of safer highway travel we ought to do what we can to get drunken drivers off the road. This bill has to include a reduction in the blood alcohol measure, from .10 to .08 as a national standard. It is already, by the way, the standard in 15 States.

Let me explain why we need this new standard. In 1996, 17,000 people died in alcohol-related traffic accidents; 17,000 people. By the way, if we examine the history of the Vietnam war, where we lost over 50,000 of our service people, the high year was about 17,000 people killed. Every year in America, 17,000 people die in alcohol-related traffic accidents. It is a national disgrace. Of those, 3,700 people, almost 9 percent, had alcohol levels below the .10 standard that most States enforce. Mr. President, .08 BAC laws have proven to have an effect on even heavy drinkers. The beverage industry fights us, and will continue to fight us on this. They tell you that it will ruin business, that the .08 law targets social drinkers and makes criminals out of them. Nothing could be further from the truth. When I wrote the law that made the drinking age across this country 21, the minimum drinking age, the beverage and the hospitality people said you are going to ruin our business.

Ruin their business? We saved 10,000 kids from dying on the highways since I wrote that law in 1983. Mr. President, 10,000 families don't have to mourn the loss of a young child. One can hardly say that business in restaurants, taverns, and social places has been bad. They can't say it now.

To make the point, a man of my height and weight could drink four beers in an hour on an empty stomach and still not hit .08. If I drank a fifth beer, I would be over the .08 but I would still be under .10. Should anyone be legally entitled to drink that much alcohol and then get on the road? The question answers itself. Of course not. Keep this in mind, when you look at a group of people in a bar or restaurant having drinks, the .08 law would only affect one of those people, and that is the person driving a car.

We are not asking people to stop drinking. This is not a morality play. I am not telling people that they should not drink to their pleasure. If someone falls off a bar stool, as long as he doesn't fall on me it doesn't hurt me. But if he gets behind the wheel of a car, Heaven forbid, he could take away a child, a grandchild, mother, father, brother, sister. It should not be allowed. It's a criminal act. It turns an automobile from a thing of pleasure to a lethal weapon.

We say just control your habits. There is a point at which they need to put the cork on the bottle for their own safety and for the safety of everyone else who shares the road with them. Studies have shown that States that have adopted .08 laws have had significant drops in alcohol-related traffic deaths and that a national .08 law could prevent up to at least 500 to 600 fatalities a year. Just that difference, from .08 to .10, could save 500 to 600 people a year from dying on the highways.

In the State of Virginia, after it adopted its .08 law, it saw a drop not only in traffic deaths but in driving under the influence arrests as well.

The Federal legislation that I introduced years ago to make 21 the national drinking age engendered a heck of a fight with the liquor lobby. But the law has saved 10,000 lives, it is estimated. I believe that .08 will save thousands more in a period of time. If we want confirmation whether or not we are on the right track, the people who support the .08 limit include the American Medical Association, the American Insurance Association, the American Trucking Association, the National Safety Council, and the National Sheriff's Association.

Those who oppose .08, and I have to ask why, are principally in the beverage and hospitality area. We ought to let them know that we don't oppose social behavior of one's choice in restaurants and public gatherings, but we don't want to add anything to the fatality rate that can be prevented.

Another safety issue that we are talking about in the legislation is big trucks. Trucking companies are trying to get Congress to allow bigger trucks on the highways, double and triple trailers. My view, and that of many others, is no. Motorists in my home State of New Jersey want relief from the rising death toll of the past few years. Consider what we are talking about here. A triple trailer can be 120 feet long, longer than a Boeing 747 jetliner. And it can weigh 64 tons. That is quite a behemoth on the highway. I am sure if you let your imagination work, and think about what the consequence can be when you are driving on a highway on a dark night, it is raining, doing about 55, maybe 60 miles an hour. That's a safe speed in these conditions.

Suddenly a line of trucks starts to pass you. It is scary enough when the truck is a standard 44-foot length. But what is it like if a line of three of these 120 footers went by, each one of them three times, practically, the size of the single truck that has you worried in the first place? It would be like driving through an eclipse. For more than a solid minute the trucks would block your view of the road except for what is directly in front of you. For more than a minute your windshield would be sprayed by the tire wash off 32 sets of wheels.

Your heart jumps each time one of those triple trailers weaves slightly into your lane. You know this type of truck needs at least 1½ football fields to come to a stop. Imagine that, 1½ football fields. And it's worse in the rain. This kind of heart-thumping drive would become more common if we allowed triple trailers greater access to highways. I know the people in my State don't want it. In 1994 to 1995, fatal accidents involving trucks were up 13 percent. Trucking accidents overall were up 16 percent, 84 people died in each year, 1994 and 1995, and one stretch of road in my State, route 287, saw the numbers of accidents involving trucks quadruple between 1988 and 1994.

I agree with them, the only cargo vehicle this size should also have wings and be racing down a runway, not barreling down a highway.

Mr. President, the debate on ISTEA is not only inevitable, it's essential, because this is such an important piece of legislation in our national structure. I agree that the chairman of the Environment Committee, the ranking member of the Environment Committee, wants to do the same things in their objectives as I do, and almost everyone else does. That is to continue to invest in our infrastructure, our transportation infrastructure, making sure that we develop and refine, to the best of our ability, each of the modes of transportation: Highways, aviation, rail, transit, waterways. We want to know that all of these things are operating in the safest manner that can accommodate most of our people efficiently.

The potential is there. I have been working publicly and privately to help meet that objective, as have my colleagues, but this bill just doesn't do it. I want to help bring a bill to the floor that meets these needs.

(Mr. BROWNBACK assumed the chair.)

Mr. LAUTENBERG. Mr. President, I think our colleagues in the House have the right idea, and that is to pass a temporary extension. If we pass a temporary extension, I think it has to be based on the formula, upon the structure of ISTEA as it presently is, not a newer version that changes things. Then we can sit down and create a plan that is fairer to all States in all regions and addresses these crucial needs. But it will take some significant discussion.

This is a major, major change that is contemplated, and because it was concentrated in ultimately a few hands doesn't mean that it didn't pursue the right path, but what it does mean is that it has not fully considered all of the needs of the country, as we see from the resistance to this, opposed by a number of us from States particularly in the East, but not exclusively.

My proposal is to see if we can find, not necessarily in order of importance, A, a substitute; B, a program that in transition will give States a chance to make adjustment, will hold those States that are being asked to take less of the funding pie harmless from year to year as the formula changes. I think that is the fairest way to do it; C, to listen carefully to what our colleagues in the House of Representatives have to say about their version of ISTEA. I am not talking about the 6-month bill that we see out there, necessarily, because I don't see a 6-month

extension coming unless it proceeds under the present formula and structure. But to take perhaps another year in transition and try to develop a fairer piece of legislation, try to develop a piece of legislation that considers the needs, not just the tax cash-flow that results from gasoline taxes, because, to be repetitive for emphasis, just because a State sends down a dollars' worth of tax dollars doesn't necessarily mean that it ought to get a dollar in return on transportation investments if it, in fact, gets other returns that are far greater than the tax dollars they send down.

I call painful attention to the fact that my State is 50th in return on the Federal tax dollar. The State of New Jersey is 50th. To make it abominably simple, it means that if we send down a dollar in taxes, we get 69 cents back—69 cents; 31 cents of New Jersey taxpayers' contributions go to programs that benefit other States, other regions of the country.

We haven't seen a tax revolt in New Jersey. We swallow hard. We think we ought to get more. We don't have the need for an agricultural subsidy, but listen, if it is going to be given away, we are going to want our share. If when we do have some advantage because of need, like transportation, and we are not getting our fair share return on that, then we are going to say, hey, listen, when I look at the defense bill—and I sit on the Defense Subcommittee of the Appropriations Committee—I want to look at that bill to see if New Jersey gets a fair share.

How absurd a conclusion that would be. Can you imagine, someone looking at the defense bill and saying, "Wait a second, does my State get its fair share," or is the question really, is my country best protected? As silly as that sounds, to say, well, give me my fair share, that simply means spend the money in my State, even though we don't accomplish the objective, I hope that it will be out of consideration because it just doesn't make any sense.

A bill that doesn't take care of the needs of my State, which I interpret as the needs of the country, is equally unfair. So I hope as the discussion goes on that those who agree with me that this bill needs some further review—I realize that this is not untimely to consider reauthorizing the bill because the other one has expired, but I would like to make sure that we include the needs that my State and others have.

I would like to reread the policy statement that accompanied the original ISTEA legislation. These are the views of our distinguished colleague and friend to just about everybody here and one of the best-informed people on transportation infrastructure. That is Senator DANIEL PATRICK MOYNIHAN of the Empire State, the State of New York. Again, Senator MOYNIHAN has studied the transportation needs of this country. He knows so much about the origins of parts of our transportation system, going from the early canals to the development of the National Highway System. He said:

> I am especially proud of the principles we set out in ISTEA 6 years ago and wish to include them in this bill.
>
> It is the policy of the United States to develop a National Intermodal Transportation System that is economically efficient and environmentally sound, provides the foundation for the Nation to compete in the global economy, and will move people and goods in an energy efficient manner.
>
> The National Intermodal Transportation System shall consist of all forms of transportation in a unified, interconnected manner, including the transportation systems of the future, to reduce energy consumption and air pollution while promoting economic development and supporting the Nation's preeminent position in international commerce.

I think it is fair to say that that summarizes certainly the beginning principles of ISTEA's development, and we are living off of what I would say is a successful period of investment in our transportation needs, intermodally balanced, not quite perfect in every aspect, not quite sufficient funding.

When I see what we invest in our transportation infrastructure in this country, it saddens me because in some cases we are ranked among the lesser developed countries of the world instead of the most developed countries of the world. When I look at high-speed rail passenger service, our per-capita spending is way below the average, and it is not right. This Nation ought to have a transit that can move at 180 miles an hour on a consistent basis as they have in France, or faster in Japan. I saw the other day where a train in Japan for a limited length of travel was at over 300 miles an hour, and they are looking to make it even faster. It would relieve our skyways, it would relieve our highways, and would broaden the opportunity if we have the investment in intercity rail that we need.

So, Mr. President, I am sorry that we have not come to an agreement on what is an appropriate renewal or a new version of ISTEA as it expires. Again, I am hoping that we will have time for debate on it. It is also my understanding that we are going to have a discussion on the appropriateness of continuing an affirmative action program in ISTEA, and I welcome that debate because I believe that DOT's affirmative action program continues to be necessary and could withstand constitutional scrutiny under the standards set forth in the Adarand decision.

I have been told that the junior Senator from Kentucky may be offering an amendment to strike the Disadvantaged Business Enterprise Program from this legislation. Perhaps he is content to believe that we are now in a colorblind society, but I plan to oppose that amendment because I don't think we are.

The Department of Transportation's Disadvantaged Business Enterprise Program, or DBE Program, provides a 10-percent national contracting goal for socially and economically disadvantaged small businesses. Congress created this program in 1982 because minorities and women were shut out of transportation construction contracts, shut out not because they were any less able to perform the terms of the construction contract, shut out not because their bids were higher than their competitors, but shut out because they were not white, in some cases they were not men. We decided in the 1982 highway bill that the old boy network was no longer acceptable in Federal transportation construction contracts. We were right then, and the chairman of both the Transportation Subcommittee and the full committee were right to continue this program in S. 1173.

I expect we will hear opponents of the DBE Program say that it imposes a quota or a set-aside for women- or minority-owned firms. It doesn't do that. The statute provides a 10-percent goal which may be modified by the Secretary of Transportation. States and municipalities are able to set their own goals which may be higher or lower than 10 percent. If a State doesn't reach its goal, there is no adverse consequence.

I repeat, Mr. President, because it is an important point and one which the opponents to the DBE Program may not mention, the DBE Program provides a goal, and if States do not meet this goal, DOT does not directly withhold transportation dollars. There is no adverse consequence.

So why do we still need an affirmative action program for Federal construction contracts? Because we know the private sector looks to the public sector for leadership on this issue. If we eliminate the DBE Program at this time, we will return quickly to the good old boy network that excludes women and minorities. How do we know that? Because several States eliminated their versions of DOT's DBE Program, and within a matter of months, minority- and women-owned and controlled businesses received fewer, if any, construction contracts.

Minorities comprise approximately one-fifth of our population. Just under 10 percent of construction firms are minority owned and controlled, yet receive only 5 percent of construction receipts.

I will give you another statistic, Mr. President. White business owners in the construction industry receive over 50 times as many loan dollars of equity capital as minority owners with the same borrowing characteristics.

Mr. President, I ask opponents of the DBE affirmative action program to explain why these numbers are so disproportionate if we did, in fact, live in a colorblind society.

I expect, Mr. President, we are going to have a lengthy discussion about the DBE program and whether or not it is constitutional. Again, I look forward to the debate because I believe after a full discussion, the majority of my colleagues will agree that the DBE program is constitutional under the Adarand standard.

In the 1995 Adarand decision, seven of the nine Supreme Court Justices recognized the continuing need for affirmative action programs to remedy the lingering effects of racial discrimination. After Adarand, affirmative action programs must serve a compelling governmental interest and be narrowly tailored to address that interest.

The first court to apply this strict scrutiny standard set forth under Adarand found that Congress met the compelling-Government-interest component. It disagreed that the DBE program was narrowly tailored, but the district court judge went far beyond the Supreme Court's holding by virtually deciding that no affirmative action program can be narrowly tailored.

The Justice Department is rightfully appealing this decision.

Mr. President, there will be time to discuss this matter further at a later time. I look forward to that.

I am confident that the Senate will accept the responsibility of looking at this program calmly and rationally rather than simply trying to fuel the fires of passion and hatred which the issue of affirmative action can ignite. Should the junior Senator from Kentucky offer this amendment, I hope my colleagues will oppose it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CHAFEE. What is the question?

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

INTERMODAL SURFACE TRANSPORTATION EFFICIENCY ACT OF 1997

The PRESIDING OFFICER. The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

(The parts of the bill intended to be stricken appear in black brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1173

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intermodal *Surface* Transportation *Efficiency* Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition.

TITLE I—SURFACE TRANSPORTATION

Sec. 1001. Short title.

Subtitle A—General Provisions

Sec. 1101. Authorizations.
Sec. 1102. Apportionments.
Sec. 1103. Obligation ceiling.
Sec. 1104. Obligation authority under surface transportation program.
Sec. 1105. Emergency relief.
Sec. 1106. Federal lands highways program.
Sec. 1107. Recreational trails program.
Sec. 1108. Value pricing pilot program.
Sec. 1109. Highway use tax evasion projects.
Sec. 1110. Bicycle transportation and pedestrian walkways.
Sec. 1111. Disadvantaged business enterprises.
Sec. 1112. Federal share payable.
Sec. 1113. Studies and reports.
Sec. 1114. Definitions.
Sec. 1115. Cooperative Federal Lands Transportation Program.
Sec. 1116. Trade corridor and border crossing planning and border infrastructure.
Sec. 1117. Appalachian development highway system.
Sec. 1118. Interstate 4R and bridge discretionary program.
Sec. 1119. Magnetic levitation transportation technology deployment program.
Sec. 1120. Woodrow Wilson Memorial Bridge.
Sec. 1121. National Highway System components.
Sec. 1122. Highway bridge replacement and rehabilitation.
Sec. 1123. Congestion mitigation and air quality improvement program.
Sec. 1124. Safety belt use law requirements.
Sec. 1125. Sense of the Senate concerning reliance on private enterprise.
Sec. 1126. Study of use of uniformed police officers on Federal-aid highway construction projects.
Sec. 1127. Contracting for engineering and design services.

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

Sec. 1201. Administrative expenses.
Sec. 1202. Real property acquisition and corridor preservation.
Sec. 1203. Availability of funds.
Sec. 1204. Payments to States for construction.
Sec. 1205. Proceeds from the sale or lease of real property.
Sec. 1206. Metric conversion at State option.
Sec. 1207. Report on obligations.
Sec. 1208. Terminations.
Sec. 1209. Interstate maintenance.

CHAPTER 2—PROJECT APPROVAL

Sec. 1221. Transfer of highway and transit funds.
Sec. 1222. Project approval and oversight.
Sec. 1223. Surface transportation program.
Sec. 1224. Design-build contracting.
Sec. 1225. Integrated decisionmaking process.

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

Sec. 1231. Definition of operational improvement.
Sec. 1232. Eligibility of ferry boats and ferry terminal facilities.
Sec. 1233. Flexibility of safety programs.
Sec. 1234. Eligibility of projects on the National Highway System.
Sec. 1235. Eligibility of projects under the surface transportation program.
Sec. 1236. Design flexibility.

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

Sec. 1301. State infrastructure bank program.

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

Sec. 1311. Short title.
Sec. 1312. Findings.
Sec. 1313. Definitions.
Sec. 1314. Determination of eligibility and project selection.
Sec. 1315. Secured loans.
Sec. 1316. Lines of credit.
Sec. 1317. Project servicing.
Sec. 1318. Office of Infrastructure Finance.
Sec. 1319. State and local permits.
Sec. 1320. Regulations.
Sec. 1321. Funding.
Sec. 1322. Report to Congress.

Subtitle D—Safety

Sec. 1401. Operation lifesaver.
Sec. 1402. Railway-highway crossing hazard elimination in high speed rail corridors.
Sec. 1403. Railway-highway crossings.
Sec. 1404. Hazard elimination program.
Sec. 1405. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.
Sec. 1406. Safety incentive grants for use of seat belts.
Sec. 1407. Automatic crash protection unbelted testing standard.

Subtitle E—Environment

Sec. 1501. National scenic byways program.
Sec. 1502. Public-private partnerships.
Sec. 1503. Wetland restoration pilot program.

Subtitle F—Planning

Sec. 1601. Metropolitan planning.
Sec. 1602. Statewide planning.
Sec. 1603. Advanced travel forecasting procedures program.
Sec. 1604. Transportation and community and system preservation pilot program.

Subtitle G—Technical Corrections

Sec. 1701. Federal-aid systems.
Sec. 1702. Miscellaneous technical corrections.
Sec. 1703. Nondiscrimination.
Sec. 1704. State transportation department.

Subtitle H—Miscellaneous Provisions

Sec. 1801. Designation of portion of State Route 17 in New York and Pennsylvania as Interstate Route 86.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

Sec. 2001. Strategic research plan.
Sec. 2002. Multimodal [transportation research and development program] *Transportation Research and Development Program.*
Sec. 2003. National university transportation centers.

Sec. 2004. Bureau of Transportation Statistics.
Sec. 2005. Research and technology program.
Sec. 2006. Advanced research program.
Sec. 2007. Long-term pavement performance program.
Sec. 2008. State planning and research program.
Sec. 2009. Education and training.
Sec. 2010. International highway transportation outreach program.
Sec. 2011. National technology deployment initiatives and partnerships program.
Sec. 2012. Infrastructure investment needs report.
Sec. 2013. Innovative bridge research and construction program.
Sec. 2014. Use of Bureau of Indian Affairs administrative funds.
Sec. 2015. Study of future strategic highway research program.
Sec. 2016. Joint partnerships for advanced vehicles, components, and infrastructure program.
Sec. 2017. *Transportation and environment cooperative research program.*
Sec. 2018. Conforming amendments.

Subtitle B—Intelligent Transportation Systems

Sec. 2101. Short title.
Sec. 2102. Findings.
Sec. 2103. Intelligent transportation systems.
Sec. 2104. Conforming amendment.

Subtitle C—Funding

Sec. 2201. Funding.

SEC. 2. DEFINITION.

In this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—SURFACE TRANSPORTATION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Surface Transportation Act of 1997".

Subtitle A—General Provisions

SEC. 1101. AUTHORIZATIONS.

For the purpose of carrying out title 23, United States Code, the following sums shall be available from the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—For the Interstate and National Highway System program under section 103 of that title $11,979,000,000 for fiscal year 1998, $11,808,000,000 for fiscal year 1999, $11,819,000,000 for fiscal year 2000, $11,916,000,000 for fiscal year 2001, $12,242,000,000 for fiscal year 2002, and $12,776,000,000 for fiscal year 2003, of which—

(A) $4,600,000,000 for fiscal year 1998, $4,609,000,000 for fiscal year 1999, $4,637,000,000 for fiscal year 2000, $4,674,000,000 for fiscal year 2001, $4,773,000,000 for fiscal year 2002, and $4,918,000,000 for fiscal year 2003 shall be [used] *available* for the Interstate maintenance component; and

(B) $1,400,000,000 for fiscal year 1998, $1,403,000,000 for fiscal year 1999, $1,411,000,000 for fiscal year 2000, $1,423,000,000 for fiscal year 2001, $1,453,000,000 for fiscal year 2002, and $1,497,000,000 for fiscal year 2003 shall be [used] *available* for the Interstate bridge component.

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title $7,000,000,000 for fiscal year 1998, $7,014,000,000 for fiscal year 1999, $7,056,000,000 for fiscal year 2000, $7,113,000,000 for fiscal year 2001, $7,263,000,000 for fiscal year 2002, and $7,484,000,000 for fiscal year 2003.

(3) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title $1,150,000,000 for fiscal year 1998, $1,152,000,000 for fiscal year 1999, $1,159,000,000 for fiscal year 2000, $1,169,000,000 for fiscal year 2001, $1,193,000,000 for fiscal year 2002, and $1,230,000,000 for fiscal year 2003.

(4) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title $200,000,000 for each of fiscal years 1998 through 2003.

(B) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title $90,000,000 for each of fiscal years 1998 through 2003.

(C) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title $172,000,000 for each of fiscal years 1998 through 2003.

(D) COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.—For the Cooperative Federal Lands Transportation Program under section 207 of that title $74,000,000 for each of fiscal years 1998 through 2003.

SEC. 1102. APPORTIONMENTS.

(a) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) and the set-asides authorized by subsection (f), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the National Highway System, the congestion mitigation and air quality improvement program, and the surface transportation program, for that fiscal year, among the States in the following manner:

"(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—

"(A) INTERSTATE MAINTENANCE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System—

"(i) 50 percent in the ratio that—

"(I) the total lane miles on Interstate System routes designated under—

"(aa) section 103;

"(bb) section 139(a) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997);

in each State; bears to

"(II) the total of all such lane miles in all States; and

"(ii) 50 percent in the ratio that—

"(I) the total vehicle miles traveled on lanes on Interstate System routes designated under—

"(aa) section 103;

"(bb) section 139(a) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997);

in each State; bears to

"(II) the total of all such vehicle miles traveled in all States.

"(B) INTERSTATE BRIDGE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing bridges on the Interstate System, in the ratio that—

"(i) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in each State; bears to

"(ii) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in all States.

"(C) OTHER NATIONAL HIGHWAY SYSTEM COMPONENT.—

"(i) IN GENERAL.—For the National Highway System (excluding [activities for which] funds [are] apportioned under subparagraph (A) or (B)), $36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands and the remainder apportioned as follows:

"(I) 20 percent of the apportionments in the ratio that—

"(aa) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

"(bb) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

"(II) 29 percent of the apportionments in the ratio that—

"(aa) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

"(bb) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

"(III) 18 percent of the apportionments in the ratio that—

"(aa) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in each State; bears to

"(bb) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in all States.

"(IV) 24 percent of the apportionments in the ratio that—

"(aa) the total diesel fuel used on highways in each State; bears to

"(bb) the total diesel fuel used on highways in all States.

"(V) 9 percent of the apportionments in the ratio that—

"(aa) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

"(bb) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

"(ii) DATA.—Each calculation under clause (i) shall be based on the latest available data.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding subparagraphs (A) through (C), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

"(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

"(ii) the total of all weighted nonattainment and maintenance area populations in all States.

"(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

"(i) 0.8 if—

"(I) at the time of the apportionment, the area is a maintenance area; *or*

"(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under [that Act; or] *the Clean Air Act (42 U.S.C. 7401 et seq.);*

["(III) as of the date of enactment of the Intermodal Transportation Act of 1997, the area is considered by the Administrator of the Environmental Protection Agency to be a flexible attainment region;]

"(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under that subpart;

"(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under that subpart;

"(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under that subpart;

"(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under that subpart; or

"(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide.

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—

"(i) CARBON MONOXIDE NONATTAINMENT AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.2.

"(ii) CARBON MONOXIDE MAINTENANCE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was at one time also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide but has been redesignated as a maintenance area, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.1.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

"(i) 20 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 30 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 25 percent of the apportionments in the ratio that—

"(I) the total square footage of structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in each State; bears to

"(II) the total square footage *of* structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in all States.

"(iv) 25 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) DATA.—Each calculation under subparagraph (A) shall be based on the latest available data.

"(C) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(b) EFFECT OF CERTAIN AMENDMENTS.—Section 104 of title 23, United States Code, is amended by striking subsection (h) and inserting the following:

"(h) EFFECT OF CERTAIN AMENDMENTS.—Notwithstanding any other provision of law, deposits into the Highway Trust Fund resulting from the amendments made by section 901 of the Taxpayer Relief Act of 1997 shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Intermodal *Surface* Transportation *Efficiency* Act of 1997 and *this* title [23, United States Code].".

(c) ISTEA TRANSITION.—

(1) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall determine, with respect to each State—

(A) the total apportionments for the fiscal year under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program;

(B) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway programs (as defined in section 101 of title 23, United States Code), excluding apportionments for the Federal lands highways program under section 204 of that title;

(C) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway programs (as defined in section 101 of title 23, United States Code), excluding—

(i) apportionments authorized under section 104 of that title for construction of the Interstate System;

(ii) apportionments for the Interstate substitute program under section 103(e)(4) of that title (as in effect on the day before the date of enactment of this Act);

(iii) apportionments for the Federal lands highways program under section 204 of that title; and

(iv) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943);

(D) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (B); by

(ii) the applicable percentage determined under paragraph (2); and

(E) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (C); by

(ii) the applicable percentage determined under paragraph (2).

(2) APPLICABLE PERCENTAGES.—

(A) FISCAL YEAR 1998.—For fiscal year 1998—

(i) the applicable percentage referred to in paragraph (1)(D)(ii) shall be 145 percent; and

(ii) the applicable percentage referred to in paragraph (1)(E)(ii) shall be 107 percent.

(B) FISCAL YEARS THEREAFTER.—For each of fiscal years 1999 through 2003, the applicable percentage referred to in paragraph (1)(D)(ii) or (1)(E)(ii), respectively, shall be a percentage equal to the product obtained by multiplying—

(i) the percentage specified in clause (i) or (ii), respectively, of subparagraph (A); by

(ii) the percentage that—

(I) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for the fiscal year; bears to

(II) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for fiscal year 1998.

(3) MAXIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, in the case of each State with respect to which the total apportionments determined under paragraph (1)(A) is greater than the product determined under paragraph (1)(D), the Secretary shall reduce proportionately the apportionments to the State under section 104 of title 23, United States Code, for the National Highway System component of the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program so that the total of the apportionments is equal to the product determined under paragraph (1)(D).

(B) REDISTRIBUTION OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds made available under subparagraph (A) shall be redistributed proportionately under

section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program, to States not subject to a reduction under subparagraph (A).

(ii) LIMITATION.—The ratio that—

(I) the total apportionments to a State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, *metropolitan planning*, and the congestion mitigation and air quality improvement program, after the application of clause (i); bears to

(II) the annual average of the total apportionments determined under paragraph (1)(B) with respect to the State;

may not exceed, in the case of fiscal year 1998, 145 percent, and, in the case of each of fiscal years 1999 through 2003, 145 percent as adjusted in the manner described in paragraph (2)(B).

(4) MINIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall apportion to each State such additional amounts as are necessary to ensure that—

(i) the total apportionments to the State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program, after the application of paragraph (3); is equal to

(ii) the greater of—

(I) the product determined with respect to the State under paragraph (1)(E); or

(II) the total apportionments to the State for fiscal year 1997 for all Federal-aid highway programs, excluding—

(aa) apportionments for the Federal lands highways program under section 204 of title 23, United States Code;

(bb) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943); and

(cc) demonstration projects under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).

(B) OBLIGATION.—Amounts apportioned under subparagraph (A)—

(i) shall be considered to be sums made available for expenditure on the surface transportation program, except that—

(I) the amounts shall not be subject to paragraphs (1) and (2) of section 133(d) of title 23, United States Code; and

(II) 50 percent of the amounts shall be subject to section 133(d)(3) of that title;

(ii) shall be available for any purpose eligible for funding under section 133 of that title; and

(iii) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are apportioned.

(C) AUTHORIZATION OF CONTRACT AUTHORITY.—

(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this paragraph.

(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(d) MINIMUM GUARANTEE.—

(1) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Minimum guarantee

"(a) ADJUSTMENT.—

"(1) IN GENERAL.—In fiscal year 1998 and each fiscal year thereafter on October 1, or as soon as practicable thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that—

"(A) the ratio that—

"(i) each State's percentage of the total apportionments for the fiscal year—

"(I) under section 104 for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program; and

"(II) under *this section and* section 1102(c) of the Intermodal *Surface* Transportation *Efficiency* Act of 1997 for ISTEA transition; bears to

"(ii) each State's percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available;

is not less than 0.90; and

"(B) in the case of a State specified in paragraph (2), the State's percentage of the total apportionments for the fiscal year described in subclauses (I) and (II) of subparagraph (A)(i) is—

"(i) not less than the percentage specified for the State in paragraph (2); but

"(ii) not greater than the product determined for the State under section 1102(c)(1)(D) of the Intermodal *Surface* Transportation *Efficiency* Act of 1997 for the fiscal year.

"(2) STATE PERCENTAGES.—The percentage referred to in paragraph (1)(B) for a specified State shall be determined in accordance with the following table:

"State	Percentage
Alaska	1.24
Arkansas	1.33
Delaware	0.47
Hawaii	0.55
Idaho	0.82
Montana	1.06
Nevada	0.73
New Hampshire	0.52
New Jersey	2.41
New Mexico	1.05
North Dakota	0.73
Rhode Island	0.58
South Dakota	0.78
Vermont	0.47
Wyoming	0.76.

"(b) TREATMENT OF ALLOCATIONS.—

"(1) OBLIGATION.—Amounts allocated under subsection (a)—

"(A) shall be available for obligation when allocated and shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are allocated; and

"(B) shall be available for any purpose eligible for funding under this title.

"(2) SET-ASIDE.—Fifty percent of the amounts allocated under subsection (a) shall be subject to section 133(d)(3).

"(c) TREATMENT OF WITHHELD APPORTIONMENTS.—For the purpose of subsection (a), any funds that, but for section 158(b) or any other provision of law under which Federal-aid highway funds are withheld from apportionment, would be apportioned to a State for a fiscal year under a section referred to in subsection (a) shall be treated as being apportioned in that fiscal year.

"(d) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

"105. Minimum guarantee.".

(e) AUDITS OF HIGHWAY TRUST FUND.—Section 104 of title 23, United States Code, is amended by striking subsection (i) and inserting the following:

"(i) AUDITS OF HIGHWAY TRUST FUND.—From available administrative funds deducted under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.".

(f) TECHNICAL AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting "NOTIFICATION TO STATES.—" after "(e)";

(B) in the first sentence—

(i) by striking "(other than under subsection (b)(5) of this section)"; and

(ii) by striking "and research";

(C) by striking the second sentence; and

(D) in the last sentence, by striking ", except that" and all that follows through "such funds"; and

(2) in subsection (f)—

(A) by striking "(f)(1) On" and inserting the following:

"(f) METROPOLITAN PLANNING.—

"(1) SET-ASIDE.—On";

(B) by striking "(2) These" and inserting the following:

"(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—These";

(C) by striking "(3) The" and inserting the following:

"(3) USE OF FUNDS.—The"; and

(D) by striking "(4) The" and inserting the following:

"(4) DISTRIBUTION OF FUNDS WITHIN STATES.—The".

(g) CONFORMING AMENDMENTS.—

(1) Section 146(a) of title 23, United States Code, is amended in the first sentence by striking ", 104(b)(2), and 104(b)(6)" and inserting "and 104(b)(2)".

(2)(A) Section 150 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 150.

(3) Section 158 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(iii) in paragraph (1) (as so redesignated)—

(I) by striking "AFTER THE FIRST YEAR" and inserting "IN GENERAL"; and

(II) by striking ", 104(b)(2), 104(b)(5), and 104(b)(6)" and inserting "and 104(b)(2)"; and

(iv) in paragraph (2) (as redesignated by clause (ii)), by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraph (1)"; and

(B) by striking subsection (b) and inserting the following:

"(b) EFFECT OF WITHHOLDING OF FUNDS.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to that State.".

(4)(A) Section 157 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 157.

(5)(A) Section 115(b)(1) of title 23, United States Code, is amended by striking "or 104(b)(5), as the case may be,".

(B) Section 137(f)(1) of title 23, United States Code, is amended by striking "section 104(b)(5)(B) of this title" and inserting "section 104(b)(1)(A)".

(C) Section 141(c) of title 23, United States Code, is amended by striking "section 104(b)(5) of this title" each place it appears and inserting "section 104(b)(1)(A)".

(D) Section 142(c) of title 23, United States Code, is amended by striking "(other than section 104(b)(5)(A))".

(E) Section 159 of title 23, United States Code, is amended—

(i) by striking "(5) of" each place it appears and inserting "(5) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997) of"; and

(ii) in subsection (b)—

(I) in paragraphs (1)(A)(i) and (3)(A), by striking "section 104(b)(5)(A)" each place it appears and inserting "section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997)";

(II) in paragraph (1)(A)(ii), by striking "section 104(b)(5)(B)" and inserting "section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997)";

(III) in paragraph (3)(B), by striking "(5)(B)" and inserting "(5)(B) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997)"; and

(IV) in paragraphs (3)[(B)] and (4), by striking "section 104(b)(5)" each place it appears and inserting "section 104(b)(5) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997)".

(F) Section 161(a) of title 23, United States Code, is amended by striking "paragraphs (1), (3), and (5)(B) of section 104(b)" each place it appears and inserting "paragraphs (1) and (3) of section 104(b)".

(6)(A) Section 104(g) of title 23, United States Code, is amended—

(i) in the first sentence, by striking "sections 130, 144, and 152 of this title" and inserting "subsection (b)(1)(B) and sections 130 and 152";

(ii) in the first and second sentences—

(I) by striking "section" and inserting "provision"; and

(II) by striking "such sections" and inserting "those provisions"; and

(iii) in the third sentence—

(I) by striking "section 144" and inserting "subsection (b)(1)(B)"; and

(II) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(C)".

(B) Section 115 of title 23, United States Code, is amended—

(i) in subsection (a)(1)(A)(i), by striking "104(b)(2), 104(b)(3), 104(f), 144," and inserting "104(b)(1)(B), 104(b)(2), 104(b)(3), 104(f),"; and

(ii) in subsection (c), by striking "144,,".

(C) Section 120(e) of title 23, United States Code, is amended in the last sentence by striking "and in section 144 of this title".

(D) Section 151(d) of title 23, United States Code, is amended by striking "section 104(a), section 307(a), and section 144 of this title" and inserting "subsections (a) and (b)(1)(B) of section 104 and section 307(a)".

(E) Section 204(c) of title 23, United States Code, is amended in the first sentence by striking "or section 144 of this title".

(F) Section 303(g) of title 23, United States Code, is amended by striking "section 144 of this title" and inserting "section 104(b)(1)(B)".

SEC. 1103. OBLIGATION CEILING.

(a) GENERAL LIMITATIONS.—Subject to the other provisions of this section and notwithstanding any other provision of law, the total amount of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $21,800,000,000 for fiscal year 1998;

(2) $22,768,000,000 for fiscal year 1999;

(3) $22,901,000,000 for fiscal year 2000;

(4) $23,070,000,000 for fiscal year 2001;

(5) $23,511,000,000 for fiscal year 2002; and

(6) $24,259,000,000 for fiscal year 2003.

(b) EXCEPTIONS.—

(1) IN GENERAL.—The limitations under subsection (a) shall not apply to obligations of funds under—

[(A) section 125 of title 23, United States Code;

[(B) section 105(a) of that title, excluding amounts allocated under section 105(a)(1)(B) of that title;]

(A) section 105(a) of title 23, United States Code, excluding amounts allocated under section 105(a)(1)(B) of that title;

(B) section 125 of that title;

(C) section 157 of that title (as in effect on the day before the date of enactment of this Act);

(D) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(E) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);

(F) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2119);

(G) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198); and

(H) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027).

(2) EFFECT OF OTHER LAW.—A provision of law establishing a limitation on obligations for Federal-aid highways and highway safety construction programs may not amend or limit the applicability of this subsection, unless the provision specifically amends or limits that applicability.

(c) APPLICABILITY TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations for Federal-aid highways and highway safety construction programs established by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code.

(d) OBLIGATION AUTHORITY.—Section 118 of title 23, United States Code, is amended by adding at the end the following:

"(g) OBLIGATION AUTHORITY.—

"(1) DISTRIBUTION.—For each fiscal year, the Secretary shall—

"(A) distribute the total amount of obligation authority for Federal-aid highways and highway safety construction programs made available for the fiscal year by allocation in the ratio that—

"(i) the total of the sums made available for Federal-aid highways and highway safety construction programs that are apportioned or allocated to each State for the fiscal year; bears to

"(ii) the total of the sums made available for Federal-aid highways and highway safety construction programs that are apportioned or allocated to all States for the fiscal year;

"(B) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways that have been apportioned to a State; and

"(C) not distribute—

"(i) amounts deducted under section 104(a) for administrative expenses;

"(ii) amounts [made available for the Federal lands highways program under section 204;] *set aside under section 104(k) for Interstate 4R and bridge projects;*

"(iii) amounts made available under sections 143, 164, 165, 204, 206, 207, and 322;

"(iv) amounts made available under section 111 of title 49;

"(v) amounts made available under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.);

"(vi) amounts made available under section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938);

"(vii) amounts made available under chapter 2 of subtitle C of title I, and sections 1503, 1603, and 1604, of the Intermodal Surface Transportation Efficiency Act of 1997;

["(iii)] *"(viii)* amounts made available under section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 201); and

["(iv)] *"(ix)* amounts made available for implementation of programs under chapter 5 of this title and sections 5222, 5232, and 5241 of title 49.

"(2) REDISTRIBUTION.—Notwithstanding paragraph (1), the Secretary shall, after August 1 of each of fiscal years 1998 through 2003—

"(A) revise a distribution of the funds made available under paragraph (1) for the fiscal year if a State will not obligate the amount distributed during the fiscal year; and

"(B) redistribute sufficient amounts to those States able to obligate amounts in addition to the amounts previously distributed during the fiscal year, giving priority to those States that have large unobligated balances of funds apportioned under section 104 and under section 144 (as in effect on the day before the date of enactment of this [subsection] *subparagraph*).".

(e) APPLICABILITY OF OBLIGATION LIMITATIONS.—An obligation limitation established by a provision of any other Act shall not apply to obligations under a program funded under this Act or title 23, United States Code, unless—

(1) the provision specifically amends or limits the applicability of this subsection; or

(2) an obligation limitation is specified in this Act with respect to the program.

SEC. 1104. OBLIGATION AUTHORITY UNDER SURFACE TRANSPORTATION PROGRAM.

Section 133 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3) shall make available during the 3-fiscal year period of 1998 through 2000, and the 3-fiscal year period of 2001 through 2003, an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

"(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during each such period; by

"(B) the ratio that—

"(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

"(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

"(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).".

SEC. 1105. EMERGENCY RELIEF.

(a) FEDERAL SHARE.—Section 120(e) of title 23, United States Code, is amended in the first sentence by striking "highway system" and inserting "highway".

(b) ELIGIBILITY AND FUNDING.—Section 125 of title 23, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively;

(3) by inserting after the section heading the following:

"(a) GENERAL ELIGIBILITY.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any part of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

"(1) natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

"(2) catastrophic failure from any external cause.

"(b) RESTRICTION ON ELIGIBILITY.—In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges that have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

"(c) FUNDING.—Subject to the following limitations, there are hereby authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis:

"(1) Not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out the provisions of this section, except that, if in any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated in such fiscal year, the unobligated balance of such amount shall remain available until expended and shall be in addition to amounts otherwise available to carry out this section each year.

"(2) Pending such appropriation or replenishment, the Secretary may obligate from any funds heretofore or hereafter appropriated for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, provided that such funds are reimbursed from the appropriations authorized in paragraph (1) of this subsection when such appropriations are made.";

(4) in subsection (d) (as so redesignated), by striking "subsection (c)" both places it appears and inserting "subsection (e)"; and

(5) in subsection (e) (as so redesignated), by striking "on any of the Federal-aid highway systems" and inserting "Federal-aid highways".

(c) SAN MATEO COUNTY, CALIFORNIA.—Notwithstanding any other provision of law, a project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, that—

(1) was destroyed as a result of a combination of storms in the winter of 1982–1983 and a mountain slide; *and*

[(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities; and

[(3) complies with the local coastal plan; shall be eligible for assistance under section 125(a) of title 23, United States Code.]

(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities;

shall be eligible for assistance under section 125(a) of title 23, United States Code, if the project complies with the local coastal plan.

SEC. 1106. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(j) USE OF FEDERAL LAND MANAGEMENT AGENCY FUNDS.—Notwithstanding any other provision of law, the funds appropriated to any Federal land management agency may be used to pay the non-Federal share of the cost of any Federal-aid highway project the Federal share of which is funded under section 104.

"(k) USE OF FEDERAL LANDS HIGHWAYS PROGRAM FUNDS.—Notwithstanding any other provision of law, the funds made available to carry out the Federal lands highways program under section 204 may be used to pay the non-Federal share of the cost of any project that is funded under section 104 and that provides access to or within Federal or Indian lands.".

(b) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by adding at the end the following: "Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to the pay the Federal share of the cost of the project.".

(c) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, and Indian reservation roads and bridges.

"(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, *by rule,* transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

"(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

"(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

"(A) shall be developed in cooperation with States and metropolitan planning organizations; and

"(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

"(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

"(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.";

(2) in subsection (b), by striking the first 3 sentences and inserting the following: "Funds available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay for the cost of transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within public lands, national parks, and Indian reservations. In connection with activities under the preceding sentence, the Secretary and the Secretary of the appropriate Federal land management agency may enter into construction contracts and other appropriate contracts with a State or civil subdivision of a State or Indian tribe.";

(3) in the first sentence of subsection (e), by striking "Secretary of the Interior" and inserting "Secretary of the appropriate Federal land management agency";

(4) in subsection (h), by adding at the end the following:

"(8) A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.";

(5) by striking subsection (i) and inserting the following:

"(i) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

"(2) TRANSPORTATION PLANNING COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section.";

and

(6) in subsection (j), by striking the second sentence and inserting the following: "The Indian tribal government, in cooperation with the Secretary of the Interior, and as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with subsection (a).".

SEC. 1107. RECREATIONAL TRAILS PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 205 the following:

"§ 206. Recreational trails program

"(a) DEFINITIONS.—

"(1) MOTORIZED RECREATION.—The term 'motorized recreation' means off-road recreation using any motor-powered vehicle, except for a motorized wheelchair.

"(2) RECREATIONAL TRAIL; TRAIL.—The term 'recreational trail' or 'trail' means a thoroughfare or track across land or snow, used for recreational purposes such as—

"(A) pedestrian activities, including wheelchair use;

"(B) skating or skateboarding;

"(C) equestrian activities, including carriage driving;

"(D) nonmotorized snow trail activities, including skiing;

"(E) bicycling or use of other human-powered vehicles;

"(F) aquatic or water activities; and

"(G) motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.

"(b) PROGRAM.—In accordance with this section, the Secretary, in consultation with the Secretary of the Interior and the Secretary of Agriculture, shall carry out a program to provide and maintain recreational trails (referred to in this section as the 'program').

"(c) STATE RESPONSIBILITIES.—To be eligible for apportionments under this section—

"(1) a State may use apportionments received under this section for construction of new trails crossing Federal lands only if the construction is—

"(A) permissible under other law;

"(B) necessary and required by a statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.);

"(C) approved by the administering agency of the State designated under paragraph (2); and

"(D) approved by each Federal agency charged with management of the affected lands, which approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(2) the Governor of a State shall designate the State agency or agencies that will be responsible for administering apportionments received under this section; and

"(3) the State shall establish within the State a State trail advisory committee that represents both motorized and nonmotorized trail users.

"(d) USE OF APPORTIONED FUNDS.—

"(1) IN GENERAL.—Funds made available under this section shall be obligated for trails and trail-related projects that—

"(A) have been planned and developed under the laws, policies, and administrative procedures of each State; and

"(B) are identified in, or further a specific goal of, a trail plan or trail plan element included or referenced in a metropolitan transportation plan required under section 134 or a statewide transportation plan required under section 135, consistent with the statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.).

"(2) PERMISSIBLE USES.—Permissible uses of funds made available under this section include—

"(A) maintenance and restoration of existing trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages;

"(C) purchase and lease of trail construction and maintenance equipment;

"(D) construction of new trails;

"(E) acquisition of easements and fee simple title to property for trails or trail corridors;

"(F) *payment of* costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment received by the State for a fiscal year; and

"(G) operation of educational programs to promote safety and environmental protection as these objectives relate to the use of trails.

"(3) USE OF APPORTIONMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), of the apportionments received for a fiscal year by a State under this section—

"(i) 40 percent shall be used for trail or trail-related projects that facilitate diverse recreational trail use within a trail corridor, trailside, or trailhead, regardless of whether the project is for diverse motorized use, for diverse nonmotorized use, or to accommodate both motorized and nonmotorized recreational trail use;

"(ii) 30 percent shall be used for uses relating to motorized recreation; and

"(iii) 30 percent shall be used for uses relating to nonmotorized recreation.

"(B) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than 1 percent of all such fuel use in the United States, shall be exempted from the requirements of subparagraph (A) upon application to the Secretary by the State demonstrating that the State meets the conditions of this subparagraph.

"(C) WAIVER AUTHORITY.—Upon the request of a State trail advisory committee established under subsection (c)(3), the Secretary may waive, in whole or in part, the requirements of subparagraph (A) with respect to the State if the State certifies to the Secretary that the State does not have sufficient projects to meet the requirements of subparagraph (A).

"(D) STATE ADMINISTRATIVE COSTS.—State administrative costs eligible for funding under paragraph (2)(F) shall be exempt from the requirements of subparagraph (A).

"(e) ENVIRONMENTAL BENEFIT OR MITIGATION.—To the extent practicable and consistent with the other requirements of this section, a State should give consideration to project proposals that provide for the redesign, reconstruction, nonroutine maintenance, or relocation of trails to benefit the natural environment or to mitigate and minimize the impact to the natural environment.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—Subject to the other provisions of this subsection, the Federal share of the cost of a project under this section shall not exceed 80 percent.

"(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency that sponsors a project under this section may contribute additional Federal funds toward the cost of a project, except that—

"(A) the share attributable to the Secretary of Transportation may not exceed 80 percent; and

"(B) the share attributable to the Secretary and the Federal agency jointly may not exceed 95 percent.

"(3) USE OF FUNDS FROM FEDERAL PROGRAMS TO PROVIDE NON-FEDERAL SHARE.—Notwithstanding any other provision of law, amounts made available by the Federal Government under any Federal program that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section;

may be credited toward the non-Federal share of the cost of the project.

"(4) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments to the non-Federal share of an individual project under this section if the Federal share of the cost of all projects carried out by the State under the program (excluding projects funded under paragraph (2) or (3)) using funds apportioned to the State for a fiscal year does not exceed 80 percent.

"(5) STATE ADMINISTRATIVE COSTS.—The Federal share of the administrative costs of a State under this subsection shall be determined in accordance with section 120(b).

"(g) USES NOT PERMITTED.—A State may not obligate funds apportioned under this section for—

"(1) condemnation of any kind of interest in property;

"(2) construction of any recreational trail on National Forest System land for any motorized use unless—

"(A) the land has been apportioned for uses other than wilderness by an approved forest land and resource management plan or has been released to uses other than wilderness by an Act of Congress; and

"(B) the construction is otherwise consistent with the management direction in the approved forest land and resource management plan;

"(3) construction of any recreational trail on Bureau of Land Management land for any motorized use unless the land—

"(A) has been apportioned for uses other than wilderness by an approved Bureau of Land Management resource management plan or has been released to [other] uses *other than wilderness* by an Act of Congress; and

"(B) the construction is otherwise consistent with the management direction in the approved management plan; or

"(4) upgrading, expanding, or otherwise facilitating motorized use or access to trails predominantly used by nonmotorized trail users and on which, as of May 1, 1991, motorized use is prohibited or has not occurred.

"(h) PROJECT ADMINISTRATION.—

"(1) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, SERVICES, OR NEW RIGHT-OF-WAY.—

"(A) IN GENERAL.—Nothing in this title or other law shall prevent a project sponsor from offering to donate funds, materials, services, or a new right-of-way for the purposes of a project eligible for assistance under this section. Any funds, or the fair market value of any materials, services, or new right-of-way, may be donated by any project sponsor and shall be credited to the non-Federal share in accordance with subsection (f).

"(B) FEDERAL PROJECT SPONSORS.—Any funds or the fair market value of any materials or services may be provided by a Federal project sponsor and shall be credited to

the Federal agency's share in accordance with subsection (f).

"(2) RECREATIONAL PURPOSE.—A project funded under this section is intended to enhance recreational opportunity and is not subject to section 138 of this title or section 303 of title 49.

"(3) CONTINUING RECREATIONAL USE.—At the option of each State, funds made available under this section may be treated as Land and Water Conservation Fund apportionments for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(f)(3)).

"(4) COOPERATION BY PRIVATE PERSONS.—

"(A) WRITTEN ASSURANCES.—As a condition of making available apportionments for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the [property] *land* will cooperate with the State and participate as necessary in the activities to be conducted.

"(B) PUBLIC ACCESS.—Any use of the apportionments to a State under this section on private*ly owned* land must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by the apportionments.

"(i) APPORTIONMENT.—

"(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State that meets the requirements of subsection (c).

"(2) APPORTIONMENT.—Subject to subsection (j), for each fiscal year, the Secretary shall apportion—

"(A) 50 percent of the amounts made available to carry out this section equally among eligible States; and

"(B) 50 percent of the amounts made available to carry out this section among eligible States in proportion to the quantity of nonhighway recreational fuel used in each eligible State during the preceding year.

"(j) ADMINISTRATIVE COSTS.—

"(1) IN GENERAL.—Whenever an apportionment is made under subsection (i) of the amounts made available to carry out this section, the Secretary shall first deduct an amount, not to exceed 1 percent of the authorized amounts, to pay the costs to the Secretary for administration of, and research authorized under, the program.

"(2) USE OF CONTRACTS.—To carry out research funded under paragraph (1), the Secretary may—

"(A) enter into contracts with for-profit organizations; and

"(B) enter into contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations.

"(k) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $20,000,000 for fiscal year 1999, $22,000,000 for fiscal year 2000, $23,000,000 for fiscal year 2001, $24,000,000 for fiscal year 2002, and $25,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

(b) CONFORMING AMENDMENTS.—

(1) The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title I (16 U.S.C. 1261 et seq.).

(2) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 206 and inserting the following:

"206. Recreational trails program.".

SEC. 1108. VALUE PRICING PILOT PROGRAM.

(a) IN GENERAL.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in the subsection heading, by striking "CONGESTION" and inserting "VALUE"; and

(2) in paragraph (1), by striking "congestion" each place it appears and inserting "value".

(b) INCREASED NUMBER OF PROJECTS.—Section 1012(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence by striking "5" and inserting "15".

(c) ELIGIBILITY OF PREIMPLEMENTATION COSTS.— Section 1012(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence—

(1) by inserting after "Secretary shall fund" the following: "all preimplementation costs and project design, and"; and

(2) by inserting after "Secretary may not fund" the following: "the implementation costs of".

(d) TOLLING.—Section 1012(b)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking "a pilot program under this section, but not on more than 3 of such programs" and inserting "any value pricing pilot program under this subsection".

(e) HOV PASSENGER REQUIREMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking paragraph (6) and inserting the following:

"(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section [102] *146(c)* of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.".

(f) FUNDING.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by adding at the end the following:

"(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY.—

"(i) IN GENERAL.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this subsection but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

"(I) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

"(II) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

"(III) shall be available for any purpose eligible for funding under section 133 of that title.

"(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.".

(g) CONFORMING AMENDMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in paragraph (1), by striking "projects" each place it appears and inserting "programs"; and

(2) in paragraph (5)—

(A) by striking "projects" and inserting "programs"; and

(B) by striking "traffic, volume" and inserting "traffic volume".

SEC. 1109. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—Section 143 of title 23, United States Code, is amended to read as follows:

"§ 143. Highway use tax evasion projects

"(a) DEFINITION OF STATE.—In this section, the term 'State' means the 50 States and the District of Columbia.

"(b) PROJECTS.—

"(1) IN GENERAL.—The Secretary shall use funds made available under paragraph (7) to carry out highway use tax evasion projects in accordance with this subsection.

"(2) ALLOCATION OF FUNDS.—The funds may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary.

"(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

"(4) LIMITATION ON USE OF FUNDS.—Funds made available under paragraph (7) shall be used only—

"(A) to expand efforts to enhance motor fuel tax enforcement;

"(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

"(C) to supplement motor fuel tax examinations and criminal investigations;

"(D) to develop automated data processing tools to monitor motor fuel production and sales;

"(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

"(F) to reimburse State expenses that supplement existing fuel tax compliance efforts; and

"(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes.

"(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

"(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

"(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY OF FUNDS.—Funds authorized under this paragraph shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(c) EXCISE FUEL REPORTING SYSTEM.—

"(1) IN GENERAL.—Not later than April 1, 1998, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development and maintenance by the Internal Revenue Service of an excise fuel reporting system (referred to in this subsection as the 'system').

"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall develop and maintain the system through contracts;

"(B) the system shall be under the control of the Internal Revenue Service; and

"(C) the system shall be made available for use by appropriate State and Federal revenue, tax, or law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) AUTHORIZATION OF APPROPRIATIONS FROM HIGHWAY TRUST FUND.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

"(A) $8,000,000 for development of the system; and

"(B) $2,000,000 for each of fiscal years 1998 through 2003 for operation and maintenance of the system.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 143 and inserting the following:

"143. Highway use tax evasion projects.".

(2) Section 1040 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is repealed.

(3) Section 8002 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 220[4]*3*) is amended—

(A) in the first sentence of subsection (g), by striking "section 1040 of this Act" and inserting "section 143 of title 23, United States Code,"; and

(B) by striking subsection (h).

SEC. 1110. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "pedestrian walkways and" after "construction of"; and

(B) by striking "(other than the Interstate System)";

(2) in subsection (e), by striking ", other than a highway access to which is fully controlled,";

(3) by striking subsection (g) and inserting the following:

"(g) PLANNING AND DESIGN.—

"(1) IN GENERAL.—Bicyclists and pedestrians shall be given consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively.

"(2) CONSTRUCTION.—Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

"(3) SAFETY AND CONTIGUOUS ROUTES.—Transportation plans and projects shall provide consideration for safety and contiguous routes for bicyclists and pedestrians.";

(4) in subsection (h)—

(A) by striking "No motorized vehicles shall" and inserting "Motorized vehicles may not"; and

(B) by striking paragraph (3) and inserting the following:

"(3) wheelchairs that are powered; and"; and

(5) by striking subsection (j) and inserting the following:

"(j) DEFINITIONS.—In this section:

"(1) BICYCLE TRANSPORTATION FACILITY.—The term 'bicycle transportation facility' means a new or improved lane, path, or shoulder for use by bicyclists or a traffic control device, shelter, or parking facility for bicycles.

"(2) PEDESTRIAN.—The term 'pedestrian' means any person traveling by foot or any mobility impaired person using a wheelchair.

"(3) WHEELCHAIR.—The term 'wheelchair' means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or powered.".

SEC. 1111. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I and II of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $16,600,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in [paragraph (1)] *subsection (a)* and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

SEC. 1112. FEDERAL SHARE PAYABLE.

Section 120 of title 23, United States Code (as amended by section 1106(a)), is amended—

(1) in each of subsections (a) and (b), by adding at the end the following: "In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection."; and

(2) by adding at the end the following:

"(1) CREDIT FOR NON-FEDERAL SHARE.—

"(1) ELIGIBILITY.—A State may use as a credit toward the non-Federal share requirement for any program under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) or this title, other than the emergency relief program authorized by section 125, toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain, without the use of Federal funds, highways, bridges, or tunnels that serve the public purpose of interstate commerce.

"(2) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—The credit toward any non-Federal share under paragraph (1) shall not reduce nor replace State funds required to match Federal funds for any program under this title.

"(B) CONDITIONS ON RECEIPT OF CREDIT.—

"(i) AGREEMENT WITH THE SECRETARY.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreements as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding 3 fiscal years.

"(ii) EXCEPTION.—Notwithstanding clause (i), a State may receive a credit under paragraph (1) for a fiscal year if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than [25] *30* percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years.

"(3) TREATMENT.—

"(A) IN GENERAL.—Use of the credit toward a non-Federal share under paragraph (1) shall not expose the agencies from which the credit is received to additional liability, additional regulation, or additional administrative oversight.

"(B) CHARTERED MULTISTATE AGENCIES.—When credit is applied from a chartered multistate agency under paragraph (1), the credit shall be applied equally to all charter States.

"(C) NO ADDITIONAL STANDARDS.—[The] *A* public, quasi-public, [and] *or* private [agencies] *agency* from which the credit for which the non-Federal share is calculated under paragraph (1) shall not be subject to any additional Federal design standards or laws (including regulations) as a result of providing the credit beyond the standards and laws to which the agency is already subject.".

SEC. 1113. STUDIES AND REPORTS.

(a) HIGHWAY ECONOMIC REQUIREMENT SYSTEM.—

(1) METHODOLOGY.—

(A) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the methodology used by the Department of Transportation to determine highway needs using the highway economic requirement system (referred to in this subsection as the "model").

(B) REQUIRED ELEMENT.—The evaluation shall include an assessment of the extent to which the model estimates an optimal level of highway infrastructure investment, including an assessment as to when the model may be overestimating or underestimating investment requirements.

(C) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the evaluation.

(2) STATE INVESTMENT PLANS.—

(A) STUDY.—In consultation with State transportation departments and other appropriate State and local officials, the Comptroller General of the United States shall conduct a study on the extent to which the highway economic requirement system of the Federal Highway Administration can be used to provide States with useful information for developing State transportation investment plans and State infrastructure investment projections.

(B) REQUIRED ELEMENTS.—The study shall—

(i) identify any additional data that may need to be collected beyond the data submitted, prior to the date of enactment of this Act, to the Federal Highway Administration through the highway performance monitoring system; and

(ii) identify what additional work, if any, would be required of the Federal Highway Administration and the States to make the model useful at the State level.

(C) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(b) INTERNATIONAL ROUGHNESS INDEX.—

(1) STUDY.—The Comptroller General of the United States shall [submit a report to Congress on] *conduct a study on* the international roughness index that is used as an indicator of pavement quality on the Federal-aid highway system.

(2) REQUIRED ELEMENTS.—The study shall specify the extent of usage of the index and the extent to which the international roughness index measurement is reliable across different manufacturers and types of pavement.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(c) REPORTING OF RATES OF OBLIGATION.—Section 104 of title 23, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (m); and

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

"(j) REPORTING OF RATES OF OBLIGATION.—On an annual basis, the Secretary shall publish or otherwise report rates of obligation of funds apportioned or set aside under this section and sections 103 and 133 according to—

"(1) program;

"(2) funding category or subcategory;

"(3) type of improvement;

"(4) State; and

"(5) sub-State geographic area, including urbanized and rural areas, on the basis of the population of each such area.".

SEC. 1114. DEFINITIONS.

(a) FEDERAL-AID HIGHWAY FUNDS AND PROGRAM.—

(1) IN GENERAL.—Section 101(a) of title 23, United States Code, is amended by inserting before the undesignated paragraph defining "Federal-aid highways" the following:

"The term 'Federal-aid highway funds' means funds made available to carry out the Federal-aid highway program.

"The term 'Federal-aid highway program' means all programs authorized under chapters 1, 3, and 5.".

(2) CONFORMING AMENDMENTS.—

(A) Section 101(d) of title 23, United States Code, is amended by striking "the construction of Federal-aid highways or highway planning, research, or development" and inserting "the Federal-aid highway program".

(B) Section 104(m)(1) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended by striking "Federal-aid highways and the highway safety construction programs" and inserting "the Federal-aid highway program".

(C) Section 107(b) of title 23, United States Code, is amended in the second sentence by striking "Federal-aid highways" and inserting "the Federal-aid highway program".

(b) ALPHABETIZATION OF DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended by reordering the undesignated paragraphs so that they are in alphabetical order.

SEC. 1115. COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code (as amended by section 1107(a)), is amended by inserting after section 206 the following:

"§ 207. Cooperative Federal Lands Transportation Program

"(a) IN GENERAL.—There is established the Cooperative Federal Lands Transportation Program (referred to in this section as the 'program'). Funds available for the program may be used for projects, or portions of projects, on highways that are owned or maintained by States or political subdivisions of States and that cross, are adjacent to, or lead to federally owned land or Indian reservations *(including Army Corps of Engineers reservoirs)*, as determined by the State. Such projects shall be proposed by a State and selected by the Secretary. A project proposed by a State under this section shall be on a highway or bridge owned or maintained by the State, or 1 or more political subdivisions of the State, and may be a highway or bridge construction or maintenance project eligible under this title or any project of a type described in section 204(h).

"(b) DISTRIBUTION OF FUNDS FOR PROJECTS.—

"(1) IN GENERAL.—

"(A) IN GENERAL.—The Secretary—

"(i) after consultation with the Administrator of General Services, the Secretary of the Interior, and other agencies as appropriate *(including the Army Corps of Engineers)*, shall determine the percentage of the total land in each State that is owned by the Federal Government or that is held by the Federal Government in trust;

"(ii) shall determine the sum of the percentages determined under clause (i) for States with respect to which the percentage is 4.5 or greater; and

"(iii) shall determine for each State included in the determination under clause (ii) the percentage obtained by dividing—

"(I) the percentage for the State determined under clause (i); by

"(II) the sum determined under clause (ii).

"(B) ADJUSTMENT.—The Secretary shall—

"(i) reduce any percentage determined under subparagraph (A)(iii) that is greater than 7.5 percent to 7.5 percent; and

"(ii) redistribute the percentage points equal to any reduction under clause (i) among other States included in the determination under subparagraph (A)(ii) in proportion to the percentages for those States determined under subparagraph (A)(iii).

"(2) AVAILABILITY TO STATES.—Except as provided in paragraph (3), for each fiscal year, the Secretary shall make funds available to carry out eligible projects in a State in an amount equal to the amount obtained by multiplying—

"(A) the percentage for the State, if any, determined under paragraph (1); by

"(B) the funds made available for the program for the fiscal year.

"(3) SELECTION OF PROJECTS.—The Secretary may establish deadlines for States to submit proposed projects for funding under this section, except that in the case of fiscal year 1998 the deadline may not be earlier than January 1, 1998. For each fiscal year, if a State does not have pending, by that deadline, applications for projects with an estimated cost equal to at least 3 times the amount for the State determined under paragraph (2), the Secretary may distribute, to 1 or more other States, at the Secretary's discretion, ⅓ of the amount by which the estimated cost of the State's applications is less than 3 times the amount for the State determined under paragraph (2).

"(c) TRANSFERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a State and the Secretary may agree to transfer amounts made available to a State under this section to the allocations of the State under section 202 for use in carrying out projects on any Federal lands highway that is located in the State.

"(2) SPECIAL RULE.—This paragraph applies to a State that contains a national park that was visited by more than 2,500,000 people in 1996 and comprises more than 3,000 square miles of land area, including surface water, that is located in the State. For such a State, 50 percent of the amount that would otherwise be made available to the State for each fiscal year under the program shall be made available only for eligible highway uses in the national park and within the borders of the State. For the purpose of making allocations under section 202(c), the Secretary may not take into account the past or future availability, for use on park roads and parkways in a national park, of funds made available for use in a national park by this paragraph.

"(d) RIGHTS-OF-WAY ACROSS FEDERAL LAND.—Nothing in this section affects any claim for a right-of-way across Federal land.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $74,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be [made] available for obligation in the same manner as if the funds were apportioned under chapter 1.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 207 and inserting the following:

"207. Cooperative Federal Lands Transportation Program.".

SEC. 1116. TRADE CORRIDOR AND BORDER CROSSING PLANNING AND BORDER INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) BORDER REGION.—The term "border region" means—

(A) the region located within 60 miles of the United States border with Mexico; and

(B) the region located within 60 miles of the United States border with Canada.

(2) BORDER STATE.—The term "border State" means a State of the United States that—

(A) is located along the border with Mexico; or

(B) is located along the border with Canada.

(3) BORDER STATION.—The term "border station" means a controlled port of entry into the United States located in the United States at the border with Mexico or Canada, consisting of land occupied by the station and the buildings, roadways, and parking lots on the land.

(4) FEDERAL INSPECTION AGENCY.—The term "Federal inspection agency" means a Federal agency responsible for the enforcement of immigration laws (including regulations), customs laws (including regulations), and agriculture import restrictions, including the United States Customs Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, the Food and Drug Administration, the United States Fish and Wildlife Service, and the Department of State.

(5) GATEWAY.—The term "gateway" means a grouping of border stations defined by proximity and similarity of trade.

(6) NON-FEDERAL GOVERNMENTAL JURISDICTION.—The term "non-Federal governmental jurisdiction" means a regional, State, or local authority involved in the planning, development, provision, or funding of transportation infrastructure needs.

(b) BORDER CROSSING PLANNING INCENTIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall make incentive grants to States and to metropolitan planning organizations designated under section 134 of title 23, United States Code.

(2) USE OF GRANTS.—The grants shall be used to encourage joint transportation planning activities and to improve people and vehicle movement into and through international gateways as a supplement to statewide and metropolitan transportation planning funding made available under other provisions of this Act and under title 23, United States Code.

(3) CONDITION OF GRANTS.—As a condition of receiving a grant under paragraph (1), a State transportation department or a metropolitan planning organization shall certify to the Secretary that it commits to be engaged in joint planning with its counterpart agency in Mexico or Canada.

(4) LIMITATION ON AMOUNT.—Each State transportation department or metropolitan planning organization may receive not more than $100,000 under this subsection for any fiscal year.

(5) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,400,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project under this subsection shall be determined in accordance with subsection (f).

(c) TRADE CORRIDOR PLANNING INCENTIVE GRANTS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States to encourage, within the framework of the statewide transportation planning process of the State under section 135 of title 23, United States Code, cooperative multistate corridor analysis of, and planning for, the safe and efficient movement of goods along and within international or interstate trade corridors of national importance.

(B) IDENTIFICATION OF CORRIDORS.—Each corridor referred to in subparagraph (A) shall be cooperatively identified by the States along the corridor.

(2) CORRIDOR PLANS.—

(A) IN GENERAL.—As a condition of receiving a grant under paragraph (1), a State shall enter into an agreement with the Secretary that specifies that, in cooperation with the other States along the corridor, the State will submit a plan for corridor improvements to the Secretary not later than 2 years after receipt of the grant.

(B) COORDINATION OF PLANNING.—Planning with respect to a corridor under this subsection shall be coordinated with transportation planning being carried out by the States and metropolitan planning organizations along the corridor and, to the extent appropriate, with transportation planning being carried out by Federal land management agencies, by tribal governments, or by government agencies in Mexico or Canada.

(3) MULTISTATE AGREEMENTS FOR TRADE CORRIDOR PLANNING.—The consent of Congress is granted to any 2 or more States—

(A) to enter into multistate agreements, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of interstate trade corridor planning activities; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable to make the agreements effective.

(4) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $3,000,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project under this subsection shall be determined in accordance with subsection (f).

(d) FEDERAL ASSISTANCE FOR TRADE CORRIDORS AND BORDER INFRASTRUCTURE SAFETY AND CONGESTION RELIEF.—

(1) APPLICATIONS FOR GRANTS.—The Secretary shall make grants to States or metropolitan planning organizations that submit an application that—

(A) demonstrates need for assistance in carrying out transportation projects that are necessary to relieve traffic congestion or improve enforcement of motor carrier safety laws; and

(B) includes strategies to involve both the public and private sectors in the proposed project.

(2) SELECTION OF STATES, METROPOLITAN PLANNING ORGANIZATIONS, AND PROJECTS TO RECEIVE GRANTS.—In selecting States, metropolitan planning organizations, and projects to receive grants under this subsection, the Secretary shall consider—

(A) the annual volume of commercial vehicle traffic at the border stations or ports of entry of each State as compared to the annual volume of commercial vehicle traffic at the border stations or ports of entry of all States;

(B) the extent to which commercial vehicle traffic in each State has grown since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103-182) as compared to the extent to which that traffic has grown in each other State;

(C) the extent of border transportation improvements carried out by each State since the date of enactment of that Act;

(D) the reduction in commercial and other travel time through a major international gateway expected as a result of the project;

(E) the extent of leveraging of Federal funds provided under this subsection, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding;

(F) improvements in vehicle and highway safety and cargo security in and through the gateway concerned;

(G) the degree of demonstrated coordination with Federal inspection agencies; [and]

(H) the extent to which the innovative and problem solving techniques of the proposed project would be applicable to other border stations or ports of entry;

(I) demonstrated local commitment to implement and sustain continuing comprehensive border planning processes and improvement programs; and

(J) other factors to promote transport efficiency and safety, as determined by the Secretary.

(3) USE OF GRANTS.—

(A) IN GENERAL.—A grant under this subsection shall be used to develop project plans, and implement coordinated and comprehensive programs of projects, to improve efficiency and safety.

(B) TYPE OF PLANS AND PROGRAMS.—The plans and programs may include—

(i) improvements to transport and supporting infrastructure;

(ii) improvements in operational strategies, including electronic data interchange and use of telecommunications to expedite vehicle and cargo movement;

(iii) modifications to regulatory procedures to expedite vehicle and cargo flow;

(iv) new infrastructure construction;

(v) purchase, installation, and maintenance of weigh-in-motion devices and associated electronic equipment in Mexico or Canada if real time data from the devices is provided to the nearest border station and to State commercial vehicle enforcement facilities that serve the border station; and

(vi) other institutional improvements, such as coordination of binational planning, programming, and border operation, with special emphasis on coordination with—

(I) Federal inspection agencies; and

(II) their counterpart agencies in Mexico and Canada.

(4) CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE FOR LAW ENFORCEMENT PURPOSES.—At the request of the Administrator of General Services, in consultation with the Attorney General, the Secretary may transfer, during the period of fiscal years 1998 through 2001, not more than $10,000,000 of the amounts made available under paragraph (5) to the Administrator of General Services for

the construction of transportation infrastructure necessary for law enforcement in border States.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $125,000,000 for each of fiscal years 1998 through 2003.

(e) COORDINATION OF PLANNING.—

(1) PLANNING AND DEVELOPMENT OF BORDER STATIONS.—The General Services Administration shall be the coordinating Federal agency in the planning and development of new or expanded border stations.

(2) COOPERATIVE ACTIVITIES.—In carrying out paragraph (1), the Administrator of General Services shall cooperate with Federal inspection agencies and non-Federal governmental jurisdictions to ensure that—

(A) improvements to border station facilities take into account regional and local conditions, including the alignment of highway systems and connecting roadways; and

(B) all facility requirements, associated costs, and economic impacts are identified.

(f) COST SHARING.—A grant under this section shall be used to pay the Federal share of the cost of a project. The Federal share shall not exceed 80 percent.

(g) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this section but not allocated exceeds $4,000,000 as of September 30 of any year, the excess amount—

(1) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

(2) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

(3) shall be available for any purpose eligible for funding under section 133 of that title.

SEC. 1117. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Section 201(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the second sentence, by inserting before the period at the end the following: ", except that each allocation to a State shall remain available for expenditure in the State for the fiscal year in which the allocation is allocated and for the 3 following fiscal years"; and

(2) by inserting after the second sentence the following: "Funds authorized under this section for fiscal year 1998 or a fiscal year thereafter, and not expended by a State during the 4 fiscal years referred to in the preceding sentence, shall be released to the Commission for reallocation *and shall remain available until expended.*".

(b) SUBSTITUTE CORRIDOR.—Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) by striking "(b) The Commission" and inserting the following:

"(b) DESIGNATIONS.—

"(1) IN GENERAL.—The Commission"; and

(3) by adding at the end the following:

"(2) SUBSTITUTE CORRIDOR.—In lieu of Corridor H in Virginia, the Appalachian development highway system shall include the Virginia portion of the segment identified in section [332(a)(29)] *1105(c)(29)* of the [National Highway System Designation Act of 1995 (Public Law 104–59;] *Intermodal Surface Transportation Efficiency Act of 1991* (109 Stat. 597).".

(c) FEDERAL SHARE FOR PREFINANCED PROJECTS.—Section 201(h)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "70 per centum" and inserting "80 percent".

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 201[(g)] of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking subsection (g) and inserting the following:

"(g) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—

"(A) FISCAL YEARS 1998 THROUGH 2003.—For the continued construction of the Appalachian development highway system approved as of September 30, 1996, in accordance with this section, there shall be available from the Highway Trust Fund (other than the Mass Transit Account) $40,000,000 for each of fiscal years 1998 through 2000, $50,000,000 for fiscal year 2001, $60,000,000 for fiscal year 2002, and $70,000,000 for fiscal year 2003.

"(B) OBLIGATION AUTHORITY.—The Secretary shall provide equivalent amounts of obligation authority for the funds authorized under subparagraph (A).

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be determined in accordance with this section and the funds shall remain available in accordance with subsection (a).".

SEC. 1118. INTERSTATE 4R AND BRIDGE DISCRETIONARY PROGRAM.

(a) IN GENERAL.—Section 104 of title 23, United States Code (as amended by section 1113(c)(1)), is amended by inserting after subsection (j) the following:

"(k) SET-ASIDE FOR INTERSTATE 4R AND BRIDGE PROJECTS.—

"(1) IN GENERAL.—For each of fiscal years 1998 through 2003, before any apportionment is made under subsection (b)(1), the Secretary shall set aside $70,000,000 from amounts to be apportioned under subsection (b)(1)(A), and $70,000,000 from amounts to be apportioned under subsection (b)(1)(B), for allocation by the Secretary—

"(A) for projects for resurfacing, restoring, rehabilitating, or reconstructing any route or portion of a route on the Interstate System (other than any highway designated as a part of the Interstate System under section 103(c)(4) and any toll road on the Interstate System that is not subject to an agreement under section 119(e) (as in effect on December 17, 1991) or an agreement under section 129(a));

"(B) for projects for a highway bridge the replacement, [or] rehabilitation, *or seismic retrofit* cost of which is more than $10,000,000; and

"(C) for projects for a highway bridge the replacement, [or] rehabilitation, *or seismic retrofit* cost of which is less than $10,000,000 if the cost is at least twice the amount reserved under section 144(c) by the State in which the bridge is located for the fiscal year in which application is made for [a grant] *an allocation* for the bridge *under this subsection.*

"(2) REQUIRED ALLOCATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), for each of fiscal years 1998 through 2003, the Secretary shall allocate on October 1, for use for highway bridge projects, at least $20,000,000 of the amounts set aside under paragraph (1) to any State that—

"(i) is apportioned for fiscal year 1998 under paragraphs (1)(B), (1)(C)(i)(III), and (3)(A)(iii) of subsection (b) an amount that is less than the amount apportioned to the State for the highway bridge replacement and rehabilitation program under section 144 for fiscal year 1997; and

"(ii) was apportioned for that program for fiscal year 1997 an amount greater than $125,000,000.

"(B) EXCEPTION.—A State that transferred funds from the highway bridge replacement and rehabilitation program during any of fiscal years 1995 through 1997 in an amount greater than 10 percent of the apportionments for that program for the fiscal year shall not be eligible for an allocation under subparagraph (A).

"(C) ADDITIONAL ALLOCATION.—An allocation to a State under subparagraph (A) shall be in addition to any allocation to the State under paragraph (1).

[**"(2)**] *"(3)* AVAILABILITY TO STATES OF INTERSTATE 4R FUNDS.—The Secretary may grant the application of a State for funds made available for a fiscal year for a project described in paragraph (1)(A) if the Secretary determines that—

"(A) the State has obligated or demonstrates that it will obligate for the fiscal year all of the apportionments to the State under subparagraphs (A) and (B) of subsection (b)(1) other than an amount that, by itself, is insufficient to pay the Federal share of the cost of a project described in paragraph (1)(A) that has been submitted by the State to the Secretary for approval; and

"(B) the State is willing and able to—

"(i) obligate the funds within 1 year after the date on which the funds are made available;

"(ii) apply the funds to a project that is ready to be commenced; and

"(iii) in the case of construction work, begin work within 90 days after the date of obligation of the funds.

"(4) ELIGIBILITY OF CERTAIN BRIDGES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this subsection.

"(B) LIMITATION.—The amount of assistance under subparagraph (A) shall not exceed the cumulative amount that the agency has expended for capital and operating costs to subsidize the transit system.

"(C) DETERMINATION BY THE SECRETARY.—Before authorizing an expenditure of funds under this paragraph, the Secretary shall make a determination that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement, seismic retrofitting, or rehabilitation project.

"(D) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of expenditure.

"[(3)] *(5)* PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Amounts made available under this subsection shall remain available until expended.".

(b) CONFORMING AMENDMENT.—Section 118 of title 23, United States Code, is amended by striking subsection (c).

SEC. 1119. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 321 the following:

"§ 322. Magnetic levitation transportation technology deployment program

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station.

"(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

"(3) MAGLEV.—The term 'MAGLEV' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

"(4) PARTNERSHIP POTENTIAL.—The term 'partnership potential' has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 1978).

"(b) ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make available financial assistance to provide the Federal share of full project costs of eligible projects selected under this section.

"(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than ⅔.

"(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

"(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

"(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

"(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

"(2) require an amount of Federal funds for project financing that will not exceed *the sum of*—

"(A) the amounts made available under subsection (h)(1)(A); and

"(B) the amounts made available by States under subsection (h)(4);

"(3) result in an operating transportation facility that provides a revenue producing service;

"(4) be undertaken through a public and private partnership, with at least ⅓ of full project costs paid using non-Federal funds;

"(5) satisfy applicable statewide and metropolitan planning requirements;

"(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

"(7) to the extent *that* non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

"(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

"(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

"(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

"(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

"(3) States, regions, and localities financially contribute to the project;

"(4) implementation of the project will create new jobs in traditional and emerging industries;

"(5) the project will augment MAGLEV networks identified as having partnership potential;

"(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

"(7) financial assistance would foster the timely implementation of a project; and

"(8) life-cycle costs in design and engineering are considered and enhanced.

"(f) PROJECT SELECTION.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 eligible project for financial assistance.

"(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

"(h) FUNDING.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1999 and $20,000,000 for fiscal year 2000.

"(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

"(II) the availability of the funds shall be determined in accordance with paragraph (2).

"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2000 and 2001, $250,000,000 for fiscal year 2002, and $300,000,000 for fiscal year 2003.

"(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

"(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

"(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title *and the Transportation Infrastructure Finance and Innovation Act of 1997*, including loans, loan guarantees, and lines of credit.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 321 the following:

"322. Magnetic levitation transportation technology deployment program.".

SEC. 1120. WOODROW WILSON MEMORIAL BRIDGE.

(a) DEFINITIONS.—Section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 628) is amended—

(1) in paragraph (3), by striking ", including approaches thereto"; and

(2) in paragraph (5), by striking "to be determined under section 407. Such" and all that follows and inserting the following: "as described in the record of decision executed by the Secretary in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The term includes ongoing short-term rehabilitation and repairs to the Bridge.".

(b) OWNERSHIP OF BRIDGE.—

(1) CONVEYANCE BY THE SECRETARY.—Section 407(a)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by inserting "or any Capital Region jurisdiction" after "Authority" each place it appears.

(2) AGREEMENT.—Section 407 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by striking subsection (c) and inserting the following:

"(c) AGREEMENT.—

"(1) IN GENERAL.—The agreement referred to in subsection (a) is an agreement concerning the Project that is executed by the Secretary and the Authority or any Capital Region jurisdiction that accepts ownership of the Bridge.

"(2) TERMS OF THE AGREEMENT.—The agreement shall—

"(A) identify whether the Authority or a Capital Region jurisdiction will accept ownership of the Bridge;

"(B) contain a financial plan satisfactory to the Secretary, which shall be prepared before the execution of the agreement, that specifies—

"(i) the total cost of the Project, including any cost-saving measures;

"(ii) a schedule for implementation of the Project, including whether any expedited design and construction techniques will be used; and

"(iii) the sources of funding that will be used to cover any costs of the Project not funded from funds made available under section 412; and

"(C) contain such other terms and conditions as the Secretary determines to be appropriate.".

(c) FEDERAL CONTRIBUTION.—The Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 627) is amended by adding at the end the following:

"SEC. 412. FEDERAL CONTRIBUTION.

"(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than

the Mass Transit Account) $100,000,000 for fiscal year 1998, $100,000,000 for fiscal year 1999, $125,000,000 for fiscal year 2000, $175,000,000 for fiscal year 2001, $200,000,000 for fiscal year 2002, and $200,000,000 for fiscal year 2003, to pay the costs of planning, preliminary engineering and design, final engineering, acquisition of rights-of-way, and construction of the Project, except that the costs associated with the Bridge shall be given priority over other eligible costs, other than design costs, of the Project.

"(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that—

"(A) the funds shall remain available until expended and shall not be subject to any obligation limitation;

"(B) the Federal share of the cost of the Bridge component of the Project shall not exceed 100 percent; and

"(C) the Federal share of the cost of any other component of the Project shall not exceed 80 percent.

"(b) USE OF APPORTIONED FUNDS.—Nothing in this [Act] *title* limits the authority of any Capital Region jurisdiction to use funds apportioned to the jurisdiction under paragraph (1) or (3) of section 104(b) of title 23, United States Code, in accordance with the requirements for such funds, to pay any costs of the Project.

"(c) AVAILABILITY OF APPORTIONED FUNDS.—None of the funds made available under this section shall be available before the execution of the agreement described in section 407(c), except that the Secretary may fund the maintenance and rehabilitation of the Bridge and the design of the Project.".

(d) CONFORMING AMENDMENT.—Section 405(b)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 629) is amended by striking "the Signatories as to the Federal share of the cost of the Project and the terms and conditions related to the timing of the transfer of the Bridge to".

SEC. 1121. NATIONAL HIGHWAY SYSTEM COMPONENTS.

The National Highway System consists of the routes and transportation facilities depicted on the map submitted by the Secretary to Congress with the report entitled "Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals" and dated May 24, 1996.

SEC. 1122. HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(1) in the section heading, by striking "**program**";

(2) by striking subsections (a) through (n), (p), and (q);

(3) by inserting after the section heading the following:

"(a) DEFINITION OF REHABILITATE.—In this section, the term 'rehabilitate' (in any of its forms), with respect to a bridge, means to carry out major work necessary—

"(1) to address the structural deficiencies, functional obsolescence, or physical deterioration of the bridge; or

"(2) to correct a major safety defect of the bridge, *including seismic retrofitting*.

"(b) BRIDGE INVENTORY.—

"(1) IN GENERAL.—In consultation with the States, the Secretary shall—

"(A) annually inventory all highway bridges on public roads that cross waterways, other topographical barriers, other highways, and railroads;

"(B) classify each such bridge according to serviceability, safety, and essentiality for public use; and

"(C) assign each such bridge a priority for replacement or rehabilitation based on the classification under subparagraph (B).

"(2) CONSULTATION.—In preparing an inventory of highway bridges on Indian reservation roads and park roads under paragraph (1), the Secretary shall consult with the Secretary of the Interior and the States.

"(3) INVENTORY OF HISTORICAL BRIDGES.—At the request of a State, the Secretary may inventory highway bridges on public roads for historical significance.

"(c) CERTIFICATION BY THE STATE.—Not later than 180 days after the end of each fiscal year beginning with fiscal year 1998, each State shall certify to the Secretary, either that—

"(1) the State has reserved, from funds apportioned to the State for the preceding fiscal year, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), an amount that is not less than the amount apportioned to the State under this section for fiscal year 1997; or

"(2) the amount that the State will reserve, from funds apportioned to the State for the period consisting of fiscal years 1998 through 2001, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), will be not less than 4 times the amount apportioned to the State under this section for fiscal year 1997.

"(d) USE OF RESERVED FUNDS.—A State may use funds reserved under subsection (c) to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, *apply sodium acetate/formate deicer to*, or install scour countermeasures on a highway bridge on a public road that crosses a waterway, other topographical barrier, other highway, or railroad.

"(e) OFF-SYSTEM BRIDGES.—

"(1) REQUIRED EXPENDITURE.—For each fiscal year, an amount equal to not less than 15 percent of the amount apportioned to a State under this section for fiscal year 1997 shall be expended by the State for projects to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, *apply sodium acetate/formate deicer to*, or install scour countermeasures on highway bridges located on public roads that are functionally classified as local roads or rural minor collectors.

"(2) USE OF FUNDS TO MEET REQUIRED EXPENDITURE.—Funds reserved under subsection (c) and funds made available under section 104(b)(1) for the National Highway System or under section 104(b)(3) for the surface transportation program may be used to meet the requirement for expenditure under paragraph (1).

"(3) REDUCTION OF REQUIRED EXPENDITURE.—After consultation with local and State officials in a State, the Secretary may, with respect to the State, reduce the requirement for expenditure under paragraph (1) if the Secretary determines that the State has inadequate needs to justify the expenditure.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be [80 percent] *as determined under section 120(b)*.

"(g) BRIDGE PERMIT EXEMPTION.—

"(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to each bridge authorized to be replaced, in whole or in part, under this section.

"(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425; 33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title if the bridge is over waters that are—

"(A) not used and not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and

"(B)(i) not tidal; or

"(ii) tidal but used only by recreational boating, fishing, and other small vessels that are less than 21 feet in length.

"(h) INDIAN RESERVATION ROAD BRIDGES.—

"(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall establish a nationwide priority program for improving deficient Indian reservation road bridges.

"(2) RESERVATION OF FUNDS.—

"(A) IN GENERAL.—Of the amounts authorized for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $9,000,000 for projects to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate to, *apply sodium acetate/formate deicer to*, or install scour countermeasures for deficient Indian reservation road bridges, including multiple-pipe culverts.

"(B) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in subparagraph (A) must—

"(i) have an opening of 20 feet or more;

"(ii) be on an Indian reservation road;

"(iii) be unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; and

"(iv) be recorded in the national bridge inventory administered by the Secretary under subsection (b).

"(3) APPROVAL REQUIREMENT.—Funds to carry out Indian reservation road bridge projects under this subsection shall be made available only on approval of plans, specifications, and estimates by the Secretary.";

(4) by redesignating subsection (o) as subsection (i); and

(5) in subsection (i) (as so redesignated)—

(A) in paragraph (1), by inserting "for alternative transportation purposes (including bikeway and walkway projects eligible for funding under this title)" after "adaptive reuse";

(B) in paragraph (3)—

(i) by inserting "(regardless of whether the intended use is for motorized vehicular traffic or for alternative public transportation purposes)" after "intended use"; and

(ii) by inserting "or for alternative public transportation purposes" after "no longer used for motorized vehicular traffic"; and

(C) in the second sentence of paragraph (4)—

(i) by inserting "for motorized vehicles, alternative vehicular traffic, or alternative public transportation" after "historic bridge"; and

(ii) by striking "up to an amount not to exceed the cost of demolition".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

"144. Highway bridge replacement and rehabilitation.".

SEC. 1123. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHED PROGRAM.—Section 149(a) of title 23, United States Code, is amended by striking "ESTABLISHMENT.—The Secretary shall establish" and inserting "IN GENERAL.—The Secretary shall carry out".

(b) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended in the first sentence—

(1) by striking "that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994" and inserting "that is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) or classified as a submarginal ozone nonattainment area under that Act, or if the project or program is for a maintenance [area or an area that, as of the date of enactment of the Intermodal Transportation Act of 1997, is considered by the Administrator of the Environmental Protection Agency to be a flexible attainment region";] *area,*";

(2) in paragraph (1)—

(A) in subparagraph (A), by striking "clauses (xii) and" and inserting "clause"; and

(B) in subparagraph (B), by striking "such section" and inserting "section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))";

(3) in paragraph (2), by inserting "or maintenance" after "State implementation";

(4) in paragraph (3), by inserting "or maintenance of the standard" after "standard"; and

(5) in paragraph (4), by inserting "or maintenance" after "attainment".

(c) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) STATES RECEIVING MINIMUM APPORTIONMENT.—

"(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(2) for any project eligible under the surface transportation program under section 133.

"(2) STATES WITH A NONATTAINMENT AREA.—If a State has a nonattainment area or maintenance area and receives funds under section 104(b)(2)(D) above the amount of funds that the State would have received based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2), the State may use that portion of the funds not [attributed to the] *based on its* nonattainment [or] *and* maintenance area *population under subparagraphs (B) and (C) of section 104(b)(2)* for any project *in the State* eligible under section 133.".

(d) FEDERAL SHARE.—Section 120(c) of title 23, United States Code, is amended in the first sentence by striking "The" and inserting "Except in the case of a project funded from sums apportioned under section 104(b)(2), the".

(e) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended by inserting after the undesignated paragraph defining "maintenance" the following:

"The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).".

(2) Section 149(b)(1)(A)(ii) of title 23, United States Code, is amended by striking "an area" and all that follows and inserting "a maintenance area; or".

SEC. 1124. SAFETY BELT USE LAW REQUIREMENTS.

Section 355 of the National Highway System Designation Act of 1995 (109 Stat. 624) is amended—

(1) in the section heading, by striking "and maine";

(2) in subsection (a)—

(A) by striking "States of New Hampshire and Maine shall each" and inserting "State of New Hampshire shall"; *and*

(B) in paragraph (1), by striking "and 1996" and inserting "through 2000"; and

(3) by striking "or Maine" each place it appears.

SEC. 1125. SENSE OF THE SENATE CONCERNING RELIANCE ON PRIVATE ENTERPRISE.

(a) IN GENERAL.—It is the sense of the Senate that each agency authorized to expend funds made available under this Act, or an amendment made by this Act, or a recipient of any form of a grant or other Federal assistance under this Act, or an amendment made by this Act—

(1) should, in expending the funds or assistance, rely on entities in the private enterprise system to provide such goods and services as are reasonably and expeditiously available through ordinary business channels; and

(2) shall not duplicate or compete with entities in the private enterprise system.

(b) PROCEDURES.—The Secretary should provide procedures to inform each agency that administers this Act and each recipient of a grant or other Federal assistance of the sense of the Senate expressed in subsection (a).

SEC. 1126. STUDY OF USE OF UNIFORMED POLICE OFFICERS ON FEDERAL-AID HIGHWAY CONSTRUCTION PROJECTS.

(a) IN GENERAL.—In consultation with the States and State transportation departments, the Secretary shall conduct a study on the extent and effectiveness of use by States of uniformed police officers on Federal-aid highway construction projects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under subsection (a), including any legislative and administrative recommendations of the Secretary.

SEC. 1127. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)(i), by striking ", except to" and all that follows through "services";

(2) by striking subparagraph (C) and inserting the following:

"(C) SELECTION, PERFORMANCE, AND AUDITS.—

"(i) IN GENERAL.—All requirements for architectural, engineering, and related services at any phase of a highway project funded in whole or in part with Federal-aid highway funds shall be performed by a contract awarded in accordance with subparagraph (A).

"(ii) PROHIBITION ON STATE RESTRICTION.—A State shall not impose any overhead restriction that would preclude any qualified firm from being eligible to compete for contracts awarded in accordance with subparagraph (A).

"(iii) COMPLIANCE WITH FEDERAL ACQUISITION REGULATIONS.—The process for selection, award, performance, administration, and audit of the resulting contracts shall comply with the cost principles and cost accounting principles of the Federal Acquisition Regulations, including parts 30, 31, and 36 of the Regulations."; and

(3) by adding at the end the following:

"(H) COMPLIANCE.—

"(i) IN GENERAL.—A State shall comply with the qualifications-based selection process, contracting based on the Federal Acquisition Regulations, and the single audit procedures required under this paragraph, or with an existing State law or a statute enacted in accordance with the legislative session exemption under subparagraph (G), with respect to any architecture, engineering, or related service contract for any phase of a Federal-aid highway project.

"(ii) STATES WITH ALTERNATIVE PROCESS.—Any State that, after November 28, 1995, enacted legislation to establish an alternative State process as a substitute for the contract administration and audit procedures required under this paragraph or was granted a waiver under subparagraph (G) shall submit the legislation to the Secretary, not later than 60 days after the date of enactment of this subparagraph, for certification that the State legislation is in compliance with the statutory timetable and substantive criteria specified in subparagraph (G).".

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

SEC. 1201. ADMINISTRATIVE EXPENSES.

Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Whenever an apportionment is made of the sums made available for expenditure on the surface transportation program under section 133, the congestion mitigation and air quality improvement program under section 149, or the *Interstate and* National Highway System *program* under section 103, the Secretary shall deduct a sum, in an amount not to exceed 1½ percent of all sums so made available, as the Secretary determines necessary to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2.

"(2) CONSIDERATION OF UNOBLIGATED BALANCES.—In making the determination described in paragraph (1), the Secretary shall take into account the unobligated balance of any sums deducted under [that paragraph] *this subsection* in prior fiscal years.

"(3) AVAILABILITY.—The sum deducted under paragraph (1) shall remain available until expended.".

SEC. 1202. REAL PROPERTY ACQUISITION AND CORRIDOR PRESERVATION.

(a) ADVANCE ACQUISITION OF REAL PROPERTY.—Section 108 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 108. Advance acquisition of real property";

and

(2) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of real property for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

"(2) CONSTRUCTION.—The agreement between the Secretary and the State for the reimbursement of the cost of the real property shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.".

(b) CREDIT FOR ACQUIRED LANDS.—Section 323(b) of title 23, United States Code, is amended—

(1) in the subsection heading, by striking "DONATED" and inserting "ACQUIRED";

(2) by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the State share of the cost of a project with respect to which Federal assistance is provided from the Highway Trust Fund (other than the Mass Transit Account) may be credited in an amount equal to the fair market value of any land that—

"(A) is obtained by the State, without violation of Federal law; and

"(B) is incorporated into the project.

"(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into a project and credited under paragraph (1) shall be established in the manner determined by the Secretary, except that—

"(A) the fair market value shall not include any increase or decrease in the value of donated property caused by the project; and

"(B) the fair market value of donated land shall be established as of the earlier of—

"(i) the date on which the donation becomes effective; or

"(ii) the date on which equitable title to the land vests in the State.";

(3) by striking paragraph (3);

(4) in paragraph (4), by striking "to which the donation is applied"; and

(5) by redesignating paragraph (4) as paragraph (3).

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 108 and inserting the following:

"108. Advance acquisition of real property.".

SEC. 1203. AVAILABILITY OF FUNDS.

Section 118 of title 23, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Any Federal-aid highway funds released by the final payment on a project, or by the modification of a project agreement, shall be credited to the same program funding category for which the funds were previously apportioned and shall be immediately available for obligation.

"(2) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—Any Federal-aid highway funds apportioned to a State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of this paragraph) and credited under paragraph (1) may be transferred by the Secretary in accordance with section 103(d).".

SEC. 1204. PAYMENTS TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second and third sentences and inserting the following: "The payments may also be made for the value of such materials as—

"(1) have been stockpiled in the vicinity of the construction in conformity to plans and specifications for the projects; and

"(2) are not in the vicinity of the construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in the vicinity.";

(2) by striking subsection (b) and inserting the following:

"(b) PROJECT AGREEMENTS.—

"(1) PAYMENTS.—A payment under this chapter may be made only for a project covered by a project agreement.

"(2) SOURCE OF PAYMENTS.—After completion of a project in accordance with the project agreement, a State shall be entitled to payment, out of the appropriate sums apportioned or allocated to the State, of the unpaid balance of the Federal share of the cost of the project.";

(3) by striking subsections (c) and (d); and

(4) by redesignating subsection (e) as subsection (c).

SEC. 1205. PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.

(a) IN GENERAL.—Section 156 of title 23, United States Code, is amended to read as follows:

"§ 156. Proceeds from the sale or lease of real property

"(a) MINIMUM CHARGE.—Subject to section 142(f), a State shall charge, at a minimum, fair market value for the sale, use, lease, or lease renewal (other than for utility use and occupancy or for a transportation project eligible for assistance under this title) of real property acquired with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account).

"(b) EXCEPTIONS.—The Secretary may grant an exception to the requirement of subsection (a) for a social, environmental, or economic purpose.

"(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net income from the revenues obtained by a State under subsection (a) shall be used by the State for projects eligible under this title.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 156 and inserting the following:

"156. Proceeds from the sale or lease of real property.".

SEC. 1206. METRIC CONVERSION AT STATE OPTION.

Section 205(c)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 109 note; 109 Stat. 577) is amended by striking "Before September 30, 2000, the" and inserting "The".

SEC. 1207. REPORT ON OBLIGATIONS.

Section 104(m) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended—

(1) by inserting "REPORT TO CONGRESS.—" before "The Secretary";

(2) by striking "not later than" and all that follows through "a report" and inserting "a report for each fiscal year";

(3) in paragraph (1), by striking "preceding calendar month" and inserting "preceding fiscal year";

(4) by striking paragraph (2);

(5) in paragraph (3), by striking "such preceding month" and inserting "that preceding fiscal year"; and

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 1208. TERMINATIONS.

(a) RIGHT-OF-WAY REVOLVING FUND.—Section 108 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TERMINATION OF RIGHT-OF-WAY REVOLVING FUND.—

"(1) IN GENERAL.—Funds apportioned and advanced to a State by the Secretary from the right-of-way revolving fund established by this section prior to the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997 shall remain available to the State for use on the projects for which the funds were advanced for a period of 20 years from the date on which the funds were advanced.

"(2) CREDIT TO HIGHWAY TRUST FUND.—With respect to a project for which funds have been advanced from the right-of-way revolving fund, upon the termination of the 20-year period referred to in paragraph (1), when actual construction is commenced, or upon approval by the Secretary of the plans, specifications, and estimates for the actual construction of the project on the right-of-way, whichever occurs first—

"(A) the Highway Trust Fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120, out of any Federal-aid highway funds apportioned to the State in which the project is located and available for obligation for projects of the type funded; and

"(B) the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the Highway Trust Fund.".

(b) PILOT TOLL COLLECTION PROGRAM.—Section 129 of title 23, United States Code, is amended by striking subsection (d).

(c) NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.—As soon as practicable after the date of enactment of this Act, the Secretary shall take such action as is necessary for the termination of the National Recreational Trails Advisory Committee established by section 1303 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1262) (as in effect on the day before the date of enactment of this Act).

(d) CONGRESSIONAL BRIDGE COMMISSIONS.—Public Law 87–441 (76 Stat. 59) is repealed.

SEC. 1209. INTERSTATE MAINTENANCE.

(a) INTERSTATE FUNDS.—Section 119 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (d); and

(3) by striking subsection (f) and inserting the following:

"(f) TRANSFERABILITY OF FUNDS.—

"(1) UNCONDITIONAL.—A State may transfer an amount not to exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).

"(2) UPON ACCEPTANCE OF CERTIFICATION.—If a State certifies to the Secretary that any part of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) is in excess of the needs of the State for resurfacing, restoring, rehabilitating, or reconstructing routes and bridges on the Interstate System in the State and that the State is adequately maintaining the routes and bridges, and the Secretary accepts the certification, the State may transfer, in addition to the amount authorized to be transferred under paragraph (1), an amount not to exceed 20 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).".

(b) ELIGIBILITY.—Section 119 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking "and rehabilitating" and inserting ", rehabilitating, and reconstructing";

(2) by striking subsections (b), (c), (e), and (g);

(3) by inserting after subsection (a) the following:

"(b) ELIGIBLE ACTIVITIES.—

"(1) IN GENERAL.—A State—

"(A) may use funds apportioned under subparagraph (A) or (B) of section 104(b)(1) for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System, including—

"(i) resurfacing, restoring, rehabilitating, and reconstructing bridges, interchanges, and overcrossings;

"(ii) acquiring rights-of-way; and

"(iii) intelligent transportation system capital improvements that are infrastructure-based to the extent that they improve the performance of the Interstate System; but

"(B) may not use the funds for construction of new travel lanes other than high-occupancy vehicle lanes or auxiliary lanes.

"(2) EXPANSION OF CAPACITY.—

"(A) USING TRANSFERRED FUNDS.—Notwithstanding paragraph (1), funds transferred under subsection (c)(1) may be used for construction to provide for expansion of the capacity of an Interstate System highway (including a bridge).

"(B) USING FUNDS NOT TRANSFERRED.—

"(i) IN GENERAL.—In lieu of transferring funds under subsection (c)(1) and using the transferred funds for the purpose described in subparagraph (A), a State may use an amount of the sums apportioned to the State under subparagraph (A) or (B) of section 104(b)(1) for the purpose described in subparagraph (A).

"(ii) LIMITATION.—The sum of the amount used under clause (i) and any amount transferred under subsection (c)(1) by a State may not exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1).''; and

(4) by redesignating subsection (f) as subsection (c).

(c) CONFORMING AMENDMENTS.—

(1) Section 119(a) of title 23, United States Code, is amended in the first sentence by striking ''; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in subsection (e)''.

(2) Section 1009(c)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 119 note; 105 Stat. 193[3]*4*) is amended by striking ''section 119(f)(1)'' and inserting ''section 119(c)(1)''.

CHAPTER 2—PROJECT APPROVAL

SEC. 1221. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code (as amended by section 1118), is amended by inserting after subsection (k) the following:

''(l) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

''(1) TRANSFER OF HIGHWAY FUNDS.—Funds made available under this title and transferred for transit projects shall be administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

''(2) TRANSFER OF TRANSIT FUNDS.—Funds made available under chapter 53 of title 49 and transferred for highway projects shall be administered by the Secretary in accordance with this title, except that the provisions of that chapter relating to the non-Federal share shall apply to the transferred funds.

''(3) TRANSFER TO AMTRAK AND PUBLICLY-OWNED PASSENGER RAIL LINES.—Funds made available under this title or chapter 53 of title 49 and transferred to the National Railroad Passenger Corporation or to any publicly-owned intercity or intracity passenger rail line shall be administered by the Secretary in accordance with subtitle V of title 49, except that the provisions of this title or chapter 53 of title 49, as applicable, relating to the non-Federal share shall apply to the transferred funds.

''(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority provided for projects described in paragraphs (1) through (3) shall be transferred in the same manner and amount as the funds for the projects are transferred.''.

SEC. 1222. PROJECT APPROVAL AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 106. Project approval and oversight'';

(2) by redesignating subsections (e) and (f) as subsections (g) and (h), respectively;

(3) by striking subsections (a) through (d) and inserting the following:

''(a) IN GENERAL.—Except as otherwise provided in this section, the State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require. The Secretary shall act upon such plans, specifications, and estimates as soon as practicable after they have been submitted, and shall enter into a formal project agreement with the State transportation department formalizing the conditions of the project approval. The execution of such project agreement shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

''(b) PROJECT AGREEMENT.—The project agreement shall make provision for State funds required for the State's pro rata share of the cost of construction of the project and for the maintenance of the project after completion of construction. The Secretary may rely upon representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials where a part of the project is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

''(c) SPECIAL RULES FOR PROJECT OVERSIGHT.—

''(1) NHS PROJECTS.—Except as otherwise provided in subsection (d) of this section, the Secretary may discharge to the State any of the Secretary's responsibilities for the design, plans, specifications, estimates, contract awards, and inspection of projects under this title on the National Highway System. Before discharging responsibilities to the State, the Secretary shall reach agreement with the State as to the extent to which the State may assume the responsibilities of the Secretary under this subsection. The Secretary may not assume any greater responsibility than the Secretary is permitted under this title as of September 30, 1997, except upon agreement by the Secretary and the State.

''(2) NON-NHS PROJECTS.—For all projects under this title that are off the National Highway System, the State may request that the Secretary no longer review and approve the design, plans, specifications, estimates, contract awards, and inspection of projects under this title. After receiving any such request, the Secretary shall undertake project review only as requested by the State.

''(d) RESPONSIBILITIES OF THE SECRETARY.—

''(1) IN GENERAL.—Subject to paragraph (2), nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under any Federal law other than this title.

''(2) LIMITATION.—Any responsibility or obligation of the Secretary under sections 113 and 114 of this title shall not be affected and may not be discharged under this section, section 133, or section 149.

''(e) VALUE ENGINEERING ANALYSIS.—In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid highway shall be accompanied by a value engineering or other cost reduction analysis.

''(f) FINANCIAL PLAN.—The Secretary shall require a financial plan to be prepared for any project with an estimated total cost of $1,000,000,000 or more.''.

(b) STANDARDS.—

(1) ELIMINATION OF GUIDELINES AND ANNUAL CERTIFICATION REQUIREMENTS.—Section 109 of title 23, United States Code, is amended—

(A) by striking subsection (m); and

(B) by redesignating subsections (n) through (q) as subsections (m) through (p), respectively.

(2) SAFETY STANDARDS.—Section 109 of title 23, United States Code (as amended by paragraph (1)), is amended by adding at the end the following:

''(q) PHASE CONSTRUCTION.—Safety considerations for a project under this title may be met by phase construction.''.

(c) PROGRAMS; PROJECT AGREEMENTS; CERTIFICATION ACCEPTANCE.—Sections 110 and 117 of title 23, United States Code, are repealed.

(d) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23 is amended—

(A) by striking the item relating to section 106 and inserting the following:

''106. Project approval and oversight.'';

and

(B) by striking the items relating to sections 110 and 117.

(2) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining ''project agreement'' by striking ''the provisions of subsection (a) of section 110 of this title'' and inserting ''section 106''.

(3) Section 114(a) of title 23, United States Code, is amended in the second sentence by striking ''section 117 of this title'' and inserting ''section 106''.

SEC. 1223. SURFACE TRANSPORTATION PROGRAM.

(a) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 133 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking ''10'' and inserting ''8''; and

(B) in the first sentence of paragraph (3)*(A)*, by striking ''80'' and inserting ''82''; and

(2) in subsection (e)—

(A) in paragraph (3)(B)(i), by striking ''if the Secretary'' and all that follows through ''activities''; and

(B) in paragraph (5), by adding at the end the following:

''(C) INNOVATIVE FINANCING.—

''(i) IN GENERAL.—For each fiscal year, the average annual non-Federal share of the total cost of all projects to carry out transportation enhancement activities in a State shall be not less than the non-Federal share authorized for the State under section 120(b).

''(ii) EXCEPTION.—Subject to clause (i), notwithstanding section 120, in the case of projects to carry out transportation enhancement activities—

''(I) funds from other Federal agencies, and other contributions that the Secretary determines are of value, may be credited toward the non-Federal share of project costs;

''(II) the non-Federal share may be calculated on a project, multiple-project, or program basis; and

"(III) the Federal share of the cost of an individual project subject to subclause (I) or (II) may be equal to 100 percent.".

(b) PROGRAM APPROVAL.—Section 133(e) of title 23, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) PROGRAM APPROVAL.—

"(A) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

"(i) certifies that the State will meet all the requirements of this section; and

"(ii) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

"(B) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—As necessary, each State shall request from the Secretary adjustments to the amount of obligations referred to in subparagraph (A)(ii).

"(C) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under subparagraph (A) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.".

(c) PAYMENTS.—Section 133(e)(3)(A) of title 23, United States Code, is amended by striking the second sentence.

SEC. 1224. DESIGN-BUILD CONTRACTING.

(a) AUTHORITY.—Section 112(b) of title 23, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(2) in paragraph (2)(A), by striking "Each" and inserting "Subject to paragraph (3), each"; and

(3) by adding at the end the following:

"(3) DESIGN-BUILD CONTRACTING.—

"(A) IN GENERAL.—A State transportation department may award a contract for the design and construction of a qualified project described in subparagraph (B) using competitive selection procedures approved by the Secretary.

"(B) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter that involves installation of an intelligent transportation system or that consists of a usable project segment and for which—

"(i) the Secretary has approved the use of design-build contracting described in subparagraph (A) under criteria specified in regulations promulgated by the Secretary; and

"(ii) the total costs are estimated to exceed—

"(I) in the case of a project that involves installation of an intelligent transportation system, [$10,000,000] *$5,000,000*; and

"(II) in the case of a usable project segment, $50,000,000.".

(b) COMPETITIVE BIDDING DEFINED.—Section 112 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) COMPETITIVE BIDDING DEFINED.—In this section, the term 'competitive bidding' means the procedures used to award contracts for engineering and design services under subsection (b)(2) and design-build contracts under subsection (b)(3).".

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than the effective date specified in subsection (e), the Secretary shall promulgate regulations to carry out the amendments made by this section.

(2) CONTENTS.—The regulations shall—

(A) identify the criteria to be used by the Secretary in approving the use by a State transportation department of design-build contracting; and

(B) establish the procedures to be followed by a State transportation department for obtaining the Secretary's approval of the use of design-build contracting by the department and the selection procedures used by the department.

(d) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing in this section or the amendments made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning design-build contracting that is being carried out by the Secretary as of the date of enactment of this Act.

(e) EFFECTIVE DATE FOR AMENDMENTS.—The amendments made by this section take effect 2 years after the date of enactment of this Act.

SEC. 1225. INTEGRATED DECISIONMAKING PROCESS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"§354. Integrated decisionmaking process

"(a) DEFINITIONS.—In this section:

"(1) INTEGRATED DECISIONMAKING PROCESS.—The term 'integrated decisionmaking process' means the integrated decisionmaking process established with respect to a surface transportation project under subsection (b).

"(2) NEPA PROCESS.—The term 'NEPA process' means the process of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a surface transportation project.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(4) SURFACE TRANSPORTATION PROJECT.—The term 'surface transportation project' means—

"(A) a highway construction project that is subject to the approval of the Secretary under title 23; and

"(B) a capital project (as defined in section 5302(a)(1)).

"(b) ESTABLISHMENT OF INTEGRATED DECISIONMAKING PROCESSES FOR SURFACE TRANSPORTATION PROJECTS.—The Secretary shall—

"(1) establish an integrated decisionmaking process for surface transportation projects that designates major decision points likely to have significant environmental effects and conflicts; and

"(2) integrate the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with the requirements established by the Secretary for transportation planning and decisionmaking.

"(c) INTEGRATED DECISIONMAKING GOALS.—The integrated decisionmaking process for surface transportation projects should, to the maximum extent practicable, accomplish the following major goals:

"(1) Integrate the NEPA process with the planning, predesign stage, and decisionmaking for surface transportation projects at the earliest possible time.

"(2) Integrate all applicable Federal, State, tribal, and local permitting requirements.

"(3) Integrate national transportation, social, safety, economic, and environmental goals with State, tribal, and local land use and growth management initiatives.

"(4) Consolidate Federal, State, tribal, and local decisionmaking to achieve the best overall public interest according to an agreed schedule.

"(d) STREAMLINING.—

"(1) AVOIDANCE OF DELAYS, PREVENTION OF CONFLICTS, AND ELIMINATION OF UNNECESSARY DUPLICATION.—The Secretary shall design the integrated decisionmaking process to avoid delays in decisionmaking, prevent conflicts between cooperating agencies and members of the public, and eliminate unnecessary duplication of review and decisionmaking relating to surface transportation projects.

"(2) INTEGRATION; COMPREHENSIVE PROCESS.—The NEPA process—

"(A) shall be integrated with the transportation planning and decisionmaking of the Federal, State, tribal, and local transportation agencies; and

"(B) serve as a comprehensive decisionmaking process.

"(3) OTHER REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall—

"(i) establish a concurrent transportation and environmental coordination process to reduce paperwork, combine review documents, and eliminate duplicative reviews;

"(ii) develop interagency agreements to streamline and improve interagency coordination and processing time;

"(iii) apply strategic and programmatic approaches to better integrate and expedite the NEPA process and transportation decisionmaking; and

"(iv) ensure, in appropriate cases, by conducting concurrent reviews whenever possible, that any analyses and reviews conducted by the Secretary consider the needs of other reviewing agencies.

"(B) TIME SCHEDULES.—To comply with subparagraph (A)(ii), time schedules shall be consistent with sections 1501.8 and 1506.10 of title 40, Code of Federal Regulations (or any successor regulations).

"(4) CONCURRENT PROCESSING.—

"(A) IN GENERAL.—The integrated decisionmaking process shall, to the extent practicable, include a procedure to provide for concurrent (rather than sequential) processing of all Federal, State, tribal, and local reviews and decisions emanating from those reviews.

"(B) INCONSISTENCY WITH OTHER REQUIREMENTS.—Subparagraph (A) does not require concurrent review if concurrent review would be inconsistent with other statutory or regulatory requirements.

"(e) INTERAGENCY COOPERATION.—

"(1) LEAD AND COOPERATING AGENCY CONCEPTS.—The lead and cooperating agency concepts of section 1501 of title 40, Code of Federal Regulations (or any successor regulation), shall be considered essential elements to ensure integration of transportation decisionmaking.

"(2) RESPONSIBILITIES.—The Secretary shall—

"(A) not later than 60 days after the date on which a surface transportation project is selected for study by a State, identify each Federal agency that may be required to participate in the integrated decisionmaking process relating to the surface transportation project and notify the agency of the surface transportation project;

"(B) afford State, regional, tribal, and local governments with decisionmaking authority on surface transportation projects the opportunity to serve as cooperating agencies;

"(C) provide cooperating agencies the results of any analysis or other information related to a surface transportation project;

"(D) host an early scoping meeting for Federal agencies and, when appropriate, conduct field reviews, as soon as practicable in the environmental review process;

"(E) solicit from each cooperating agency as early as practicable the data and analyses necessary to facilitate execution of the duties of each cooperating agency;

"(F) use, to the maximum extent possible, scientific, technical, and environmental data and analyses previously prepared by or for other Federal, State, tribal, or local agencies, after an independent evaluation by the Secretary of the data and analyses;

"(G) jointly, with the cooperating agencies, host public meetings and other community participation processes; and

"(H) ensure that the NEPA process and documentation provide all necessary information for the cooperating agency to—

"(i) discharge the responsibilities of the cooperating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other law; and

"(ii) grant approvals, permits, licenses, and clearances.

"(f) ENHANCED SCOPING PROCESS.—During the scoping process for a surface transportation project, in addition to other statutory and regulatory requirements, the Secretary shall, to the extent practicable—

"(1) provide the public with clearly understandable milestones that occur during an integrated decisionmaking process;

"(2) ensure that all agencies with jurisdiction by law or with special expertise have sufficient information and data to discharge their responsibilities;

"(3) ensure that all agencies with jurisdiction by law or with special expertise, and the public, are invited to participate in the initial scoping process;

"(4) coordinate with other agencies to ensure that the agencies provide to the Secretary, not later than 30 days after the first interagency scoping meeting, any preliminary concerns about how the proposed project may affect matters within their jurisdiction or special expertise based on information available at the time of the scoping meeting; and

"(5) in cooperation with all cooperating agencies, develop a schedule for conducting all necessary environmental and other review processes.

"(g) USE OF TITLE 23 FUNDS.—

"(1) USE BY STATES.—A State may use funds made available under section 104(b) or 105 of title 23 or section 1102(c) of the Intermodal Surface Transportation Efficiency Act of 1997 to provide resources to Federal or State agencies involved in the review or permitting process for a surface transportation project in order to meet a time schedule established under this section.

"(2) USE AT SECRETARY'S DISCRETION.—At the request of another Federal agency involved in the review or permitting process for a surface transportation project, the Secretary may provide funds under chapter 1 of title 23 to the agency to provide resources necessary to meet the time schedules established under this section.

"(2) AMOUNT.—Funds may be provided under paragraph (1) in the amount by which the cost to complete a environmental review in accordance with a time schedule established under this section exceeds the cost that would be incurred if there were no such time schedule.

"(3) NOT FINAL AGENCY ACTION.—The provision of funds under paragraph (1) does not constitute a final agency action.

"(h) STATE ROLE.—

"(1) IN GENERAL.—For any project eligible for assistance under chapter 1 of title 23, a State may require, by law or agreement coordinating with all related State agencies, that all State agencies that—

"(A) have jurisdiction by Federal or State law over environmental, growth management, or land-use related issues that may be affected by a surface transportation project; or

"(B) have responsibility for issuing any environment related reviews, analyses, opinions, or determinations;

be subject to the coordinated environmental review process provided under this section in issuing any analyses or approvals or taking any other action relating to the project.

"(2) ALL AGENCIES.—If a State requires that any State agency participate in a coordinated environmental review process, the State shall require all affected State agencies to participate.

"(i) EARLY ACTION REGARDING POTENTIALLY INSURMOUNTABLE OBSTACLES.—If, at any time during the integrated decisionmaking process for a proposed surface transportation project, a cooperating agency determines that there is any potentially insurmountable obstacle associated with any of the alternative transportation projects that might be undertaken to address the obstacle, the Secretary shall—

"(1) convene a meeting among the cooperating agencies to address the obstacle;

"(2) initiate conflict resolution efforts under subsection (j); or

"(3) eliminate from consideration the alternative transportation project with which the obstacle is associated.

"(j) CONFLICT RESOLUTION.—

"(1) FORUM.—The NEPA process shall be used as a forum to coordinate the actions of Federal, State, regional, tribal, and local agencies, the private sector, and the public to develop and shape surface transportation projects.

"(2) APPROACHES.—Collaborative, problem solving, and consensus building approaches shall be used (and, when appropriate, mediation may be used) to implement the integrated decisionmaking process with a goal of appropriately considering factors relating to transportation development, economic prosperity, protection of public health and the environment, community and neighborhood preservation, and quality of life for present and future generations.

"(3) UNRESOLVED ISSUES.—

"(A) NOTIFICATION.—If, before the final transportation NEPA document is approved—

"(i) an issue remains unresolved between the lead Federal agency and the cooperating agency; and

"(ii) efforts have been exhausted to resolve the issue at the field levels of each agency—

"(I) within the applicable timeframe of the interagency schedule established under subsection (f)(5); or

"(II) if no timeframe is established, within 90 days;

the field level officer of the lead agency shall notify the field level officer of the cooperating agency that the field level officer of the lead agency intends to bring the issue to the personal attention of the heads of the agencies.

"(B) EFFORTS BY THE AGENCY HEADS.—The head of the lead agency shall contact the head of the cooperating agency and attempt to resolve the issue within 30 days after notification by the field level officer of the unresolved issue.

"(C) CONSULTATION WITH CEQ.—The heads of the agencies are encouraged to consult with the Chair of the Council on Environmental Quality during the 30-day period under subparagraph (B).

"(D) FAILURE TO RESOLVE.—If the heads of the agencies do not resolve the issue within the time specified in subparagraph (B), the referral process under part 1504 of title 40, Code of Federal Regulations (or any successor regulation), shall be initiated with respect to the issue.

"(k) JUDICIAL REVIEW.—Nothing in this section affects the reviewability of any final agency action in a district court of the United States or any State court.

"(l) STATUTORY CONSTRUCTION.—Nothing in this section affects—

"(1) the applicability of the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other statute; or

"(2) the responsibility of any Federal, State, tribal, or local officer to comply with or enforce any statute or regulation.".

(b) TIMETABLE; REPORT TO CONGRESS.—The Secretary, in consultation with the Chair of the Council on Environmental Quality and after notice and opportunity for public comment—

(1) not later than 180 days after the date of enactment of this Act, shall design the integrated decisionmaking process required by the amendment made by subsection (a);

(2) not later than 1 year after the date of enactment of this Act, shall promulgate a regulation governing implementation of an integrated decisionmaking process in accordance with the amendment made by subsection (a); and

(3) not later than 2 years after the date of enactment of this Act, shall submit to Congress a report identifying any additional legislative or other solutions that would further enhance the integrated decisionmaking process.

(c) CONFORMING AMENDMENT.—The analysis for subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"354. Integrated decisionmaking process.".

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

SEC. 1231. DEFINITION OF OPERATIONAL IMPROVEMENT.

Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining "operational improvement" and inserting the following:

"The term 'operational improvement' means the installation, operation, or maintenance, in accordance with subchapter II of chapter 5, of public infrastructure to support intelligent transportation systems and includes the installation or operation of any traffic management activity, communication system, or roadway weather information and prediction system, and any other improvement that the Secretary may designate that enhances roadway safety and mobility during adverse weather.".

SEC. 1232. ELIGIBILITY OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—Section 129(c) of title 23, United States Code, is amended by inserting "in accordance with sections 103, 133, and 149," after "toll or free,".

(b) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(5) of title 23, United States Code (as amended by section 1234), is amended by adding at the end the following:

"(R) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.".

(c) SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, United States Code, is amended by adding at the end the following:

"(12) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.".

(d) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by [adding at the end] *inserting after paragraph (4)* the following:

"(5) if the project or program is to construct a ferry boat or ferry terminal facility and if the conditions described in section 129(c) are met.".

SEC. 1233. FLEXIBILITY OF SAFETY PROGRAMS.

Section 133(d) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) SAFETY PROGRAMS.—

"(A) IN GENERAL.—With respect to funds apportioned for each of fiscal years 1998 through 2003—

"(i) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 130;

"(ii) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 152; and

"(iii) an amount equal to 6 percent of the amount apportioned to a State under section

104(b)(3) shall be available only to carry out activities eligible under section 130 or 152.

"(B) TRANSFER OF FUNDS.—If a State certifies to the Secretary that any part of the amount set aside by the State under subparagraph (A)(i) is in excess of the needs of the State for activities under section 130 and the Secretary accepts the certification, the State may transfer that excess part to the set-aside of the State under subparagraph (A)(ii).

"(C) TRANSFERS TO OTHER SAFETY PROGRAMS.—A State may transfer funds set aside under subparagraph (A)(iii) to the apportionment of the State under section 402 or the allocation of the State under section 31104 of title 49.".

SEC. 1234. ELIGIBILITY OF PROJECTS ON THE NATIONAL HIGHWAY SYSTEM.

Section 103(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

"(5) ELIGIBLE PROJECTS FOR NHS.—Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1)(C) for the National Highway System may be obligated for any of the following:

"(A) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the National Highway System.

"(B) Operational improvements for segments of the National Highway System.

"(C) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System, construction of a transit project eligible for assistance under chapter 53 of title 49, and capital improvements to any National Railroad Passenger Corporation passenger rail line or any publicly-owned intercity passenger rail line, if—

"(i) the highway, transit, or rail project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

"(ii) the construction or improvements will improve the level of service on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

"(iii) the construction or improvements are more cost-effective than an improvement to the fully access-controlled highway described in clause (i).

"(D) Highway safety improvements for segments of the National Highway System.

"(E) Transportation planning in accordance with sections 134 and 135.

"(F) Highway research and planning in accordance with chapter 5.

"(G) Highway-related technology transfer activities.

"(H) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

"(I) Fringe and corridor parking facilities.

"(J) Carpool and vanpool projects.

"(K) Bicycle transportation and pedestrian walkways in accordance with section 217.

"(L) Development, establishment, and implementation of management systems under section 303.

"(M) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101–640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction, except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

"(N) Publicly-owned intracity or intercity passenger rail or bus terminals, including terminals of the National Railroad Passenger Corporation and publicly-owned intermodal surface freight transfer facilities, other than seaports and airports, if the terminals and facilities are located on or adjacent to National Highway System routes or connections to the National Highway System selected in accordance with [subsection (b)] *paragraph (2)*.

"(O) Infrastructure-based intelligent transportation systems capital improvements.

"(P) In the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, any project eligible for funding under section 133, any airport, and any seaport.

"(Q) Publicly owned components of magnetic levitation transportation systems.".

SEC. 1235. ELIGIBILITY OF PROJECTS UNDER THE SURFACE TRANSPORTATION PROGRAM.

Section 133(b) of title 23, United States Code (as amended by section 1232(c)), is amended—

(1) in paragraph (2), by striking "and publicly owned intracity or intercity bus terminals and facilities" and inserting ", including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus or rail";

(2) in paragraph (3)—

(A) by striking "and bicycle" and inserting "bicycle"; and

(B) by inserting before the period at the end the following: ", and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)";

(3) in paragraph (4)—

(A) by inserting ", publicly owned passenger rail," after "Highway";

(B) by inserting "infrastructure" after "safety"; and

(C) by inserting before the period at the end the following: ", and any other noninfrastructure highway safety improvements";

(4) in the first sentence of paragraph (11)—

(A) by inserting "natural habitat and" after "participation in" each place it appears;

(B) by striking "enhance and create" and inserting "enhance, and create natural habitats and"; and

(C) by inserting "natural habitat and" before "wetlands conservation"; and

(5) by adding at the end the following:

"(13) Publicly owned intercity passenger rail infrastructure, including infrastructure owned by the National Railroad Passenger Corporation.

"(14) Publicly owned passenger rail vehicles, including vehicles owned by the National Railroad Passenger Corporation.

"(15) Infrastructure-based intelligent transportation systems capital improvements.

"(16) Publicly owned components of magnetic levitation transportation [systems.".] *systems.*

"(17) Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.".

SEC. 1236. DESIGN FLEXIBILITY.

Section 109 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) REQUIREMENTS FOR FACILITIES.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

"(A) adequately serve the existing traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

"(B) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in subparagraph (A) and to conform to the particular needs of each locality.

"(2) CONSIDERATION OF PLANNED FUTURE TRAFFIC DEMANDS.—In carrying out paragraph (1), the Secretary shall ensure the consideration of the planned future traffic demands of the facility.".

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

SEC. 1301. STATE INFRASTRUCTURE BANK PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 162. State infrastructure bank program

"(a) DEFINITIONS.—In this section:

"(1) OTHER ASSISTANCE.—The term 'other assistance' includes any use of funds in an infrastructure bank—

"(A) to provide credit enhancements;

"(B) to serve as a capital reserve for bond or debt instrument financing;

"(C) to subsidize interest rates;

"(D) to ensure the issuance of letters of credit and credit instruments;

"(E) to finance purchase and lease agreements with respect to transit projects;

"(F) to provide bond or debt financing instrument security; and

"(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which the assistance is being provided.

"(2) STATE.—The term 'State' has the meaning given the term under section 401.

"(b) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—

"(A) PURPOSE OF AGREEMENTS.—Subject to this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

"(B) CONTENTS OF AGREEMENTS.—Each cooperative agreement shall specify procedures and guidelines for establishing, operating, and providing assistance from the infrastructure bank.

"(2) INTERSTATE COMPACTS.—If 2 or more States enter into a cooperative agreement

under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, Congress grants consent to those States to enter into an interstate compact establishing the bank in accordance with this section.

"(c) FUNDING.—

"(1) CONTRIBUTION.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (h)(1), a State that enters into a cooperative agreement under this section to contribute to the infrastructure bank established by the State not to exceed—

"(A)(i) the total amount of funds apportioned to the State under each of paragraphs (1) and (3) of section 104(b), excluding funds set aside under paragraphs (1) and (2) of section 133(d); and

"(ii) the total amount of funds allocated to the State under section 105 and under section 1102 of the Intermodal *Surface* Transportation *Efficiency* Act of 1997;

"(B) the total amount of funds made available to the State or other Federal transit grant recipient for capital projects (as defined in section 5302 of title 49) under sections 5307, 5309, and 5311 of title 49; and

"(C) the total amount of funds made available to the State under subtitle V of title 49.

"(2) CAPITALIZATION GRANT.—For the purposes of this section, Federal funds contributed to the infrastructure bank under this subsection shall constitute a capitalization grant for the infrastructure bank.

"(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) may be used to provide assistance from an infrastructure bank under this section with respect to a project only if the metropolitan planning organization designated for the area concurs, in writing, with the provision of the assistance.

"(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

"(1) IN GENERAL.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section.

"(2) SUBORDINATION OF LOANS.—The amount of any loan or other assistance provided for the project may be subordinated to any other debt financing for the project.

"(3) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section shall not be made in the form of a grant.

"(e) QUALIFYING PROJECTS.—

"(1) IN GENERAL.—Subject to paragraph (2), [Federal] funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under this title, [or] for capital projects (as defined in section 5302 of title 49), *or for any other project that the Secretary determines to be appropriate.*

"(2) INTERSTATE FUNDS.—Funds contributed to an infrastructure bank from funds apportioned to a State under subparagraph (A) or (B) of section 104(b)(1) may be used only to provide assistance with respect to projects eligible for assistance under those subparagraphs.

"(3) RAIL PROGRAM FUNDS.—Funds contributed to an infrastructure bank from funds made available to a State under subtitle V of title 49 shall be used in a manner consistent with any project description specified under the law making the funds available to the State.

"(f) INFRASTRUCTURE BANK REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), in order to establish an infrastructure bank under this section, each State establishing such a bank shall—

"(A) contribute, at a minimum, to the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank under subsection (c);

"(B) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances and its ability to pay claims under credit enhancement programs of the bank;

"(C) ensure that investment income generated by funds contributed to the bank will be—

"(i) credited to the bank;

"(ii) available for use in providing loans and other assistance to projects eligible for assistance from the bank; and

"(iii) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

"(D) ensure that any loan from the bank will bear interest at or below market rates, as determined by the State, to make the project that is the subject of the loan feasible;

"(E) ensure that repayment of the loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

"(F) ensure that the term for repaying any loan will not exceed the lesser of—

"(i) 35 years after the date of the first payment on the loan under subparagraph (E); or

"(ii) the useful life of the investment; and

"(G) require the bank to make a biennial report to the Secretary and to make such other reports as the Secretary may require in guidelines.

"(2) WAIVERS BY THE SECRETARY.—The Secretary may waive a requirement of any of subparagraphs (C) through (G) of paragraph (1) with respect to an infrastructure bank if the Secretary determines that the waiver is consistent with the objectives of this section.

"(g) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

"(h) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

"(1) ensure that Federal disbursements shall be at an annual rate of not more than 20 percent of the amount designated by the State for State infrastructure bank capitalization under subsection (c)(1), except that the Secretary may disburse funds to a State in an amount needed to finance a specific project; and

"(2) revise cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995 (Public Law 104–59) to comply with this section.

"(i) APPLICABILITY OF FEDERAL LAW.—

"(1) IN GENERAL.—The requirements of this title or title 49 that would otherwise apply to funds made available under that title and projects assisted with those funds shall apply to—

"(A) funds made available under that title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under section (f); and

"(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of that title *(other than sections 113 and 114 of this title and section 5333 of title 49)* is not consistent with the objectives of this section.

"(2) REPAYMENTS.—The requirements of this title or title 49 shall not apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall not be considered to be Federal funds.

"(j) UNITED STATES NOT OBLIGATED.—

"(1) IN GENERAL.—The contribution of Federal funds to an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party. No third party shall have any right against the United States for payment solely by virtue of the contribution.

"(2) STATEMENT.—Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

"(k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

"(l) PROGRAM ADMINISTRATION.—

"(1) IN GENERAL.—A State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

"(2) NON-FEDERAL FUNDS.—The limitation described in paragraph (1) shall not apply to non-Federal funds.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"162. State infrastructure bank program.".

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

SEC. 1311. SHORT TITLE.

This chapter may be cited as the "Transportation Infrastructure Finance and Innovation Act of 1997".

SEC. 1312. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

SEC. 1313. DEFINITIONS.

In this chapter:

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) interest during construction, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(2) FEDERAL CREDIT INSTRUMENT.—The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

(3) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(4) LINE OF CREDIT.—The term "line of credit" means an agreement entered into by the Secretary with an obligor under section 1316 to provide a direct loan at a future date upon the occurrence of certain events.

(5) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(6) LOCAL SERVICER.—The term "local servicer" means—

(A) a State infrastructure bank established under title 23, United States Code; or

(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

(7) OBLIGOR.—The term "obligor" means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(8) PROJECT.—The term "project" means any surface transportation project eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code.

(9) PROJECT OBLIGATION.—The term "project obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(10) SECURED LOAN.—The term "secured loan" means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 1315.

(11) STATE.—The term "State" has the meaning given the term in section 101 of title 23, United States Code.

(12) SUBSTANTIAL COMPLETION.—The term "substantial completion" means the opening of a project to vehicular or passenger traffic.

SEC. 1314. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

(a) ELIGIBILITY.—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project—

(A) shall be included in the State transportation plan required under section 135 of title 23, United States Code; and

(B) at such time as an agreement to make available a Federal credit instrument is entered into under this chapter, shall be included in the approved State transportation improvement program required under section 134 of that title.

(2) APPLICATION.—A State, a local servicer identified under section 1317(a), or the entity undertaking the project shall submit a project application to the Secretary.

(3) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $100,000,000; or

(ii) 50 percent of the amount of Federal-aid highway funds apportioned for the most recently-completed fiscal year under title 23, United States Code, to the State in which the project is located.

(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $30,000,000.

(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

(2) SELECTION CRITERIA.—The selection criteria shall include the following:

(A) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(B) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment. The Secretary shall require each project applicant to provide a preliminary rating opinion letter from a nationally recognized bond rating agency.

(C) The extent to which assistance under this chapter would foster innovative public-private partnerships and attract private debt or equity investment.

(D) The likelihood that assistance under this chapter would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(E) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(F) The amount of budget authority required to fund the Federal credit instrument made available under this chapter.

(c) FEDERAL REQUIREMENTS.—The following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

[(1) Section 113 of title 23, United States Code.]

[(2)] *(1)* Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

[(3)] *(2)* The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

[(4)] *(3)* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

[(5) Section 5333 of title 49, United States Code.]

SEC. 1315. SECURED LOANS.

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs; or

(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 1314.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

(3) AUTHORIZATION PERIOD.—The Secretary may enter into a loan agreement during any of fiscal years 1998 through 2003.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) PAYMENT.—The secured loan—

(A) shall be payable, in whole or in part, from revenues generated by any rate covenant, coverage requirement, or similar security feature supporting the project obligations or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(4) INTEREST RATE.—The interest rate on the secured loan shall be equal to the yield on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of making a secured loan under this section.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

(4) DEFERRED PAYMENTS.—

(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay scheduled principal and interest on the secured loan, the Secretary may, pursuant to established criteria for the project agreed to by the entity undertaking the project and the Secretary, allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

(5) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—As soon as practicable after substantial completion of a project, the Secretary shall sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

SEC. 1316. LINES OF CREDIT.

(a) IN GENERAL.—

(1) AGREEMENTS.—The Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 1314.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNTS.—

(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(B) ONE-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay [debt service on project obligations] *the costs specified in subsection (a)(2).*

(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be [equal to] *not less than* the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

(5) SECURITY.—The line of credit—

(A) shall be made available only in connection with a project obligation secured, in whole or in part, by a rate covenant, coverage requirement, or similar security feature or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

(7) RIGHTS OF THIRD PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A line of credit under this section shall not be issued for a project with respect to which another Federal credit instrument under this chapter is made available.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after [substantial completion of the project] *the end of the period of availability specified in subsection (b)(6)* and be fully repaid, with interest, by the date that is [20] *25* years after the end of the period of availability specified in subsection (b)(6).

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

SEC. 1317. PROJECT SERVICING.

(a) REQUIREMENT.—The State in which a project that receives financial assistance under this chapter is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this chapter.

(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

(1) shall act as the agent for the Secretary; and

(2) may receive a servicing fee, subject to approval by the Secretary.

(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

SEC. 1318. OFFICE OF INFRASTRUCTURE FINANCE.

(a) DUTIES OF THE SECRETARY.—Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.".

(b) OFFICE OF INFRASTRUCTURE FINANCE.—

(1) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"§ 113. Office of Infrastructure Finance

"(a) ESTABLISHMENT.—The Secretary of Transportation shall establish within the Office of the Secretary an Office of Infrastructure Finance.

"(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 180 days after the date of enactment of this section.

"(c) FUNCTIONS.—The Director shall be responsible for—

"(1) carrying out the responsibilities of the Secretary described in section 301(9);

"(2) carrying out research on financing transportation infrastructure, including educational programs and other initiatives to support Federal, State, and local government efforts; and

"(3) providing technical assistance to Federal, State, and local government agencies and officials to facilitate the development and use of alternative techniques for financing transportation infrastructure.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"113. Office of Infrastructure Finance.".

SEC. 1319. STATE AND LOCAL PERMITS.

The provision of financial assistance under this chapter with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

SEC. 1320. REGULATIONS.

The Secretary may issue such regulations as the Secretary determines appropriate to carry out this chapter and the amendments made by this chapter.

SEC. 1321. FUNDING.

(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this chapter—

(A) $60,000,000 for fiscal year 1998;

(B) $60,000,000 for fiscal year 1999;

(C) $90,000,000 for fiscal year 2000;

(D) $90,000,000 for fiscal year 2001;

(E) [$100,000,000] *$115,000,000* for fiscal year 2002; and

(F) [$100,000,000] *$115,000,000* for fiscal year 2003.

(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this chapter, not more than $2,000,000 for each of fiscal years 1998 through 2003.

(3) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

(b) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this chapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this chapter shall be limited to the amounts specified in the following table:

Fiscal year:	Maximum amount of credit:
1998	$1,200,000,000
1999	$1,200,000,000
2000	$1,800,000,000
2001	$1,800,000,000
2002	$2,000,000,000
2003	$2,000,000,000.

SEC. 1322. REPORT TO CONGRESS.

Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter, including a recommendation as to whether the objectives of this chapter are best served—

(1) by continuing the program under the authority of the Secretary;

(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter without Federal participation.

Subtitle D—Safety

SEC. 1401. OPERATION LIFESAVER.

Section 104 of title 23, United States Code (as amended by section 1102(a)), is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by striking "subsection (f)" and inserting "subsections (d) and (f)"; and

(2) in subsection (d), by striking paragraph (1) and inserting the following:

"(1) OPERATION LIFESAVER.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $500,000 of the funds authorized to be appropriated for the surface transportation program for the fiscal year to carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.".

SEC. 1402. RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.

Section 104(d) of title 23, United States Code, is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

"(A) IN GENERAL.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,000,000 of the funds authorized to be appropriated for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings.

"(B) ELIGIBLE CORRIDORS.—Funds made available under subparagraph (A) shall be expended for projects in—

"(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause); and

"(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D).

"(C) REQUIRED INCLUSION OF HIGH SPEED RAIL LINES.—A corridor selected by the Secretary under subparagraph [(A)] *(B)* shall include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.

"(D) CONSIDERATIONS IN CORRIDOR SELECTION.—In selecting corridors under subparagraph [(A)] *(B)*, the Secretary shall consider—

"(i) projected rail ridership volume in each corridor;

"(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

"(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

"(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

"(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.".

SEC. 1403. RAILWAY-HIGHWAY CROSSINGS.

Section 130 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "structures, and" and inserting "structures,"; and

(B) by inserting after "grade crossings," the following: "trespassing countermeasures *in the immediate vicinity of a public railway-highway grade crossing*, railway-highway crossing safety education, enforcement of traffic laws relating to railway-highway crossing safety, and projects at privately owned railway-highway crossings if each such project is publicly sponsored and the Secretary determines that the project would serve a public benefit,";

(2) in subsection (d), by adding at the end the following: "In a manner established by the Secretary, each State shall submit a report that describes completed railway-highway crossing projects funded under this section to the Department of Transportation for inclusion in the National Grade Crossing Inventory prepared by the Department of Transportation and the Association of American Railroads."; and

(3) by striking subsection (e).

SEC. 1404. HAZARD ELIMINATION PROGRAM.

(a) IN GENERAL.—Section 152 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting ", bicyclists," after "motorists";

(2) in subsection (b), by striking "highway safety improvement project" and inserting "safety improvement project, including a project described in subsection (a)"; and

(3) in subsection (c), by striking "*on any public road* (other than a highway on the Interstate System)." *and inserting the following: "on—*

"(1) any public road;

"(2) any public transportation vehicle or facility, any publicly owned bicycle or pedestrian pathway or trail, or any other facility that the Secretary determines to be appropriate; or

"(3) any traffic calming measure.".

(b) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended—

(A) in the undesignated paragraph defining "highway safety improvement project", by striking "highway safety" and inserting "safety"; and

(B) by moving that undesignated paragraph to appear before the undesignated paragraph defining "Secretary".

(2) Section 152 of title 23, United States Code, is amended in subsections (f) and (g) by striking "highway safety improvement projects" each place it appears and inserting "safety improvement projects".

SEC. 1405. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1301(a)), is amended by adding at the end the following:

"§ 163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

"(a) DEFINITIONS.—In this section:

"(1) ALCOHOL CONCENTRATION.—The term 'alcohol concentration' means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

"(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

"(3) LICENSE SUSPENSION.—The term 'license suspension' means the suspension of all driving privileges.

"(4) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does

not include a vehicle operated solely on a rail line or a commercial vehicle.

"(5) REPEAT INTOXICATED DRIVER LAW.—The term 'repeat intoxicated driver law' means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within 5 years after a conviction for that offense whose alcohol concentration with respect to the second or subsequent offense was determined on the basis of a chemical test to be equal to or greater than 0.15 shall receive—

"(A) a license suspension for not less than 1 year;

"(B) an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

"(C) either—

"(i) an assignment of 30 days of community service; or

"(ii) 5 days of imprisonment.

"(b) TRANSFER OF FUNDS.—

"(1) FISCAL YEARS 2001 AND 2002.—

"(A) IN GENERAL.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used for alcohol-impaired driving programs.

"(B) DERIVATION OF AMOUNT TO BE TRANSFERRED.—An amount transferred under subparagraph (A) may be derived—

"(i) from the apportionment of the State under section 104(b)(1);

"(ii) from the apportionment of the State under section 104(b)(3); or

"(iii) partially from the apportionment of the State under section 104(b)(1) and partially from the apportionment of the State under section 104(b)(3).

"(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer 3 percent of the funds apportioned to the State on that date under each of paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used for alcohol-impaired driving programs.

"(3) FEDERAL SHARE.—The Federal share of the cost of a project carried out under section 402 with funds transferred under paragraph (1) or (2) shall be 100 percent.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

"(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

"(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

"(ii) the ratio that—

"(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

"(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

"(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under that section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1301(b)), is amended by adding at the end the following:

"163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.".

SEC. 1406. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1405(a)), is amended by adding at the end the following:

"§ 164. Safety incentive grants for use of seat belts

"(a) DEFINITIONS.—In this section:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

"(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term 'multipurpose passenger motor vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

"(3) NATIONAL AVERAGE SEAT BELT USE RATE.—The term 'national average seat belt use rate' means, in the case of each of calendar years 1995 through 2001, the national average seat belt use rate for that year, as determined by the Secretary.

"(4) PASSENGER CAR.—The term 'passenger car' means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

"(5) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

"(6) SAVINGS TO THE FEDERAL GOVERNMENT.—The term 'savings to the Federal Government' means the amount of Federal budget savings *relating to Federal medical costs (including savings under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.))*, as determined by the Secretary.

"(7) SEAT BELT.—The term 'seat belt' means—

"(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

"(8) STATE SEAT BELT USE RATE.—The term 'State seat belt use rate' means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary—

"(A) for each of calendar years 1995 through 1997, by the State, as adjusted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

"(B) for each of calendar years 1998 through 2001, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

"(b) DETERMINATIONS BY THE SECRETARY.—Not later than 30 days after the date of enactment of this section, and not later than September 1 of each calendar year thereafter through September 1, 2002, the Secretary shall determine—

"(1)(A) which States had, for each of the previous calendar years (referred to in this subsection as the 'previous calendar year') and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and

"(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate for the previous calendar year exceeds the national average seat belt use rate for that year; and

"(2) in the case of each State that is not a State described in paragraph (1)(A)—

"(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1995 through the calendar year preceding the previous calendar year; and

"(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

"(c) ALLOCATIONS.—

"(1) STATES WITH GREATER THAN THE NATIONAL AVERAGE SEAT BELT USE RATE.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

"(2) OTHER STATES.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

"(d) USE OF FUNDS.—For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

"(e) CRITERIA.—Not later than 180 days after the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997, the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

"(f) FUNDING.—

"(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $60,000,000 for fiscal year 1998, $70,000,000 for fiscal year 1999, $80,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $100,000,000 for each of fiscal years 2002 and 2003.

"(2) PROPORTIONATE ADJUSTMENT.—If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph

(1), the allocation to each State under subsection (c) shall be reduced proportionately.

"[(2)] *(3)* USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts—

"(A) shall be apportioned in accordance with section 104(b)(3);

"(B) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d); and

"(C) shall be available for any purpose eligible for funding under section 133.

"[(3)] *(4)* ADMINISTRATIVE EXPENSES.—Not more than 2 percent of the funds made available to carry out this section may be used to pay the necessary administrative expenses incurred in carrying out this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1405(b)), is amended by adding at the end the following:

"164. Safety incentive grants for use of seat belts.".

SEC. 1407. AUTOMATIC CRASH PROTECTION UNBELTED TESTING STANDARD.

(a) IN GENERAL.—

(1) TESTING WITH SIMULTANEOUS USE.—Beginning on the date of enactment of this Act, for the purpose of certification under section 30115 of title 49, United States Code, of compliance with the motor vehicle safety standards under section 30111 of that title, a manufacturer or distributor of a motor vehicle shall be deemed to be in compliance with applicable performance standards for occupant crash protection if the motor vehicle meets the applicable requirements for testing with the simultaneous use of both an automatic restraint system and a manual seat belt.

(2) PROHIBITION.—In no case shall a manufacturer or distributor use, for the purpose of the certification referred to in paragraph (1), testing that provides for the use of an automatic restraint system without the use of a manual seat belt.

(b) REVISION OF STANDARDS.—The Secretary shall issue such revised standards under section 30111 of title 49, United States Code, as are necessary to conform to subsection (a).

Subtitle E—Environment

SEC. 1501. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1406(a)) is amended by adding at the end the following:

"§ 165. National scenic byways program

"(a) DESIGNATION OF ROADS.—

"(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as National Scenic Byways or All-American Roads.

"(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

"(3) NOMINATION.—To be considered for the designation, a road must be nominated by a State or a Federal land management agency and must first be designated as a State scenic byway or, in the case of a road on Federal land, as a Federal land management agency byway.

"(b) GRANTS AND TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States to—

"(A) implement projects on highways designated as National Scenic Byways or All-American Roads, or as State scenic byways; and

"(B) plan, design, and develop a State scenic byway program.

"(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

"(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway or All-American Road and that is consistent with the corridor management plan for the byway;

"(B) each eligible project along a State-designated scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as a National Scenic Byway or All-American Road; and

"(C) each eligible project that is associated with the development of a State scenic byway program.

"(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

"(1) An activity related to the planning, design, or development of a State scenic byway program.

"(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

"(3) Safety improvements to a State scenic byway, National Scenic Byway, or All-American Road to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, National Scenic Byway, or All-American Road.

"(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, passing lane, overlook, or interpretive facility.

"(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

"(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

"(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

"(8) Development and implementation of a scenic byways marketing program.

"(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

"(e) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byways project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $17,000,000 for fiscal year 1999, $19,000,000 for fiscal year 2000, $19,000,000 for fiscal year 2001, $21,000,000 for fiscal year 2002, and $23,000,000 for fiscal year 2003.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

"165. National scenic byways program.".

SEC. 1502. PUBLIC-PRIVATE PARTNERSHIPS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

"(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

"(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

"(B) cost sharing of any project expense;

"(C) carrying out of [administrative] *administration*, construction management, project management, project operation, or any other management or operational duty associated with the project; and

"(D) any other form of participation approved by the Secretary.

"(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(2) to an entity described in paragraph (1).

"(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

["(A) shall include the incremental costs of vehicle refueling infrastructure and other capital investments associated with the project; but

["(B) shall not include the base cost of any vehicle that would otherwise be borne by a private party or the cost of any project element that would otherwise be offset by any other Federal, State, or local program.

["(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made with respect to any activity that is required under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.".]

"(A) may include the costs of vehicle refueling infrastructure and other capital investments associated with the project; and

"(B) shall—

"(i) include only the incremental cost of an alternative fueled vehicle compared to a conventionally fueled vehicle that would otherwise be borne by a private party; and

"(ii) apply other governmental financial purchase contributions in the calculation of net incremental cost.

"(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.".

SEC. 1503. WETLAND RESTORATION PILOT PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) surface transportation has unintended but negative consequences for wetlands and other water resources;

(2) in almost every State, construction and other highway activities have reduced or eliminated wetland functions and values, such as wildlife habitat, ground water recharge, flood control, and water quality benefits;

(3) the United States has lost more than ½ of the estimated 220,000,000 acres of wetlands that existed during colonial times; and

(4) while the rate of human-induced destruction and conversion of wetlands has slowed in recent years, the United States has suffered unacceptable wetland losses as a result of highway projects.

(b) ESTABLISHMENT.—The Secretary shall establish a national wetland restoration pilot program (referred to in this section as the "program") to fund mitigation projects to offset the degradation of wetlands, or the loss of functions and values of the aquatic resource, resulting from projects carried out before December 27, 1977, under title 23, United States Code (or similar projects as determined by the Secretary), for which mitigation has not been performed.

(c) APPLICATIONS.—To be eligible for funding under the program, a State shall submit an application to the Secretary that includes—

(1) a description of the wetland proposed to be restored by a mitigation project described in subsection (b) (referred to in this section as a "wetland restoration project") under the program (including the size and quality of the wetland);

(2) such information as is necessary to establish a nexus between—

(A) a project carried out under title 23, United States Code (or a similar project as determined by the Secretary); and

(B) the wetland values and functions proposed to be restored by the wetland restoration project;

(3) a description of the benefits expected from the proposed wetland restoration project (including improvement of water quality, improvement of wildlife habitat, ground water recharge, and flood control);

(4) a description of the State's level of commitment to the proposed wetland restoration project (including the monetary commitment of the State and any development of a State or regional conservation plan that includes the proposed wetland restoration); and

(5) the estimated total cost of the wetland restoration project.

(d) SELECTION OF WETLAND RESTORATION PROJECTS.—

(1) INTERAGENCY COUNCIL.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall establish an interagency advisory council to—

(A) review the submitted applications that meet the requirements of subsection (c); and

(B) not later than 60 days after the application deadline, select wetland restoration projects for funding under the program.

(2) SELECTION CRITERIA FOR PRIORITY WETLAND RESTORATION PROJECTS.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall give priority in funding under this section to wetland restoration projects that—

(A) provide for long-term monitoring and maintenance of wetland resources;

(B) are managed by an entity, such as a nature conservancy, with expertise in the long-term monitoring and protection of wetland resources; and

(C) have a high likelihood of success.

(e) REPORTS.—Not later than April 1, 2000, and April 1, 2003, the Secretary shall submit a report to Congress on the results of the program.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for fiscal year 1998, $13,000,000 for fiscal year 1999, $14,000,000 for fiscal year 2000, $17,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $24,000,000 for fiscal year 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle F—Planning

SEC. 1601. METROPOLITAN PLANNING.

(a) IN GENERAL.—Section 134 of title 23, United States Code, is amended to read as follows:

"§ 134. Metropolitan planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—Congress finds that it is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

"(3) CONTENTS.—The plans and programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

"(4) PROCESS.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) REDESIGNATION.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(3) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(4) STRUCTURE.—Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization as of June 1, 1991); and

"(C) appropriate State officials.

"(5) OTHER AUTHORITY.—Nothing in this subsection interferes with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; or

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities under State law.

"(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997, shall be retained, except that the boundaries may be adjusted by agreement of the affected metropolitan planning organizations and Governors in the manner described in subsection (b)(2).

"(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997 as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established by agreement between the appropriate units of general purpose local government (including the central city) and the Governor;

"(B) shall encompass at least the urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period;

"(C) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census; and

"(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(e) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—If more than 1 metropolitan planning organization has authority within a metropolitan planning area or an area that is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each such metropolitan planning organization shall consult with the other metropolitan planning organizations designated for the area and the State in the development of plans and programs required by this section.

"(f) SCOPE OF PLANNING PROCESS.—The metropolitan transportation planning process for a metropolitan area under this section shall consider[, as appropriate,] the following:

"(1) Supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.

"(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

"(3) Increasing the accessibility and mobility options available to people and for freight.

[''(4) Protecting and enhancing the environment and promoting energy conservation and improved quality of life.]

"(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

"(5) Enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight.

"(6) Promoting efficient system management and operation.

"(7) Emphasizing the preservation of the existing transportation system.

"(g) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—

"(1) IN GENERAL.—

"(A) DEVELOPMENT.—In accordance with this subsection, each metropolitan planning organization shall develop, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long-range transportation plan for its metropolitan area.

"(B) FORECAST PERIOD.—In developing long-range transportation plans, the metropolitan planning process shall address—

"(i) the considerations under subsection (f); and

"(ii) any State or local goals developed within the cooperative metropolitan planning process;

as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process.

"(C) FUNDING ESTIMATES.—For the purpose of developing the long-range transportation plan, the State shall consult with the metropolitan planning organization and each public transit agency in developing estimates of funds that are reasonably expected to be available to support plan implementation.

"(2) LONG-RANGE TRANSPORTATION PLAN.—A long-range transportation plan under this subsection shall, at a minimum, contain—

"(A) an identification of transportation facilities (including major roadways and transit, multimodal, and intermodal facilities) that should function as a future integrated transportation system, giving emphasis to those facilities that serve important national, regional, and metropolitan transportation functions;

"(B) an identification of transportation strategies necessary to—

"(i) ensure preservation, including requirements for management, operation, modernization, and rehabilitation, of the existing and future transportation system; and

"(ii) make the most efficient use of existing transportation facilities to relieve congestion, to efficiently serve the mobility needs of people and goods, and to enhance access within the metropolitan planning area; and

"(C) a financial plan that demonstrates how the long-range transportation plan can be implemented, indicates total resources from public and private sources that are reasonably expected to be available to carry out the plan (without any requirement for indicating project-specific funding sources), and recommends any additional financing strategies for needed projects and programs.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before adopting a long-range transportation plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan.

"(5) PUBLICATION OF LONG-RANGE TRANSPORTATION PLAN.—Each long-range transportation plan prepared by a metropolitan planning organization shall be—

"(A) published or otherwise made readily available for public review; and

"(B) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

"(B) OPPORTUNITY FOR COMMENT.—In developing the program, the metropolitan planning organization, in cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(C) FUNDING ESTIMATES.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(D) UPDATING AND APPROVAL.—The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) CONTENTS.—The transportation improvement program shall include—

"(A) a list, in order of priority, of proposed federally supported [surface transportation] projects and strategies to be carried out within each 3-year-period after the initial adoption of the transportation improvement program; and

"(B) a financial plan that—

"(i) demonstrates how the transportation improvement program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program (without any requirement for indicating project-specific funding sources); and

"(iii) identifies innovative financing techniques to finance projects, programs, and strategies (without any requirement for indicating project-specific funding sources).

"(3) INCLUDED PROJECTS.—

"(A) CHAPTER 1 AND CHAPTER 53 PROJECTS.—A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of this title shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of this title that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(4) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall,

in cooperation with the State and any affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(5) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the transportation improvement program development required under paragraph (1), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program—

"(i) by—

"(I) in the case of projects under chapter 1, the State; and

"(II) in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

"(ii) in cooperation with the metropolitan planning organization.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project of higher priority in the program.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—

"(A) REQUIRED DESIGNATIONS.—The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

"(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and any affected public transit operator.

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies.

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—In addition to the transportation improvement program development required under subsection (h)(1), all federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System) or under chapter 53 of title 49 shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a transportation management area on the National Highway System shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

"(ii) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor.

"(C) EFFECT OF FAILURE TO CERTIFY.—

"(i) WITHHOLDING OF FUNDS.—If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

"(iii) FEASIBILITY OF PRIVATE ENTERPRISE PARTICIPATION.—The Secretary shall not withhold certification under this paragraph based on the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated metropolitan transportation plan and program that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or programs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title or chapter 53 of title 49, in the case of a transportation management area classified as nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be programmed in the area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project results from an approved congestion management system.

"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

"(l) LIMITATION.—Nothing in this section confers on a metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not eligible for assistance under this title or chapter 53 of title 49.

"(m) FUNDING.—

"(1) IN GENERAL.—Funds set aside under section 104(f) of this title and section 5303 of title 49 shall be available to carry out this section.

"(2) UNUSED FUNDS.—Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 134 and inserting the following:

"134. Metropolitan planning.".

SEC. 1602. STATEWIDE PLANNING.

Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Statewide planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight throughout each State.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134 of this title and sections 5303 through 5305 of title 49, each State shall develop transportation plans and programs for all areas of the State.

"(3) CONTENTS.—The plans and programs for each State shall provide for the development and integrated management and operation of transportation systems (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal State transportation system and an integral part of the intermodal transportation system of the United States.

"(4) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) SCOPE OF PLANNING PROCESS.—Each State shall carry out a transportation planning process that shall consider[, as appropriate,] the following:

"(1) Supporting the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency.

"(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

"(3) Increasing the accessibility and mobility options available to people and for freight.

[("(4) Protecting and enhancing the environment and promoting energy conservation and improved quality of life.]

"(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

"(5) Enhancing the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight.

"(6) Promoting efficient system management and operation.

"(7) Emphasizing the preservation of the existing transportation system.

"(c) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall—

"(1) coordinate the planning with the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

"(2) carry out the responsibilities of the State for the development of the transportation portion of the State air quality implementation plan to the extent required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(d) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum, consider—

"(1) with respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.

"(e) LONG-RANGE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—Each State shall develop a long-range transportation plan, with a minimum 20-year forecast period, for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the plan shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

"(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area, the plan shall be developed in consultation with local elected officials representing units of general purpose local government.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

"(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—The State shall develop a transportation improvement program for all areas of the State.

"(B) CONSULTATION WITH GOVERNMENTS.—

"(i) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

"(ii) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with units of general purpose local government.

"(iii) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(C) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(2) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall—

"(i) be consistent with the long-range transportation plan developed under this section for the State;

"(ii) be identical to the project as described in an approved metropolitan transportation improvement program; and

"(iii) be in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—

"(i) IN GENERAL.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(ii) LIMITATION.—Clause (i) does not require the indication of project-specific funding sources.

"(E) PRIORITIES.—The program shall reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

"(3) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

"(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals (excluding projects carried out on the National Highway System) shall be selected, from the approved statewide transportation improvement program, by the State in cooperation with the affected local officials.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out in areas described in subparagraph (A) on the National Highway System shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials.

"(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and, on a finding that the planning process through which the program was developed is consistent with this section and section 134, approved not less frequently than biennially by the Secretary.

"(5) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide transportation improvement program in place of another project of higher priority in the program.

"(g) FUNDING.—Funds set aside under section 505 of this title and section 5313(b) of title 49 shall be available to carry out this section.

"(h) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section or section 134 are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section or section 134 shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 1603. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish an advanced travel forecasting procedures program—

(1) to provide for completion of the advanced transportation model developed under the Transportation Analysis Simulation System (referred to in this section as "TRANSIMS"); and

(2) to provide support for early deployment of the advanced transportation modeling computer software and graphics package developed under TRANSIMS and the program established under this section to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available under this section to—

(1) provide funding for completion of core development of the advanced transportation model;

(2) develop user-friendly advanced transportation modeling computer software and graphics packages;

(3) provide training and technical assistance with respect to the implementation and application of the advanced transportation model to States, local governments, and metropolitan planning organizations with responsibility for travel modeling; and

(4) allocate funds to not more than 12 entities described in paragraph (3), *representing a diversity of populations and geographic regions,* for a pilot program to enable transportation management areas designated under section 134(i) of title 23, United States Code, to convert from the use of travel forecasting procedures in use by the areas as of the date of enactment of this [section] *Act* to the use of the advanced transportation model.

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for fiscal year 1998, $3,000,000 for fiscal year 1999, $6,500,000 for fiscal year 2000, $5,000,000 for fiscal year 2001, $4,000,000 for fiscal year 2002, and $2,500,000 for fiscal year 2003.

(2) ALLOCATION OF FUNDS.—

(A) FISCAL YEARS 1998 AND 1999.—For each of fiscal years 1998 and 1999, 100 percent of the funds made available under paragraph (1)

shall be allocated to activities in described in paragraphs (1), (2), and (3) of subsection (b).

(B) FISCAL YEARS 2000 THROUGH 2003.—For each of fiscal years 2000 through 2003, not more than 50 percent of the funds made available under paragraph (1) may be allocated to activities described in subsection (b)(4).

(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of—

(A) any activity described in paragraph (1), (2), or (3) of subsection (b) shall not exceed 100 percent; and

(B) any activity described in subsection (b)(4) shall not exceed 80 percent.

SEC. 1604. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.

(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a comprehensive initiative to investigate and address the relationships between transportation and community and system preservation.

(b) RESEARCH.—

(1) IN GENERAL.—In cooperation with appropriate Federal agencies, State, regional, and local governments, and other entities eligible for assistance under subsection (d), the Secretary shall carry out a comprehensive research program to investigate the relationships between transportation, community preservation, and the environment.

(2) REQUIRED ELEMENTS.—The program shall provide for monitoring and analysis of projects carried out with funds made available to carry out subsections (c) and (d).

(c) PLANNING.—

(1) IN GENERAL.—The Secretary [may] *shall* allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to plan, develop, and implement strategies to integrate transportation and community and system preservation plans and practices.

(2) PURPOSES.—The purposes of the allocations shall be—

(A) to improve the efficiency of the transportation system;

(B) to reduce the impacts of transportation on the environment;

(C) to reduce the need for costly future investments in public infrastructure; and

(D) to provide efficient access to jobs, services, and centers of trade.

(3) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) propose projects for funding that address the purposes described in paragraph (2);

(B) demonstrate a commitment to public involvement, including involvement of nontraditional partners in the project team; and

(C) demonstrate a commitment of non-Federal resources to the proposed projects.

(d) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary [may] *shall* allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) have instituted preservation or development plans and programs that—

(i) meet the requirements of title 23 and chapter 53 of title 49, United States Code; and

(ii) are—

(I) coordinated with adopted preservation or development plans; or

(II) intended to promote *cost-effective and* strategic investments in transportation infrastructure *that minimize adverse impacts on the environment*;

(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

(i) spending policies that direct funds to high-growth areas;

(ii) urban growth boundaries to guide metropolitan expansion;

(iii) "green corridors" programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

(iv) other similar programs or policies as determined by the Secretary;

(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment; and

(D) propose projects for funding that address the purposes described in subsection (c)(2).

(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

[(3)] *(4)* USE OF ALLOCATED FUNDS.—

(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

(i) any project eligible for funding under title 23 or chapter 53 of title 49, United States Code; or

(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

(I) transit-oriented development plans;

(II) traffic calming measures; or

(III) other coordinated transportation and community and system preservation practices.

(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $20,000,000 for each of fiscal years 1998 through 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle G—Technical Corrections

SEC. 1701. FEDERAL-AID SYSTEMS.

(a) IN GENERAL.—Section 103 of title 23, United States Code, is amended to read as follows:

"§ 103. Federal-aid systems

"(a) IN GENERAL.—For the purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

"(b) NATIONAL HIGHWAY SYSTEM.—

"(1) DESCRIPTION.—The National Highway System consists of an interconnected system of major routes and connectors that—

"(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

"(B) meet national defense requirements; and

"(C) serve interstate and interregional travel.

"(2) COMPONENTS.—The National Highway System consists of the following:

"(A) The Interstate System described in subsection (c).

"(B) Other urban and rural principal arterial routes.

"(C) Other connector highways (including toll facilities) that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

"(D) A strategic highway network consisting of a network of highways that are important to the United States strategic defense policy and that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime. The highways may be highways on or off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(E) Major strategic highway network connectors consisting of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network. The highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(3) MAXIMUM MILEAGE.—The mileage of highways on the National Highway System shall not exceed 178,250 miles.

"(4) MODIFICATIONS TO NHS.—

"(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State or that is proposed by a State and revised by the Secretary if the Secretary determines that the modification—

"(i) meets the criteria established for the National Highway System under this title; and

"(ii) enhances the national transportation characteristics of the National Highway System.

"(B) COOPERATION.—

"(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

"(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

"(c) INTERSTATE SYSTEM.—

"(1) DESCRIPTION.—

"(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico), consists of highways—

"(i) designed—

"(I) in accordance with the standards of section 109(b); or

"(II) in the case of highways in Alaska and Puerto Rico, in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway; and

"(ii) located so as—

"(I) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

"(II) to serve the national defense; and

"(III) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

"(B) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation 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.

"(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

"(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

"(4) INTERSTATE SYSTEM DESIGNATIONS.—

"(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

"(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

"(i) IN GENERAL.—If the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A), the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

"(ii) WRITTEN AGREEMENT OF STATES.—A designation under clause (i) shall be made only upon the written agreement of the State or States described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by the date that is 12 years after the date of the agreement.

"(iii) REMOVAL OF DESIGNATION.—

"(I) IN GENERAL.—If the State or States described in clause (i) have not substantially completed the construction of a highway designated under this subparagraph within the time provided for in the agreement between the Secretary and the State or States under clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

"(II) EFFECT OF REMOVAL.—Removal of the designation of a highway under subclause (I) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

"(iv) PROHIBITION ON REFERRAL AS INTERSTATE SYSTEM ROUTE.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as the highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a route on the Interstate System.

"(C) FINANCIAL RESPONSIBILITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the designation of a highway under this paragraph shall create no additional Federal financial responsibility with respect to the highway.

"(ii) CERTAIN HIGHWAYS.—Subject to section 119(b)(1)(B), a State may use funds available to the State under paragraphs (1) and (3) of section 104(b) for the resurfacing, restoration, rehabilitation, and reconstruction of a highway—

"(I) designated before March 9, 1984, as a route on the Interstate System under subparagraph (A) or as a future Interstate System route under subparagraph (B); or

"(II) [in Alaska or Puerto Rico] designated under subparagraph (A) *and located in Alaska or Puerto Rico*.

"(d) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—

"(1) INTERSTATE CONSTRUCTION FUNDS NOT IN SURPLUS.—

"(A) IN GENERAL.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997), if the amount does not exceed the Federal share of the costs of construction of segments of the Interstate System in the State included in the most recent Interstate System cost estimate.

"(B) EFFECT OF TRANSFER.—Upon transfer of an amount under subparagraph (A), the construction on which the amount is based, as included in the most recent Interstate System cost estimate, shall be ineligible for funding under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997) or 104(k).

"(2) SURPLUS INTERSTATE CONSTRUCTION FUNDS.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of surplus funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997), if the State has fully financed all work eligible under the most recent Interstate System cost estimate.

"(3) APPLICABILITY OF CERTAIN LAWS.—Funds transferred under this subsection shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred.

"(e) UNOBLIGATED BALANCES OF INTERSTATE SUBSTITUTE FUNDS.—Unobligated balances of funds apportioned to a State under section 103(e)(4)(H) (as in effect on the day before the date of enactment of the Intermodal *Surface* Transportation *Efficiency* Act of 1997) shall be available for obligation by the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on that date.".

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining "Interstate System" by striking "subsection (e) of section 103 of this title" and inserting "section 103(c)".

(B) Section 104(f)(1) of title 23, United States Code, is amended by striking ", except that" and all that follows through "programs".

(C) Section 115(a) of title 23, United States Code, is amended—

(i) in the subsection heading, by striking "SUBSTITUTE,"; and

(ii) in paragraph (1)(A)(i), by striking "103(e)(4)(H),";

(D) Section 118 of title 23, United States Code (as amended by section 1118(b)), is amended—

(i) by striking subsection (d); and

(ii) by redesignating subsections (e), (f), and (g) (as added by section 1103(d)) as subsections (c), (d), and (e), respectively.

(E) Section 129(b) of title 23, United States Code, is amended in the first sentence by striking "which has been" and all that follows through "and has not" and inserting "which is a public road and has not".

(2)(A) Section 139 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 139.

(C) Section 119(a) of title 23, United States Code, is amended in the first sentence—

(i) by striking "sections 103 and 139(c) of this title" and inserting "section 103(c)(1) and, in Alaska and Puerto Rico, under section 103(c)(4)(A)"; and

(ii) by striking "section 139 (a) and (b) of this title" and inserting "subparagraphs (A) and (B) of section 103(c)(4)".

(D) Section 127(f) of title 23, United States Code, is amended by striking "section 139(a)" and inserting "section 103(c)(4)(A)".

(E) Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597) is amended by striking subparagraph (B) and inserting the following:

"(B) TREATMENT OF SEGMENTS.—Subject to subparagraph (C), segments designated as parts of the Interstate System under this paragraph shall be treated in the same manner as segments designated under section 103(c)(4)(A) of title 23, United States Code.".

SEC. 1702. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) DEFINITIONS AND DECLARATION OF POLICY.—

(1) CREATION OF POLICY SECTION.—Section 102 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 102. Declaration of policy";

(B) by redesignating subsection (a) as subsection (c) and moving that subsection to the end of section 146; and

(C) by redesignating subsection (b) as subsection (f) and moving that subsection to the end of section 118 (as amended by section 1701(b)(1)(D)(ii)).

(2) TRANSFER OF POLICY PROVISIONS.—Section 101 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 101. Definitions";

(B) in subsection (a), by striking "(a)";

(C) by striking subsection (b); and

(D) by redesignating subsections (c) through (e) as subsections (a) through (c), respectively, and moving those subsections to section 102 (as amended by paragraph (1)).

(3) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 101 and 102 and inserting the following:

"101. Definitions.

"102. Declaration of policy.".

(B) Section 47107(j)(1)(B) of title 49, United States Code, is amended by striking "section 101(a)" and inserting "section 101".

(b) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking "PROJECTS" and all that follows through "When a State" and inserting "PROJECTS.—When a State";

(B) by striking paragraphs (2) and (3); and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and indenting appropriately;

(2) by striking subsection (c);

(3) in subsection (d), by striking "section 135(f)" and inserting "section 135"; and

(4) by redesignating subsection (d) as subsection (c).

(c) MAINTENANCE.—Section 116 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in the first sentence, by striking "he" and inserting "the Secretary"; and

(B) in the second sentence, by striking "further projects" and inserting "further expenditure of Federal-aid highway program funds"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(d) INTERSTATE MAINTENANCE PROGRAM.—Section 119(a) of title 23, United States Code, is amended in the first sentence by striking "the date of enactment of this sentence" and inserting "March 9, 1984".

(e) ADVANCES TO STATES.—Section 124 of title 23, United States Code, is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

(f) DIVERSION.—

(1) IN GENERAL.—Section 126 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 126.

(g) RAILWAY-HIGHWAY CROSSINGS.—Section 130(f) of title 23, United States Code, is amended by striking "APPORTIONMENT" and all that follows through the first sentence and inserting "FEDERAL SHARE.—".

(h) SURFACE TRANSPORTATION PROGRAM.—Section 133(a) of title 23, United States Code, is amended by striking "ESTABLISHMENT.—The Secretary shall establish" and inserting "IN GENERAL.—The Secretary shall carry out".

(i) CONTROL OF JUNKYARDS.—Section 136 of title 23, United States Code, is amended by striking subsection (m) and inserting the following:

"(m) PRIMARY SYSTEM DEFINED.—For purposes of this section, the term 'primary system' means the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

(j) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

(k) NONDISCRIMINATION.—Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "subsection (a) of section 105 of this title," and inserting "section 106(a),";

(B) by striking "he" each place it appears and inserting "the Secretary";

(C) in the second sentence, by striking "He" and inserting "The Secretary";

(D) in the third sentence, by striking "In approving programs for projects on any of the Federal-aid systems," and inserting "Before approving any project under section 106(a),"; and

(E) in the last sentence, by striking "him" and inserting "the Secretary";

(2) by striking subsection (b);

(3) in the subsection heading of subsection (d), by striking "AND CONTRACTING"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(l) PRIORITY PRIMARY ROUTES.—

(1) IN GENERAL.—Section 147 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147.

(m) DEVELOPMENT OF A NATIONAL SCENIC AND RECREATIONAL HIGHWAY.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148.

(n) HAZARD ELIMINATION PROGRAM.—Section 152(e) of title 23, United States Code, is amended by striking "apportioned to" in the first sentence and all that follows through "shall be" in the second sentence.

(o) ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES.—

(1) IN GENERAL.—Section 155 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155.

SEC. 1703. NONDISCRIMINATION.

(a) IN GENERAL.—Section 324 of title 23, United States Code, is amended—

(1) by inserting "(d) PROHIBITION OF DISCRIMINATION ON THE BASIS OF SEX.—" before "No person"; and

(2) by moving subsection (d) (as designated by paragraph (1)) to the end of section 140 (as amended by section 1702(k)).

(b) CONFORMING AMENDMENTS.—

(1) Section 324 of title 23, United States Code, is repealed.

(2) The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 324.

SEC. 1704. STATE TRANSPORTATION DEPARTMENT.

(a) IN GENERAL.—Section 302 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a)";

(B) by striking the second sentence; and

(C) by adding at the end the following: "Compliance with this section shall have no effect on the eligibility of costs."; and

(2) by striking subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) Title 23, United States Code, is amended—

(A) by striking "State highway department" each place it appears and inserting "State transportation department"; and

(B) by striking "State highway departments" each place it appears and inserting "State transportation departments".

(2) The analysis for chapter 3 of title 23, United States Code, is amended in the item relating to section 302 by striking "highway" and inserting "transportation".

(3) Section 302 of title 23, United States Code, is amended in the section heading by striking "**highway**" and inserting "**transportation**".

(4) Section 410(h)(5) of title 23, United States Code, is amended in the paragraph heading by striking "HIGHWAY" and inserting "TRANSPORTATION".

(5) Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by striking "State highway department" and inserting "State transportation department".

(6) Section 138(c) of the Surface Transportation Assistance Act of 1978 (40 U.S.C. App. note to section 201 of the Appalachian Regional Development Act of 1965; Public Law 95-599) is amended in the first sentence by striking "State highway department" and inserting "State transportation department".

Subtitle H—Miscellaneous Provisions

SEC. 1801. DESIGNATION OF PORTION OF STATE ROUTE 17 IN NEW YORK AND PENNSYLVANIA AS INTERSTATE ROUTE 86.

(a) IN GENERAL.—Subject to subsection (b)(2), notwithstanding section 103(c), the portion of State Route 17 located between the junction of State Route 17 and Interstate Route 87 in Harriman, New York, and the junction of State Route 17 and Interstate Route 90 near Erie, Pennsylvania, is designated as Interstate Route 86.

(b) SUBSTANDARD FEATURES.—

(1) UPGRADING.—Each segment of State Route 17 described in subsection (a) that does not substantially meet the Interstate System design standards under section 109(b) of title 23, United States Code, in effect on the date of enactment of this Act shall be upgraded in accordance with plans and schedules developed by the applicable State.

(2) DESIGNATION.—Each segment of State Route 17 that on the date of enactment of this Act is not at least 4 lanes wide, separated by a median, access-controlled, and grade-separated shall—

(A) be designated as a future Interstate System route; and

(B) become part of Interstate Route 86 at such time as the Secretary determines that the segment substantially meets the Interstate System design standards described in paragraph (1).

(c) TREATMENT OF ROUTE.—

(1) MILEAGE LIMITATION.—The mileage of Interstate Route 86 designated under subsection (a) shall not be charged against the limitation established by section 103(c)(2) of title 23, United States Code.

(2) FEDERAL FINANCIAL RESPONSIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), the designation of Interstate Route 86 under subsection (a) shall not create increased Federal financial responsibility with respect to the designated Route.

(B) USE OF CERTAIN FUNDS.—A State may use funds available to the State under paragraphs (1) and (3) of section 104(b) of title 23, United States Code, to eliminate substandard features of, and to resurface, restore, rehabilitate, or reconstruct, any portion of the designated Route.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

SEC. 2001. STRATEGIC RESEARCH PLAN.

Subtitle III of title 49, United States Code, is amended—

(1) in the table of chapters, by inserting after the item relating to chapter 51 the following:

"52. RESEARCH AND DEVELOPMENT ... 5201";

and

(2) by inserting after chapter 51 the following:

"CHAPTER 52—RESEARCH AND DEVELOPMENT

"Sec.

"5201. Definitions.

"SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

"5211. Transactional authority.

"SUBCHAPTER II—STRATEGIC PLANNING

"5221. Strategic planning.
"5222. Authorization of [appropriations] *contract authority*.

"SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM

"5231. Multimodal Transportation Research and Development Program.
"5232. Authorization of [appropriations] *contract authority*.

"SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS

"5241. National university transportation centers.

"§ 5201. Definitions

"In this chapter:

"(1) DEPARTMENT.—The term 'Department' means the Department of Transportation.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

"§ 5211. Transactional authority

"To further the objectives of this chapter, the Secretary may make grants to, and enter into contracts, cooperative agreements, and other transactions with—

"(1) any person or any agency or instrumentality of the United States;

"(2) any unit of State or local government;

"(3) any educational institution; and

"(4) any other entity.

"SUBCHAPTER II—STRATEGIC PLANNING

"§ 5221. Strategic planning

"(a) AUTHORITY.—The Secretary shall establish a strategic planning process to—

"(1) determine national transportation research, development, and technology deployment priorities, strategies, and milestones over the next 5 years;

"(2) coordinate Federal transportation research, development, and technology deployment activities; and

"(3) measure the impact of the research, development, and technology investments described in paragraph (2) on the performance of the transportation system of the United States.

"(b) CRITERIA.—In developing strategic plans for intermodal, multimodal, and mode-specific research, development, and technology deployment, the Secretary shall consider the need to—

"(1) coordinate and integrate Federal, regional, State, and metropolitan planning research, development, and technology activities in urban and rural areas;

"(2) promote standards that facilitate a seamless and interoperable transportation system;

"(3) encourage innovation;

"(4) identify and facilitate initiatives and partnerships to deploy technology with the potential for improving transportation systems during the next 5-year and 10-year periods;

"(5) identify core research to support the long-term transportation technology and system needs of urban and rural areas of the United States, including safety;

"(6) ensure the ability of the United States to compete on a global basis; and

"(7) provide a means of assessing the impact of Federal research and technology investments on the performance of the transportation system of the United States.

"(c) IMPLEMENTATION.—

"(1) IN GENERAL.—In carrying out subsection (a), the Secretary shall adopt such policies and procedures as are appropriate—

"(A) to provide for integrated planning, coordination, and consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research, development, and technology transfer important to national transportation needs;

"(B) to promote the exchange of information on transportation-related research and development activities among the operating elements of the Department, other Federal departments and agencies, State and local governments, colleges and universities, industry, and other private and public sector organizations engaged in the activities;

"(C) to ensure that the research and development programs of the Department do not duplicate other Federal and, to the maximum extent practicable, private sector research and development programs; and

"(D) to ensure that the research and development activities of the Department—

"(i) make appropriate use of the talents, skills, and abilities at the Federal laboratories; and

"(ii) leverage, to the maximum extent practicable, the research, development, and technology transfer capabilities of institutions of higher education and private industry.

"(2) CONSULTATION.—The procedures and policies adopted under paragraph (1) shall include consultation with State officials and members of the private sector.

"(d) REPORTS.—

"(1) IN GENERAL.—Concurrent with the submission to Congress of the budget of the President for each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the strategic plans, goals, and milestones developed under subsections (a) and (b) to help guide research, development, and technology transfer activities during the 5-year period beginning on the date of the report.

"(2) COMPARISON TO PREVIOUS REPORT.—The report shall include a delineation of the progress made with respect to each of the plans, goals, and milestones specified in the previous report.

"(3) PROHIBITION ON OBLIGATION FOR FAILURE TO SUBMIT REPORT.—Beginning on the date of the submission to Congress of the budget of the President for fiscal year 2000, and on the date of the submission for each fiscal year thereafter, none of the funds made available under this chapter or chapter 5 of title 23 may be obligated until the report required under paragraph (1) for that fiscal year is submitted.

"§ 5222. Authorization of contract authority

"(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $1,500,000 for each of fiscal years 1998 through 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

"(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

"(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.

"(c) USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under subsection (a) exceed the amounts used to carry out section 5221 for the fiscal year, the excess amounts—

"(1) shall be apportioned in accordance with section 104(b)(3) of title 23;

"(2) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d) of that title; and

"(3) shall be available for any purpose eligible for funding under section 133 of that title.".

SEC. 2002. MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM.

Chapter 52 of title 49, United States Code (as added by section 2001), is amended by adding at the end the following:

"SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM

"§ 5231. Multimodal Transportation Research and Development Program

"(a) ESTABLISHMENT.—The Secretary shall establish a program to be known as the 'Multimodal Transportation Research and Development Program'.

"(b) PURPOSES.—The purposes of the Multimodal Transportation Research and Development Program are to—

"(1) enhance the capabilities of Federal agencies to meet national transportation needs, as defined by the missions of the agencies, through support for long-term and applied research and development that would benefit the various modes of transportation, including research and development in safety, security, mobility, energy and the environment, information and physical infrastructure, and industrial design;

"(2) identify and apply innovative research performed by the Federal Government, academia, and the private sector to the intermodal and multimodal transportation research, development, and deployment needs of the Department and the transportation enterprise of the United States;

"(3) identify and leverage research, technologies, and other information developed by the Federal Government for national defense and nondefense purposes for the benefit of the public, commercial, and defense transportation sectors; and

"(4) share information and analytical and research capabilities among the Federal Government, State and local governments, colleges and universities, and private organizations to advance their ability to meet their transportation research, development, and deployment needs.

"(c) PROCESS FOR CONSULTATION.—To advise the Secretary in establishing priorities within the Program, the Secretary shall establish a process for consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research.

"§ 5232. Authorization of contract authority

"(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $2,500,000 for each of fiscal years 1998 through 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

"(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

"(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.".

SEC. 2003. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

(a) IN GENERAL.—Chapter 52 of title 49, United States Code (as amended by section 2002), is amended by adding at the end the following:

"SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS

"§ 5241. National university transportation centers

"(a) [Regionally Based Centers] *IN GENERAL.*—The Secretary shall make grants to, or enter into contracts with, the nonprofit institutions of higher learning selected under section 5317 (as in effect on the day before the date of enactment of this [section)] *section)*—

"*(1)* to operate 1 university transportation center in each of the 10 Federal administrative regions that comprise the Standard Federal Regional Boundary System; *and*

"*(2) to continue operation of university transportation centers at the Mack-Blackwell National Rural Transportation Study Center, the National Center for Transportation and Industrial Productivity, the Institute for Surface Transportation Policy Studies, the Urban Transit Institute at the University of South Florida, the National Center for Advanced Transportation Technology, and the University of Alabama Transportation Research Center.*

"(b) ADDITIONAL CENTERS.—

"(1) IN GENERAL.—The Secretary may make grants to nonprofit institutions of higher learning to establish and operate not more than [10] 4 additional university transportation centers to address—

"(A) transportation management, research, and development, with special attention to increasing the number of highly skilled minority individuals and women entering the transportation workforce;

"(B) transportation and industrial productivity;

"(C) rural transportation;

"(D) advanced transportation technology;

"(E) international transportation policy studies;

"(F) transportation infrastructure technology;

"(G) urban transportation research;

"(H) transportation and the environment;

"(I) surface transportation safety; or

"(J) infrastructure finance studies.

"(2) SELECTION CRITERIA.—

"(A) APPLICATION.—A nonprofit institution of higher learning that desires to receive a grant under paragraph (1) shall submit an application to the Secretary in such manner and containing such information as the Secretary may require.

"(B) SELECTION OF RECIPIENTS.—The Secretary shall select each grant recipient under paragraph (1) on the basis of—

"(i) the demonstrated research and extension resources available to the recipient to carry out this section;

"(ii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-term transportation problems;

"(iii) the establishment by the recipient of a surface transportation program that encompasses several modes of transportation;

"(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program; [and]

"(v) the strategic plan that the recipient proposes to carry out using the grant [funds.] *funds; and*

"*(vi) the extent to which private funds have been committed to a university and public-private partnerships established to fulfill the objectives specified in paragraph (1).*

"(c) OBJECTIVES.—Each university transportation center shall use grant funds under subsection (a) or (b) to carry out—

"(1) multimodal basic and applied research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation;

"(2) an education program that includes multidisciplinary course work and participation in research; and

"(3) an ongoing program of technology transfer that makes research results available to potential users in a form that can be readily implemented, used, or otherwise applied.

"(d) MAINTENANCE OF EFFORT.—Before making a grant under subsection (a) or (b), the Secretary shall require the grant recipient to enter into an agreement with the Secretary to ensure that the recipient will maintain, during the period of the grant, a level of total expenditures from all other sources for establishing and operating a university transportation center and carrying out related research activities that is at least equal to the average level of those expenditures in the 2 fiscal years of the recipient prior to the award of a grant under subsection (a) or (b).

"(e) ADDITIONAL GRANTS AND CONTRACTS.—

"(1) GRANTS OR CONTRACTS.—In addition to grants under subsection (a) or (b), the Secretary may make grants to, or enter into contracts with, university transportation centers without the need for a competitive process.

"(2) USE OF GRANTS OR CONTRACTS.—A noncompetitive grant or contract under paragraph (1) shall be used for transportation research, development, education, or training consistent with the strategic plan approved as part of the selection process for the center.

"(f) FEDERAL SHARE.—The Federal share of the cost of establishing and operating a university transportation center and carrying out related research activities under this section shall be not more than 50 percent.

"(g) PROGRAM COORDINATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) coordinate research, education, training, and technology transfer activities carried out by grant recipients under this section;

"(B) disseminate the results of the research; and

"(C) establish and operate a clearinghouse for disseminating the results of the research.

"(2) REVIEW AND EVALUATION.—

"(A) IN GENERAL.—Not less often than annually, the Secretary shall review and evaluate programs carried out by grant recipients under this section.

"(B) NOTIFICATION OF DEFICIENCIES.—In carrying out subparagraph (A), if the Secretary determines that a university transportation center is deficient in meeting the objectives of this section, the Secretary shall notify the grant recipient operating the center of each deficiency and provide specific recommendations of measures that should be taken to address the deficiency.

"(C) DISQUALIFICATION.—If, after the end of the 180-day period that begins on the date of notification to a grant recipient under subparagraph (B) with respect to a center, the Secretary determines that the recipient has not corrected each deficiency identified under subparagraph (B), the Secretary may, after notifying the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination—

"(i) disqualify the university transportation center from further participation under this section; and

"(ii) make a grant for the establishment of a new university transportation center, in lieu of the disqualified center, under subsection (a) or (b), as applicable.

"(3) FUNDING.—The Secretary may use not more than 1 percent of Federal funds made available under this section to carry out this subsection.

"(h) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.

"(3) TECHNOLOGY TRANSFER ACTIVITIES.—For each fiscal year, not less than 5 percent of the amounts made available to carry out this section shall be available to carry out technology transfer activities.

"(i) LIMITATION ON AVAILABILITY OF FUNDS.—Funds authorized under this section shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 5316 and 5317 of title 49, United States Code, are repealed.

(2) The analysis for chapter 53 of title 49, United States Code, is amended by striking the items relating to sections 5316 and 5317.

SEC. 2004. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Section 111 of title 49, United States Code, is amended—

(1) in subsection (b)(4), by striking the second sentence;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (J), by striking "and" at the end;

(ii) in subparagraph (K), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(L) transportation-related variables that influence global competitiveness.";

(B) in paragraph (2)—

(i) in the first sentence, by striking "national transportation system" and inserting "transportation systems of the United States";

(ii) by striking subparagraph (A) and inserting the following:

"(A) be coordinated with efforts to measure outputs and outcomes of the Department of Transportation and the transportation systems of the United States under the Government Performance and Results Act of 1993 (Public Law 103–62) and the amendments made by that Act;"; and

(iii) in subparagraph (C), by inserting ", made relevant to the States and metropolitan planning organizations," after "accuracy";

(C) in paragraph (3), by adding at the end the following: "The Bureau shall review and

report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103-62), and the amendments made by that Act, and shall carry out such other reviews of the sources and reliability of other data collected by the heads of the operating administrations of the Department as shall be requested by the Secretary."; and

(D) by adding at the end the following:

"(7) SUPPORTING TRANSPORTATION DECISIONMAKING.—Ensuring that the statistics compiled under paragraph (1) are relevant for transportation decisionmaking by the Federal Government, State and local governments, transportation-related associations, private businesses, and consumers.";

(3) by redesignating subsections (d), (e), and (f) as subsections (h), (i), and (j), respectively;

(4) by striking subsection (g);

(5) by inserting after subsection (c) the following:

"(d) TRANSPORTATION DATA BASE.—

"(1) IN GENERAL.—In consultation with the Associate Deputy Secretary, the Assistant Secretaries, and the heads of *the* operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation data base for all modes of transportation.

"(2) USE.—The data base shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

"(3) CONTENTS.—The data base shall include—

"(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations, and by relevant classification;

"(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

"(C) information on the location and connectivity of transportation facilities and services; and

"(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

"(e) NATIONAL TRANSPORTATION LIBRARY.—

"(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

"(2) ACCESS.—The Bureau shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Bureau to make statistics readily accessible under subsection (c)(5).

"(3) COORDINATION.—The Bureau shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

"(f) NATIONAL TRANSPORTATION ATLAS DATA BASE.—

"(1) IN GENERAL.—The Director shall develop and maintain geospatial data bases that depict—

"(A) transportation networks;

"(B) flows of people, goods, vehicles, and craft over the networks; and

"(C) social, economic, and environmental conditions that affect or are affected by the networks.

"(2) INTERMODAL NETWORK ANALYSIS.—The data bases shall be able to support intermodal network analysis.

"(g) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State departments of transportation, metropolitan planning organizations, and institutions of higher education) for—

"(1) investigation of the subjects specified in subsection (c)(1) and research and development of new methods of data collection, management, integration, dissemination, interpretation, and analysis;

"(2) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (e); and

"(3) development and improvement of methods for sharing geographic data, in support of the national transportation atlas data base under subsection (f) and the National Spatial Data Infrastructure developed under Executive Order No. 12906.";

(6) by striking subsection (i) (as redesignated by paragraph (3)) and inserting the following:

"(i) PROHIBITION ON CERTAIN DISCLOSURES.—

"(1) IN GENERAL.—An officer or employee of the Bureau may not—

"(A) make any disclosure in which the data provided by an individual or organization under subsection (c)(2) can be identified;

"(B) use the information provided under subsection (c)(2) for a nonstatistical purpose; or

"(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c)(2).

"(2) PROHIBITION ON REQUESTS FOR CERTAIN DATA.—

"(A) GOVERNMENT AGENCIES.—No department, bureau, agency, officer, or employee of the United States (except the Director [of the Bureau of Transportation Statistics] in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c)(2) with the Bureau [of Transportation Statistics] or retained by an individual respondent.

"(B) COURTS.—Any copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

"(i) shall be immune from legal process; and

"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) APPLICABILITY.—This paragraph shall apply only to information that permits information concerning an individual or organization to be reasonably inferred by direct or indirect means.

"(3) DATA COLLECTED FOR NONSTATISTICAL PURPOSES.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.";

(7) in subsection (j) (as redesignated by paragraph (3)), by striking "On or before January 1, 1994, and annually thereafter, the" and inserting "The"; and

(8) by adding at the end the following:

"(k) STUDY.—

"(1) IN GENERAL.—The Director shall carry out a study—

"(A) to measure the ton-miles and value-miles of international trade traffic carried by highway for each State;

"(B) to evaluate the accuracy and reliability of such measures for use in the formula for highway apportionments;

"(C) to evaluate the accuracy and reliability of the use of diesel fuel data as a measure of international trade traffic by State; and

"(D) to identify needed improvements in long-term data collection programs to provide accurate and reliable measures of international traffic for use in the formula for highway apportionments.

"(2) BASIS FOR EVALUATIONS.—The study shall evaluate the accuracy and reliability of measures for use as formula factors based on statistical quality standards developed by the Bureau in consultation with the Committee on National Statistics of the National Academy of Sciences.

"(3) REPORT.—Not later than 3 years after the date of enactment of this subsection, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study carried out under paragraph (1), including recommendations for changes in law necessary to implement the identified needs for improvements in long-term data collection programs.

"[(k)] *(l)* PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau [of Transportation Statistics] from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

"[(l)] *(m)* AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $26,000,000 for fiscal year 1998, $27,000,000 for fiscal year 1999, $28,000,000 for fiscal year 2000, $29,000,000 for fiscal year 2001, $30,000,000 for fiscal year 2002, and $31,000,000 for fiscal year 2003, except that not more than $500,000 for each fiscal year may be made available to carry out subsection (g).

"(2) AVAILABILITY.—Funds authorized under this subsection shall remain available for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23.".

(b) CONFORMING AMENDMENTS.—Section 5503 of title 49, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

SEC. 2005. RESEARCH AND TECHNOLOGY PROGRAM.

Title 23, United States Code, is amended—

(1) in the table of chapters, by adding at the end the following:

"5. Research and Technology ..... 501";

and

(2) by adding at the end the following:

"CHAPTER 5—RESEARCH AND TECHNOLOGY

"SUBCHAPTER I—RESEARCH AND TRAINING

"Sec.
"501. Definition of safety.
"502. Research and technology program.
"503. Advanced research program.
"504. Long-term pavement performance program.
"505. State planning and research program.
"506. Education and training.
"507. International highway transportation outreach program.
"508. National technology deployment initiatives and partnerships program.
"509. Infrastructure investment needs report.
"510. Innovative bridge research and construction program.
"511. Study of future strategic highway research program.
"512. Transportation and environment cooperative research program.

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

"521. [Findings and p]*Purposes.*
"522. Definitions.
"523. Cooperation, consultation, and analysis.
"524. Research, development, and training.
"525. Intelligent transportation system integration program.
"526. Integration program for rural areas.
"527. Commercial vehicle intelligent transportation system infrastructure.
"528. Corridor development and coordination.
[**"528**] *"529.* Standards.
[**"529**] *"530.* Funding limitations.
"531. Use of innovative financing.
[**"530**] *"532.* Advisory committees.

"SUBCHAPTER III—FUNDING

"541. Funding.

"SUBCHAPTER I—RESEARCH AND TRAINING

"§ 501. Definition of safety

"In this chapter, the term 'safety' includes highway and traffic safety systems, research and development relating to vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

"§ 502. Research and technology program

"(a) GENERAL AUTHORITY AND COLLABORATIVE AGREEMENTS.—

"(1) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary—

"(i) shall carry out research, development, and technology transfer activities with respect to—

"(I) motor carrier transportation;

"(II) all phases of transportation planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions); and

"(III) the effect of State laws on the activities described in subclauses (I) and (II); and

"(ii) may test, develop, or assist in testing and developing any material, invention, patented article, or process.

"(B) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

"(i) independently;

"(ii) in cooperation with other Federal departments, agencies, and instrumentalities; or

"(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

"(C) TECHNICAL INNOVATION.—The Secretary shall develop and carry out programs to facilitate the application of such products of research and technical innovations as will improve the safety, efficiency, and effectiveness of the transportation system.

"(D) FUNDS.—

"(i) IN GENERAL.—Except as otherwise specifically provided in other sections of this chapter—

"(I) to carry out this subsection, the Secretary shall use—

"(aa) funds made available under section 541 for research, technology, and training; and

"(bb) such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose; and

"(II) the funds described in item (aa) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF FUNDS.—The Secretary shall use funds described in clause (i) to develop, administer, communicate, and [achieve] *promote* the use of products of research, development, and technology transfer programs under this section.

"(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State.

"(B) AGREEMENTS.—In carrying out this paragraph, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(C) FEDERAL SHARE.—

"(i) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this paragraph shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(ii) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in clause (i).

"(D) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this paragraph, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(3) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

"(b) MANDATORY ELEMENTS OF PROGRAM.—The Secretary shall include in the surface transportation research, development, and technology transfer programs under this subsection and as specified elsewhere in this title—

"(1) a coordinated long-term program of research for the development, use, and dissemination of performance indicators to measure the performance of the surface transportation systems of the United States, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the system; and

"(2) a program to strengthen and expand surface transportation infrastructure research, development, and technology transfer, which shall include, at a minimum—

"(A) methods and materials for improving the durability of surface transportation infrastructure facilities and extending the life of bridge structures, including new and innovative technologies to reduce corrosion;

"(B) a research and development program directed toward the reduction of costs, and the mitigation of impacts, associated with the construction of highways and mass transit systems;

"(C) a surface transportation research program to develop nondestructive evaluation equipment for use with existing infrastructure facilities and with next-generation infrastructure facilities that use advanced materials;

"(D)(i) information technology, including appropriate computer programs to collect and analyze data on the status of infrastructure facilities described in subparagraph (C) with respect to enhancing management, growth, and capacity; and

"(ii) dynamic simulation models of surface transportation systems for—

"(I) predicting capacity, safety, and infrastructure durability problems;

"(II) evaluating planned research projects; and

"(III) testing the strengths and weaknesses of proposed revisions to surface transportation operation programs;

"(E) new innovative technologies to enhance and facilitate field construction and rehabilitation techniques for minimizing disruption during repair and maintenance of structures;

"(F) initiatives to improve the ability of the United States to respond to emergencies and natural disasters and to enhance national defense mobility; and

"(G) an evaluation of traffic calming measures that promote community preservation, transportation mode choice, and safety.

"(c) REPORT ON GOALS, MILESTONES, AND ACCOMPLISHMENTS.—The goals, milestones, and accomplishments relevant to each of the mandatory program elements described in subsection (b) shall be specified in the report required under section 5221(d) of title 49.".

SEC. 2006. ADVANCED RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

"§ 503. Advanced research program

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish an advanced research program within the Federal Highway Administration to address longer-term, higher-risk research that shows potential benefits for improving the durability, mobility, efficiency, environmental impact, productivity, and safety of transportation systems.

"(2) DEVELOPMENT OF PARTNERSHIPS.—In carrying out the program, the Secretary

shall attempt to develop partnerships with the public and private sectors.

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts for advanced research.

"(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $9,000,000 for fiscal year 2000, and $10,000,000 for each of fiscal years 2001 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary.".

SEC. 2007. LONG-TERM PAVEMENT PERFORMANCE PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2006), is amended by adding at the end the following:

"§ 504. Long-term pavement performance program

"(a) AUTHORITY.—The Secretary shall complete the long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section) and continued by the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) through the midpoint of a planned 20-year life of the long-term pavement performance program (referred to in this section as the 'program').

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(1) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

"(2) analyze the data obtained in carrying out paragraph (1); and

"(3) prepare products to fulfill program objectives and meet future pavement technology needs.

"(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(A) the Federal share of the cost of any activity funded under this section shall be determined by the Secretary; and

"(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.".

SEC. 2008. STATE PLANNING AND RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2007), is amended by adding at the end the following:

"§ 505. State planning and research program

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—Two percent of the sums apportioned for fiscal year 1998 and each fiscal year thereafter to any State under section 104 (except section 104(f)) and any transfers or additions to the surface transportation program under section 133 shall be available for expenditure by the State transportation [agency] *department*, in consultation with the Secretary, in accordance with this section.

"(2) USE OF FUNDS.—The sums referred to in paragraph (1) shall be available only for—

"(A) intermodal metropolitan, statewide, and nonmetropolitan planning under sections 134 and 135;

"(B) development and implementation of management systems referred to in section 303;

"(C) studies, research, development, and technology transfer activities necessary for the planning, design, construction, management, operation, maintenance, regulation, and taxation of the use of surface transportation systems, including training and accreditation of inspection and testing on engineering standards and construction materials for the systems; and

"(D) studies of the economy, safety, and convenience of surface transportation usage and the desirable regulation and equitable taxation of surface transportation usage.

"(b) MINIMUM EXPENDITURES ON STUDIES, RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—*For each fiscal year,* [N]*not* less than 25 percent of the funds of a State that are subject to subsection (a) shall be expended by the State transportation [agency] *department* for studies, research, development, and technology transfer activities described in subparagraphs (C) and (D) of subsection (a)(2) unless the State certifies to the Secretary for the fiscal year that the total expenditures by the State transportation [agency] *department* for transportation planning under sections 134 and 135 will exceed 75 percent of the amount of the funds and the Secretary accepts the certification.

"(2) EXEMPTION FROM SMALL BUSINESS ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

"(c) FEDERAL SHARE.—The Federal share of the cost of a project financed with funds referred to in subsection (a) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

"(d) ADMINISTRATION OF FUNDS.—Funds referred to in subsection (a) shall be combined and administered by the Secretary as a single fund, which shall be available for obligation for the same period as funds apportioned under section 104(b)(1).".

SEC. 2009. EDUCATION AND TRAINING.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2008), is amended by adding at the end the following:

"§ 506. Education and training

"(a) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall carry out a transportation assistance program that will provide access to modern highway technology to—

"(A) highway and transportation agencies in urbanized areas with populations of between 50,000 and 1,000,000 individuals;

"(B) highway and transportation agencies in rural areas; and

"(C) contractors that do work for the agencies.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services that will—

"(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

"(i) develop and expand their expertise in road and transportation areas (including pavement, bridge, safety management systems, and traffic safety countermeasures);

"(ii) improve roads and bridges;

"(iii) enhance—

"(I) programs for the movement of passengers and freight; and

"(II) intergovernmental transportation planning and project selection; and

"(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

"(B) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems;

"(C) operate, in cooperation with State transportation [agencies] *departments* and universities—

"(i) local technical assistance program centers to provide transportation technology transfer services to rural areas and to urbanized areas with populations of between 50,000 and 1,000,000 individuals; and

"(ii) local technical assistance program centers designated to provide transportation technical assistance to Indian tribal governments; and

"(D) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

"(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $7,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $7,000,000 for fiscal year 2000, $8,000,000 for fiscal year 2001, $8,000,000 for fiscal year 2002, and $8,000,000 for fiscal year 2003 to be used to develop and administer the program established under this section and to provide technical and financial support for the centers operated under paragraph (2)(C).

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(b) NATIONAL HIGHWAY INSTITUTE.—

"(1) ESTABLISHMENT; DUTIES; PROGRAMS.—

"(A) ESTABLISHMENT.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute (referred to in this subsection as the 'Institute').

"(B) DUTIES.—

"(i) INSTITUTE.—In cooperation with State transportation [agencies] *departments*, United States industry, and any national or international entity, the Institute shall develop and administer education and training programs of instruction for—

"(I) Federal Highway Administration, State, and local transportation agency employees;

"(II) regional, State, and metropolitan planning organizations;

"(III) State and local police, public safety, and motor vehicle employees; and

"(IV) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

"(ii) SECRETARY.—The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

"(C) TYPES OF PROGRAMS.—Programs that the Institute may develop and administer may include courses in modern developments, techniques, methods, regulations, management, and procedures relating to—

"(i) surface transportation;

"(ii) environmental factors;

"(iii) acquisition of rights-of-way;

"(iv) relocation assistance;

"(v) engineering;

"(vi) safety;

"(vii) construction;

"(viii) maintenance;

"(ix) operations;

"(x) contract administration;

"(xi) motor carrier activities;

"(xii) inspection; and

"(xiii) highway finance.

"(2) SET ASIDE; FEDERAL SHARE.—Not to exceed ¼ of 1 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by [transportation agencies of the State] *the State transportation department* for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding travel, subsistence, or salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

"(3) FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

"(i) by the Secretary at no cost to the States and local governments if the Secretary determines that provision at no cost is in the public interest; or

"(ii) by the State through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

"(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training received by them unless the Secretary determines that a lower cost is of critical importance to the public interest.

"(4) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

"(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

"(B) carry out its authority independently or in cooperation with any other branch of the Federal Government or any State agency, authority, association, institution, for-profit or nonprofit corporation, other national or international entity, or other person.

"(5) COLLECTION OF FEES.—

"(A) GENERAL RULE.—In accordance with this subsection, the Institute may assess and collect fees solely to defray the costs of the Institute in developing or administering education and training programs under this subsection.

"(B) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner that may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount that does not exceed the aggregate amount of the costs referred to in subparagraph (A) for the fiscal year.

"(C) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

"(ii) persons and entities to whom education or training is provided under this subsection.

"(D) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

"(E) USE.—All fees collected under this subsection shall be used to defray costs associated with the development or administration of education and training programs authorized under this subsection.

"(6) FUNDING.—

"(A) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for fiscal year 1998, $5,000,000 for fiscal year 1999, $5,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $6,000,000 for fiscal year 2002, and $6,000,000 for fiscal year 2003.

"(B) RELATION TO [OTHER] FEES.—The funds provided under this paragraph may be combined with or held separate from the fees collected under paragraph (5).

"(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(7) CONTRACTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this subsection.

"(c) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

"(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal departments, agencies, and instrumentalities, may make grants for fellowships for any purpose for which research, technology, or capacity building is authorized under this chapter.

"(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

"(A) IN GENERAL.—The Secretary shall carry out a transportation fellowship program, to be known as the 'Dwight David Eisenhower Transportation Fellowship Program', for the purpose of attracting qualified students to the field of transportation.

"(B) TYPES OF FELLOWSHIPS.—The program shall offer fellowships at the junior through postdoctoral levels of college education.

"(C) CITIZENSHIP.—Each recipient of a fellowship under the program shall be a United States citizen.

"(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $2,000,000 for each of fiscal years 1998 through 2003.

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(d) HIGHWAY CONSTRUCTION TRAINING PROGRAMS.—

"(1) USE OF FUNDS BY THE SECRETARY.—

"(A) IN GENERAL.—The Secretary, in cooperation with any other department or agency of the Federal Government, State agency, authority, association, institution, Indian tribal government, for-profit or nonprofit corporation, or other organization or person, may—

"(i) develop, conduct, and administer highway construction and technology training, including skill improvement, programs; and

"(ii) develop and fund Summer Transportation Institutes.

"(B) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into by the Secretary under this subsection.

"(C) FUNDING.—

"(i) IN GENERAL.—Before making apportionments under section 104(b) for a fiscal year, the Secretary shall deduct such sums as the Secretary determines are necessary, but not to exceed $10,000,000 for each fiscal year, to carry out this subsection.

"(ii) AVAILABILITY.—Sums deducted under clause (i) shall remain available until expended.

"(2) USE OF FUNDS APPORTIONED TO STATES.—Notwithstanding any other provision of law, upon request of a State transportation department to the Secretary, not to exceed ½ of 1 percent of the funds apportioned to the State for a fiscal year under paragraphs (1) and (3) of section 104(b) may be made available to carry out this subsection.

"(3) RESERVATION OF TRAINING POSITIONS FOR INDIVIDUALS RECEIVING WELFARE ASSISTANCE.—In carrying out this subsection, the Secretary and States may reserve training positions for individuals who receive welfare assistance from a State.".

SEC. 2010. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

(a) IN GENERAL.—Title 23, United States Code, is amended—

(1) by redesignating section 325 as section 507;

(2) by moving that section to appear at the end of subchapter I of chapter 5 (as amended by section 2009);

(3) in subsection (a) of that section, by inserting ", goods, and services" after "expertise"; and

(4) by striking subsection (c) of that section and inserting the following:

"(c) USE OF FUNDS.—

"(1) FUNDS DEPOSITED IN SPECIAL ACCOUNT.—Funds available to carry out this

section shall include funds deposited by any cooperating organization or person in a special account for the program established under this section with the Secretary of the Treasury.

"(2) USE OF FUNDS.—The funds deposited in the special account and other funds available to carry out this section shall be available to pay the cost of any activity eligible under this section, including the cost of promotional materials, travel, reception and representation expenses, and salaries and benefits of officers and employees of the Department of Transportation.

"(3) REIMBURSEMENTS.—Reimbursements for the salaries and benefits of Federal Highway Administration employees who provide services under this section shall be credited to the special account.

"(d) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out section 505 for any activity authorized under subsection (a).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 325.

SEC. 2011. NATIONAL TECHNOLOGY DEPLOYMENT INITIATIVES AND PARTNERSHIPS PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2010), is amended by adding at the end the following:

"§ 508. National technology deployment initiatives and partnerships program

"(a) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment initiatives *and partnerships* program *(referred to in this section as the 'program')*.

"(b) PURPOSE.—The purpose of the program is to significantly accelerate the adoption of innovative technologies by the surface transportation community.

"(c) DEPLOYMENT GOALS.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish not more than 5 deployment goals to carry out subsection (a).

"(2) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, or sustainability.

"(3) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

"(d) CONTINUATION OF SHRP PARTNERSHIPS.—Under the program, the Secretary shall continue the partnerships established through the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section).

"(e) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology, including—

"(1) the testing and evaluation of products of the strategic highway research program;

"(2) the further development and implementation of technology in areas such as the Superpave system and the use of lithium salts to prevent and mitigate alkali silica reactivity; and

"(3) the provision of support for long-term pavement performance product implementation and technology access.

"(f) REPORTS.—Not later than 18 months after the date of enactment of this section, and biennially thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress and results of activities carried out under this section.

"(g) FUNDING.—

"(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $50,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(A) the Federal share of the cost of any activity under this section shall be determined by the Secretary; and

"(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(3) ALLOCATION.—To the extent appropriate to achieve the goals established under subsection (c), the Secretary may further allocate funds made available [to carry out] *under* this subsection to States for their use.".

SEC. 2012. INFRASTRUCTURE INVESTMENT NEEDS REPORT.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2011), is amended by adding at the end the following:

"§ 509. Infrastructure investment needs report

"Not later than January 31, 1999, and January 31 of every second year thereafter, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on estimates of the future highway and bridge needs of the United States.".

SEC. 2013. INNOVATIVE BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2012), is amended by adding at the end the following:

"§ 510. Innovative bridge research and construction program

"(a) IN GENERAL.—The Secretary shall establish and carry out a program to demonstrate the application of innovative material technology in the construction of bridges and other structures.

"(b) GOALS.—The goals of the program shall include—

"(1) the development of new, cost-effective innovative material highway bridge applications;

"(2) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

"(3) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(4) the development of engineering design criteria for innovative products and materials for use in highway bridges and structures; and

"(5) the development of highway bridges and structures that will withstand natural disasters, including alternative processes for the seismic retrofit of bridges.

"(c) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(1) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

"(A) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials; and

"(B) States to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of bridges or structures that demonstrates the application of innovative materials.

"(2) GRANTS.—

"(A) APPLICATIONS.—

"(i) SUBMISSION.—To receive a grant under this section, an entity described in paragraph (1) shall submit an application to the Secretary.

"(ii) CONTENTS.—The application shall be in such form and contain such information as the Secretary may require.

"(B) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this section based on whether the project that is the subject of the grant meets the goals of the program described in subsection (b).

"(d) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under subsection (c) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account)—

"(A) to carry out subsection (c)(1)(A) $1,000,000 for each of fiscal years 1998 through 2003; and

"(B) to carry out subsection (c)(1)(B)—

"(i) $10,000,000 for fiscal year 1998;

"(ii) $15,000,000 for fiscal year 1999;

"(iii) $17,000,000 for fiscal year 2000; and

"(iv) $20,000,000 for each of fiscal years 2001 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

SEC. 2014. USE OF BUREAU OF INDIAN AFFAIRS ADMINISTRATIVE FUNDS.

Section 204(b) of title 23, United States Code, is amended in the last sentence by striking "326" and inserting "506".

SEC. 2015. STUDY OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2013), is amended by adding at the end the following:

"§ 511. Study of future strategic highway research program

"(a) STUDY.—

"(1) IN GENERAL.—Not later than 120 days after the date of enactment of this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, the Transportation Research Board of the National Academy of Sciences (referred to in this section as the 'Board') to conduct a study to determine the goals, purposes, research agenda and projects, administrative structure, and fiscal needs for a new strategic highway research program to replace the program established under section 307(d) (as in effect on the day before the date of enactment of this section), or a similar effort.

"(2) CONSULTATION.—In conducting the study, the Board shall consult with the American Association of State Highway and Transportation Officials and such other entities as the Board determines to be necessary to the conduct of the study.

"(b) REPORT.—Not later than 2 years after making a grant or entering into a cooperative agreement or contract under subsection (a), the Board shall submit a final report on the results of the study to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.".

SEC. 2016. JOINT PARTNERSHIPS FOR ADVANCED VEHICLES, COMPONENTS, AND INFRASTRUCTURE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

"§ 310. Joint partnerships for advanced vehicles, components, and infrastructure program

"(a) PURPOSES.—The Secretary of Transportation, in coordination with other government agencies and private consortia, shall encourage and promote the research, development, and deployment of transportation technologies that will use technological advances in multimodal vehicles, vehicle components, environmental technologies, and related infrastructure to remove impediments to an efficient and cost-effective national transportation system.

"(b) DEFINITION OF ELIGIBLE CONSORTIUM.—In this section, the term 'eligible consortium' means a consortium that receives funding under the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1876), and that comprises 2 or more of the following entities:

"(1) Businesses incorporated in the United States.

"(2) Public or private educational or research organizations located in the United States.

"(3) Entities of State or local governments in the United States.

"(4) Federal laboratories.

"(c) PROGRAM.—The Secretary shall enter into contracts, cooperative agreements, and other transactions as authorized by section 2371 of title 10 with, and make grants to, eligible consortia to promote the development and deployment of innovation in transportation technology services, management, and operational practices.

"(d) ELIGIBILITY CRITERIA.—To be eligible to receive assistance under this section, an eligible consortium shall—

"(1) for a period of not less than the 3 years preceding the date of a contract, cooperative agreement, or other transaction, be organized on a statewide or multistate basis for the purpose of designing, developing, and deploying transportation technologies that address identified technological impediments in the transportation field;

"(2) facilitate the participation in the consortium of small- and medium-sized businesses, utilities, public laboratories and universities, and other relevant entities;

"(3) be actively engaged in transportation technology projects that address compliance in [non-attainment] *nonattainment* areas under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(4) be designed to use Federal and State funding to attract private capital in the form of grants or investments to carry out this section; and

"(5) ensure that at least 50 percent of the funding for the consortium project will be provided by non-Federal sources.

"(e) PROPOSALS.—The Secretary shall prescribe such terms and conditions as the Secretary determines to be appropriate for the content and structure of proposals submitted for assistance under this section.

"(f) REPORTING REQUIREMENTS.—At least once each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the projects undertaken by the eligible consortia and the progress made in advancing the purposes of this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1998 through 2003, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

"310. Joint partnerships for advanced vehicles, components, and infrastructure program.".

[SEC. 2017. CONFORMING AMENDMENTS.]

SEC. 2017. TRANSPORTATION AND ENVIRONMENT COOPERATIVE RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2015), is amended by adding at the end the following:

"§ 512. Transportation and environment cooperative research program

"(a) IN GENERAL.—The Secretary shall establish and carry out a transportation and environment cooperative research program.

"(b) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—In consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, the Secretary shall establish an advisory board to recommend environmental and energy conservation research, technology, and technology transfer activities related to surface transportation.

"(2) MEMBERSHIP.—The advisory board shall include—

"(A) representatives of State transportation and environmental agencies;

"(B) transportation and environmental scientists and engineers; and

"(C) representatives of metropolitan planning organizations, transit operating agencies, and environmental organizations.

"(3) DEVELOPMENT OF RESEARCH PRIORITIES.—In developing recommendations for priorities for research described in paragraph (1), the advisory board shall consider the research recommendations of the National Research Council report entitled 'Environmental Research Needs in Transportation'.

"(4) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

"(c) NATIONAL ACADEMY OF SCIENCES.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities related to the research, technology, and technology transfer activities described in subsection (b)(1) as the Secretary determines to be appropriate.

"(2) ECOSYSTEM INTEGRITY STUDY.—

"(A) IN GENERAL.—The Secretary shall give priority to conducting a study of, and preparing a report on, the relationship between highway density and ecosystem integrity, including an analysis of the habitat-level impacts of highway density on the overall health of ecosystems.

"(B) PROPOSAL OF RAPID ASSESSMENT METHODOLOGY.—To aid transportation and regulatory agencies, the report shall propose a rapid assessment methodology for determining the relationship between highway density and ecosystem integrity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1998 through 2003.".

SEC. 2018. CONFORMING AMENDMENTS.

(a) Sections 307, 321, and 326 of title 23, United States Code, are repealed.

(b) The analysis for chapter 3 of title 23, United States Code, is amended by striking the items relating to sections 307, 321, and 326.

(c) Section 115(a)(1)(A)(i) of title 23, United States Code, is amended by striking "or 307" and inserting "or 505".

(d) Section 151(d) of title 23, United States Code, is amended by striking "section 307(a)," and inserting "section 506,".

(e) Section 106 of Public Law 89-564 (23 U.S.C. 403 note) is amended in the third sentence by striking "sections 307 and 403 of title 23, United States Code," and inserting "section 403 and chapter 5 of title 23, United States Code,".

Subtitle B—Intelligent Transportation Systems

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the "Intelligent Transportation Systems Act of 1997".

SEC. 2102. FINDINGS.

Congress finds that—

(1) numerous studies conducted on behalf of the Department of Transportation document that investment in intelligent transportation systems offers substantial benefits in relationship to costs;

(2) as a result of the investment authorized by the Intelligent Transportation Systems Act of 1991 (23 U.S.C. 307 note; 105 Stat. 2189), progress has been made on each of the goals set forth for the national intelligent transportation system program in section 6052(b) of that Act; and

(3) continued investment by the Department of Transportation is needed to complete implementation of those goals.

SEC. 2103. INTELLIGENT TRANSPORTATION SYSTEMS.

Chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

"§ 521. Purposes

"The purposes of this subchapter are—

"(1) to expedite deployment and integration of basic intelligent transportation system services for consumers of passenger and freight transportation across the United States;

"(2) to encourage the use of intelligent transportation systems to enhance international trade and domestic economic productivity;

"(3) to encourage the use of intelligent transportation systems to promote the

achievement of national environmental [and safety] goals;

"(4) to continue research, development, testing, and evaluation activities to continually expand the state-of-the-art in intelligent transportation systems;

"(5) to provide financial and technical assistance to State and local governments and metropolitan planning organizations to ensure the integration of interoperable, intermodal, and cost-effective intelligent transportation systems;

"(6) to foster regional cooperation, standards implementation, and operations planning to maximize the benefits of integrated and coordinated intelligent transportation systems;

"(7) to promote the consideration of intelligent transportation systems in mainstream transportation planning and investment decisionmaking by ensuring that Federal and State transportation officials have adequate, working knowledge of intelligent transportation system technologies and applications and by ensuring comprehensive funding eligibility for the technologies and applications;

"(8) to encourage intelligent transportation system training for, and technology transfer to, State and local agencies;

"(9) to promote the deployment of intelligent transportation system services in rural America so as to achieve safety benefits, promote tourism, and improve quality of life;

"(10) to promote the innovative use of private resources, such as through public-private partnerships or other uses of private sector investment, to support the development and integration of intelligent transportation systems throughout the United States;

"(11) to complete the Federal investment in the Commercial Vehicle Information Systems and Networks by September 30, 2003; [and]

"(12) to facilitate intermodalism through deployment of intelligent transportation systems, including intelligent transportation system technologies for transit systems to improve safety, efficiency, capacity, and utility for the [public.] *public;*

"(13) to enhance the safe operation of motor vehicles, including motorcycles, and nonmotorized vehicles on the surface transportation systems of the United States, with a particular emphasis on decreasing the number and severity of collisions; and

"(14) to accommodate the needs of all users of the surface transportation systems of the United States, including the operators of commercial vehicles, passenger vehicles, and motorcycles.

"§ 522. Definitions

"In this subchapter:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'Commercial Vehicle Information Systems and Networks' means the information systems and communications networks that support commercial vehicle operations.

"(2) COMMERCIAL VEHICLE OPERATIONS.—The term 'commercial vehicle operations'—

"(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

"(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

"(3) COMPLETED STANDARD.—The term 'completed standard' means a standard adopted and published by the appropriate standards-setting organization through a voluntary consensus standardmaking process.

"(4) CORRIDOR.—The term 'corridor' means any major transportation route that includes parallel limited access highways, major arterials, or transit lines.

"(5) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(6) NATIONAL ARCHITECTURE.—The term 'national architecture' means the common framework for interoperability adopted by the Secretary that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(7) PROVISIONAL STANDARD.—The term 'provisional standard' means a provisional standard established by the Secretary under section [528(c)] *529(c).*

"(8) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may support the national architecture and promote—

"(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

"§ 523. Cooperation, consultation, and analysis

"(a) COOPERATION.—In carrying out this subchapter, the Secretary shall—

"(1) foster enhanced operation and management of the surface transportation systems of the United States;

"(2) promote the widespread deployment of intelligent transportation systems; and

"(3) advance emerging technologies, in cooperation with State and local governments and the private sector.

"(b) CONSULTATION.—As appropriate, in carrying out this subchapter, the Secretary shall—

"(1) consult with the heads of other interested Federal departments and agencies; and

"(2) maximize the involvement of the United States private sector, colleges and universities, and State and local governments in all aspects of carrying out this subchapter.

"(c) PROCUREMENT METHODS.—To meet the need for effective implementation of intelligent transportation system projects, the Secretary shall develop appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of procurement for intelligent transportation system projects, including innovative and nontraditional methods of procurement.

"§ 524. Research, development, and training

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, operational testing, technical assistance and training, national architecture activities, standards development and implementation, and other similar activities that are necessary to carry out the purposes of this subchapter.

"(b) INTELLIGENT VEHICLE AND INTELLIGENT INFRASTRUCTURE PROGRAMS.—

"(1) IN GENERAL.—

"(A) PROGRAM.—The Secretary shall carry out a program to conduct research, development, and engineering designed to stimulate and advance deployment of an integrated intelligent vehicle program and an integrated intelligent infrastructure program, consisting of—

"(i) projects such as crash avoidance, automated highway systems, advanced vehicle controls, and roadway safety and efficiency systems linked to intelligent vehicles; and

"(ii) projects that improve mobility and the quality of the environment, including projects for traffic management, incident management, transit management, toll collection, traveler information, and traffic control systems.

"(B) CONSIDERATION OF VEHICLE AND INFRASTRUCTURE ELEMENTS.—In carrying out subparagraph (A), the Secretary may consider systems that include both vehicle and infrastructure elements and determine the most appropriate mix of those elements.

"(2) NATIONAL ARCHITECTURE.—The program carried out under paragraph (1) shall be consistent with the national architecture.

"(3) PRIORITIES.—In carrying out paragraph (1), the Secretary shall give higher priority to activities that—

"(A) assist motor vehicle drivers in avoiding motor vehicle crashes;

"(B) assist in the development of an automated highway system; or

"(C) improve the integration of air bag technology with other on-board safety systems *and maximize the safety benefits of the simultaneous use of an automatic restraint system and seat belts.*

"(4) COST SHARING.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of a research project carried out in cooperation with a non-Federal entity under a program carried out under paragraph (1) shall not exceed 80 percent.

"(B) INNOVATIVE OR HIGH-RISK RESEARCH PROJECTS.—The Federal share of the cost of an innovative or high-risk research project described in subparagraph (A) may, at the discretion of the Secretary, be 100 percent.

"(5) PLAN.—The Secretary shall—

"(A) not later than 1 year after the date of enactment of this subchapter, submit to Congress a 6-year plan specifying the goals, objectives, and milestones to be achieved by each program carried out under paragraph (1); and

"(B) report biennially to Congress on the progress in meeting the goals, objectives, and milestones.

"(c) EVALUATION.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall establish guidelines and requirements for the independent evaluation of field and related operational tests, and, if necessary, deployment projects, carried out under this subchapter.

"(B) REQUIRED PROVISIONS.—The guidelines and requirements established under subparagraph (A) shall include provisions to ensure

the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subchapter.

"(2) FUNDING.—

"(A) SMALL PROJECTS.—In the case of a test or project with a cost of less than $5,000,000, the Secretary may allocate not more than 15 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(B) MODERATE PROJECTS.—In the case of a test or project with a cost of $5,000,000 or more, but less than $10,000,000, the Secretary may allocate not more than 10 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(C) LARGE PROJECTS.—In the case of a test or project with a cost of $10,000,000 or more, the Secretary may allocate not more than 5 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(3) INAPPLICABILITY OF PAPERWORK REDUCTION ACT.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

"(d) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

"(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(2) DELEGATION OF AUTHORITY.—

"(A) IN GENERAL.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation.

"(B) FEDERAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal assistance under this section.

"(e) TRAFFIC INCIDENT MANAGEMENT AND RESPONSE.—The Secretary shall carry out a program to advance traffic incident management and response technologies, strategies, and partnerships that are fully integrated with intelligent transportation systems.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $120,000,000 for fiscal year 1998, $125,000,000 for fiscal year 1999, $130,000,000 for fiscal year 2000, $135,000,000 for fiscal year 2001, $140,000,000 for fiscal year 2002, and $150,000,000 for fiscal year 2003, of which, for each fiscal year—

"(A) not less than $25,000,000 shall be available for activities that assist motor vehicle drivers in avoiding motor vehicle crashes, including activities that improve the integration of air bag technology with other onboard safety systems;

"(B) not less than $25,000,000 shall be available for activities that assist in the development of an automated highway system; and

"(C) not less than $3,000,000 shall be available for traffic incident management and response.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.

"§ 525. Intelligent transportation system integration program

"(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to in this section as the 'program') to accelerate the integration and interoperability of intelligent transportation systems.

"(b) SELECTION OF PROJECTS.—

"(1) IN GENERAL.—Under the program, the Secretary shall select for funding, through competitive solicitation, projects that will serve as models to improve transportation efficiency, promote safety, increase traffic flow, reduce emissions of air pollutants, improve traveler information, or enhance alternative transportation modes.

"(2) PRIORITIES.—Under the program, the Secretary shall give higher priority to funding projects that—

"(A) promote and foster integration strategies and written agreements among local governments, States, and other regional entities;

"(B) build on existing (as of the date of project selection) intelligent transportation system projects;

"(C) deploy integrated intelligent transportation system projects throughout metropolitan areas;

"(D) deploy integrated intelligent transportation system projects that enhance safe freight movement or coordinate intermodal travel, including intermodal travel at ports of entry into the United States; and

"(E) advance intelligent transportation system deployment projects that are consistent with the national architecture and, as appropriate, comply with required standards as described in section [528] *529*.

"(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

"(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $100,000,000 for fiscal year 1998, $110,000,000 for fiscal year 1999, $115,000,000 for fiscal year 2000, $130,000,000 for fiscal year 2001, $135,000,000 for fiscal year 2002, and $145,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 526. Integration program for rural areas

"(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to in this section as the 'program') to accelerate the integration or deployment of intelligent transportation systems in rural areas.

"(b) SELECTION OF PROJECTS.—Under the program, the Secretary shall—

"(1) select projects through competitive solicitation; and

"(2) give higher priority to funding projects that—

"(A) promote and foster integration strategies and agreements among local governments, States, and other regional entities;

"(B) deploy integrated intelligent transportation system projects that improve mobility, enhance the safety of the movement of passenger vehicles and freight, or promote tourism; or

"(C) advance intelligent transportation system deployment projects that are consistent with the national architecture and comply with required standards as described in section [528] *529*.

"(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

"(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1998, $10,000,000 for fiscal year 1999, $15,000,000 for fiscal year 2000, $15,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $20,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 527. Commercial vehicle intelligent transportation system infrastructure

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program—

"(1) to deploy intelligent transportation systems that will promote the safety and productivity of commercial vehicles and drivers; and

"(2) to reduce costs associated with commercial vehicle operations and State and Federal commercial vehicle regulatory requirements.

"(b) ELEMENTS OF PROGRAM.—

"(1) SAFETY INFORMATION SYSTEMS AND NETWORKS.—

"(A) IN GENERAL.—The program shall advance the technological capability and promote the deployment of commercial vehicle, commercial driver, and carrier-specific safety information systems and networks and other intelligent transportation system technologies used to assist States in identifying high-risk commercial operations and

in conducting other innovative safety strategies, including the Commercial Vehicle Information Systems and Networks.

"(B) FOCUS OF PROJECTS.—Projects assisted under the program shall focus on—

"(i) identifying and eliminating unsafe and illegal carriers, vehicles, and drivers in a manner that does not unduly hinder the productivity and efficiency of safe and legal commercial operations;

"(ii) enhancing the safe passage of commercial vehicles across the United States and across international borders;

"(iii) reducing the numbers of violations of out-of-service orders; and

"(iv) complying with directives to address other safety violations.

"(2) MONITORING SYSTEMS.—The program shall advance on-board driver and vehicle safety monitoring systems, including fitness-for-duty, brake, and other operational monitoring technologies, that will facilitate commercial vehicle safety, including inspection by motor carrier safety assistance program officers and employees under chapter 311 of title 49.

"(c) USE OF FEDERAL FUNDS.—

"(1) IN GENERAL.—Federal funds used to carry out the program shall be primarily used to improve—

"(A) commercial vehicle safety and the effectiveness and efficiency of enforcement efforts conducted under the motor carrier safety assistance program under chapter 311 of title 49;

"(B) electronic processing of registration, driver licensing, fuel tax, and other safety information; and

"(C) communication of the information described in subparagraph (B) [to other] *among the* States.

"(2) LEVERAGING.—Federal funds used to carry out the program shall, to the maximum extent practicable—

"(A) be leveraged with non-Federal funds; and

"(B) be used for activities not carried out through the use of private funds.

"(d) FEDERAL SHARE.—The Federal share of the cost of a project assisted under the program shall be not more than 80 percent.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for fiscal year 1998, $25,000,000 for fiscal year 1999, $25,000,000 for fiscal year 2000, $35,000,000 for fiscal year 2001, $35,000,000 for fiscal year 2002, and $40,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§528. Corridor development and coordination

"(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements intended to promote regional cooperation, planning, and shared project implementation for intelligent transportation system projects.

"(b) FUNDING.—There shall be available to carry out this section for each fiscal year not more than—

"(1) $3,000,000 of the amounts made available under section 524(f); and

"(2) $7,000,000 of the amounts made available under section 525(e).

"§ [528] *529.* **Standards**

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—The Secretary shall develop, implement, and maintain a national architecture and supporting standards to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the standards shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the States.

"(3) USE OF STANDARDS-SETTING ORGANIZATIONS.—In carrying out this section, the Secretary may use the services of such standards-setting organizations as the Secretary determines appropriate.

"(b) REPORT.—

"(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report describing the status of all standards.

"(2) CONTENTS.—The report shall—

"(A) identify each standard that is needed for operation of intelligent transportation systems in the United States;

"(B) specify the status of the development of each standard;

"(C) provide a timetable for achieving agreement on each standard as described in this section; and

"(D) determine which standards are critical to ensuring national interoperability or critical to the development of other standards.

"(c) ESTABLISHMENT OF PROVISIONAL STANDARDS.—

"(1) ESTABLISHMENT.—Subject to subsection (d), if a standard determined to be critical under subsection (b)(2)(D) is not adopted and published by the appropriate standards-setting organization by January 1, 2001, the Secretary shall establish a provisional standard after consultation with affected parties.

"(2) PERIOD OF EFFECTIVENESS.—The provisional standard shall—

"(A) be published in the Federal Register;

"(B) take effect not later than May 1, 2001; and

"(C) remain in effect until the appropriate standards-setting organization adopts and publishes a standard.

"(d) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL STANDARDS.—

"(1) NOTICE.—The Secretary may waive the requirement to establish a provisional standard by submitting, not later than January 1, 2001, to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a notice that—

"(A) specifies the provisional standard subject to the waiver;

"(B) describes the history of the development of the standard subject to the waiver;

"(C) specifies the reasons why the requirement for the establishment of the provisional standard is being waived;

"(D) describes the impacts of delaying the establishment of the standard subject to the waiver, especially the impacts on the purposes of this subchapter; and

"(E) provides specific estimates as to when the standard subject to the waiver is expected to be adopted and published by the appropriate standards-setting organization.

"(2) PROGRESS REPORTS.—

"(A) IN GENERAL.—In the case of each standard subject to a waiver by the Secretary under paragraph (1), the Secretary shall submit, in accordance with the schedule specified in subparagraph (B), a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the progress of the adoption of a completed standard.

"(B) SCHEDULE OF REPORTS.—The Secretary shall submit a report under subparagraph (A) with respect to a standard—

"(i) not later than 180 days after the date of submission of the notice under paragraph (1) with respect to the standard; and

"(ii) at the end of each 180-day period thereafter until such time as a standard has been adopted and published by the appropriate standards-setting organization or the waiver is withdrawn under paragraph (3).

"(C) CONSULTATION.—In developing each progress report under subparagraph (A), the Secretary shall consult with the standards-setting organizations involved in the standardmaking process for the standard.

"(3) WITHDRAWAL OF WAIVER.—

"(A) IN GENERAL.—At any time, the Secretary may, through notification to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, withdraw a notice of a waiver of the requirement to establish a provisional standard.

"(B) IMPLEMENTATION.—If the Secretary submits notification under subparagraph (A) with respect to a provisional standard, not less than 30 days, but not more than 90 days, after the date of the notification, the Secretary shall implement the provisional standard, unless, by the end of the 90-day period beginning on the date of the notification, a standard has been adopted and published by the appropriate standards-setting organization.

"(e) REQUIREMENT FOR COMPLIANCE WITH STANDARD.—

"(1) IN GENERAL.—

"(A) STANDARD IN EXISTENCE.—Funds made available from the Highway Trust Fund shall not be used to deploy an intelligent transportation system technology if the technology does not comply with each applicable provisional standard or completed standard.

"(B) NO STANDARD IN EXISTENCE.—In the absence of a provisional standard or completed standard, Federal funds shall not be used to deploy an intelligent transportation system technology if the deployment is not consistent with the interfaces to ensure interoperability that are contained in the national architecture.

"(2) APPLICABILITY.—Paragraph (1) shall not apply to—

"(A) the operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter; or

"(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subchapter if the Secretary determines that the upgrade or expansion—

"(i) does not adversely affect the purposes of this subchapter, especially the goal of national or regional interoperability;

"(ii) is carried out before the end of the useful life of the system; and

"(iii) is cost effective as compared to alternatives that meet the compliance requirement of paragraph (1)(A) or the consistency requirement of paragraph (1)(B).

"(f) SPECTRUM.—

"(1) CONSULTATION.—The Secretary shall consult with the Secretary of Commerce, the Secretary of Defense, and the Chairman of the Federal Communications Commission to determine the best means for securing the necessary spectrum for the near-term establishment of a dedicated short-range vehicle-to-wayside wireless standard and any other spectrum that the Secretary determines to be critical to the implementation of this title.

"(2) PROGRESS REPORT.—After consultation under paragraph (1) and with other affected agencies, but not later than 1 year after the date of enactment of this subchapter, the Secretary shall submit a report to Congress on the progress made in securing the spectrum described in paragraph (1).

"(3) DEADLINE FOR SECURING SPECTRUM.—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this subchapter, the Secretary of Commerce shall release to the Federal Communications Commission, and the Federal Communications Commission shall allocate, the spectrum described in paragraph (1).

"(g) FUNDING.—The Secretary shall use funds made available under section 524 to carry out this section.

"§ [529] *530*. Funding limitations

"(a) CONSISTENCY WITH NATIONAL ARCHITECTURE.—The Secretary shall use funds made available under this subchapter to deploy intelligent transportation system technologies that are consistent with the national architecture.

"(b) COMPETITION WITH PRIVATELY FUNDED PROJECTS.—To the maximum extent practicable, the Secretary shall not fund any intelligent transportation system operational test or deployment project that competes with a similar privately funded project.

"(c) INFRASTRUCTURE DEVELOPMENT.—Funds made available under this subchapter for operational tests and deployment projects—

"(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

"(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

"(d) PUBLIC RELATIONS AND TRAINING.—For each fiscal year, not more than $15,000,000 of the funds made available under this subchapter shall be used for intelligent transportation system outreach, public relations, training, mainstreaming, shareholder relations, or related activities.

"§ 531. Use of innovative financing

"(a) IN GENERAL.—The Secretary may use up to 25 percent of the funds made available under this subchapter and section 541 to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this title and that have significant intelligent transportation system elements.

"(b) CONSISTENCY WITH OTHER LAW.—Credit assistance described in subsection (a) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1997.

"§ [530] *532*. Advisory committees

"(a) IN GENERAL.—In carrying out this subchapter, the Secretary shall use 1 or more advisory committees.

"(b) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 2104. CONFORMING AMENDMENT.

The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title VI (23 U.S.C. 307 note; 105 Stat. 2189).

Subtitle C—Funding

SEC. 2201. FUNDING.

Chapter 5 of title 23, United States Code (as amended by section 2103), is amended by adding at the end the following:

"SUBCHAPTER III—FUNDING

"§ 541. Funding

"(a) RESEARCH, TECHNOLOGY, AND TRAINING.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out sections 502, 507, 509, and 511 $98,000,000 for fiscal year 1998, $101,000,000 for fiscal year 1999, $104,000,000 for fiscal year 2000, $107,000,000 for fiscal year 2001, $110,000,000 for fiscal year 2002, and $114,000,000 for fiscal year 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(1) any Federal share of the cost of an activity under this chapter shall be determined in accordance with this chapter; and

"(2) the funds shall remain available for obligation for a period of 4 years after the last day of the fiscal year for which the funds are authorized.

"(c) LIMITATIONS ON OBLIGATIONS.—Notwithstanding any other provision of law, the total amount of all obligations under subsection (a) shall not exceed—

"(1) $98,000,000 for fiscal year 1998;
"(2) $101,000,000 for fiscal year 1999;
"(3) $104,000,000 for fiscal year 2000;
"(4) $107,000,000 for fiscal year 2001;
"(5) $110,000,000 for fiscal year 2002; and
"(6) $114,000,000 for fiscal year 2003.".

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. CHAFEE. Madam President, am I correct in assuming that the first committee amendment is the business pending before the Senate?

The PRESIDING OFFICER. The Senator is correct.

MODIFICATION TO FIRST COMMITTEE AMENDMENT

Mr. CHAFEE. In that case, on behalf of the committee, I send to the desk a modification to the first committee amendment. I understand the committee has the right to modify its amendment at this time.

The PRESIDING OFFICER. The amendment is modified.

The modification follows:

Strike all after the first word and insert:

. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intermodal Surface Transportation Efficiency Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition.

TITLE I—SURFACE TRANSPORTATION

Sec. 1001. Short title.

Subtitle A—General Provisions

Sec. 1101. Authorizations.
Sec. 1102. Apportionments.
Sec. 1103. Obligation ceiling.
Sec. 1104. Obligation authority under surface transportation program.
Sec. 1105. Emergency relief.
Sec. 1106. Federal lands highways program.
Sec. 1107. Recreational trails program.
Sec. 1108. Value pricing pilot program.
Sec. 1109. Highway use tax evasion projects.
Sec. 1110. Bicycle transportation and pedestrian walkways.
Sec. 1111. Disadvantaged business enterprises.
Sec. 1112. Federal share payable.
Sec. 1113. Studies and reports.
Sec. 1114. Definitions.
Sec. 1115. Cooperative Federal Lands Transportation Program.
Sec. 1116. Trade corridor and border crossing planning and border infrastructure.
Sec. 1117. Appalachian development highway system.
Sec. 1118. Interstate 4R and bridge discretionary program.
Sec. 1119. Magnetic levitation transportation technology deployment program.
Sec. 1120. Woodrow Wilson Memorial Bridge.
Sec. 1121. National Highway System components.
Sec. 1122. Highway bridge replacement and rehabilitation.
Sec. 1123. Congestion mitigation and air quality improvement program.
Sec. 1124. Safety belt use law requirements.
Sec. 1125. Sense of the Senate concerning reliance on private enterprise.
Sec. 1126. Study of use of uniformed police officers on Federal-aid highway construction projects.
Sec. 1127. Contracting for engineering and design services.

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

Sec. 1201. Administrative expenses.
Sec. 1202. Real property acquisition and corridor preservation.
Sec. 1203. Availability of funds.
Sec. 1204. Payments to States for construction.
Sec. 1205. Proceeds from the sale or lease of real property.
Sec. 1206. Metric conversion at State option.
Sec. 1207. Report on obligations.
Sec. 1208. Terminations.
Sec. 1209. Interstate maintenance.

CHAPTER 2—PROJECT APPROVAL

Sec. 1221. Transfer of highway and transit funds.
Sec. 1222. Project approval and oversight.
Sec. 1223. Surface transportation program.
Sec. 1224. Design-build contracting.
Sec. 1225. Integrated decisionmaking process.

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

Sec. 1231. Definition of operational improvement.

Sec. 1232. Eligibility of ferry boats and ferry terminal facilities.
Sec. 1233. Flexibility of safety programs.
Sec. 1234. Eligibility of projects on the National Highway System.
Sec. 1235. Eligibility of projects under the surface transportation program.
Sec. 1236. Design flexibility.

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

Sec. 1301. State infrastructure bank program.

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

Sec. 1311. Short title.
Sec. 1312. Findings.
Sec. 1313. Definitions.
Sec. 1314. Determination of eligibility and project selection.
Sec. 1315. Secured loans.
Sec. 1316. Lines of credit.
Sec. 1317. Project servicing.
Sec. 1318. Office of Infrastructure Finance.
Sec. 1319. State and local permits.
Sec. 1320. Regulations.
Sec. 1321. Funding.
Sec. 1322. Report to Congress.

Subtitle D—Safety

Sec. 1401. Operation lifesaver.
Sec. 1402. Railway-highway crossing hazard elimination in high speed rail corridors.
Sec. 1403. Railway-highway crossings.
Sec. 1404. Hazard elimination program.
Sec. 1405. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.
Sec. 1406. Safety incentive grants for use of seat belts.
Sec. 1407. Automatic crash protection unbelted testing standard.

Subtitle E—Environment

Sec. 1501. National scenic byways program.
Sec. 1502. Public-private partnerships.
Sec. 1503. Wetland restoration pilot program.

Subtitle F—Planning

Sec. 1601. Metropolitan planning.
Sec. 1602. Statewide planning.
Sec. 1603. Advanced travel forecasting procedures program.
Sec. 1604. Transportation and community and system preservation pilot program.

Subtitle G—Technical Corrections

Sec. 1701. Federal-aid systems.
Sec. 1702. Miscellaneous technical corrections.
Sec. 1703. Nondiscrimination.
Sec. 1704. State transportation department.

Subtitle H—Miscellaneous Provisions

Sec. 1801. Designation of portion of State Route 17 in New York and Pennsylvania as Interstate Route 86.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

Sec. 2001. Strategic research plan.
Sec. 2002. Multimodal Transportation Research and Development Program.
Sec. 2003. National university transportation centers.
Sec. 2004. Bureau of Transportation Statistics.
Sec. 2005. Research and technology program.
Sec. 2006. Advanced research program.
Sec. 2007. Long-term pavement performance program.
Sec. 2008. State planning and research program.
Sec. 2009. Education and training.
Sec. 2010. International highway transportation outreach program.
Sec. 2011. National technology deployment initiatives and partnerships program.
Sec. 2012. Infrastructure investment needs report.
Sec. 2013. Innovative bridge research and construction program.
Sec. 2014. Use of Bureau of Indian Affairs administrative funds.
Sec. 2015. Study of future strategic highway research program.
Sec. 2016. Joint partnerships for advanced vehicles, components, and infrastructure program.
Sec. 2017. Transportation and environment cooperative research program.
Sec. 2018. Conforming amendments.

Subtitle B—Intelligent Transportation Systems

Sec. 2101. Short title.
Sec. 2102. Findings.
Sec. 2103. Intelligent transportation systems.
Sec. 2104. Conforming amendment.

Subtitle C—Funding

Sec. 2201. Funding.

SEC. 2. DEFINITION.

In this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—SURFACE TRANSPORTATION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Surface Transportation Act of 1997".

Subtitle A—General Provisions

SEC. 1101. AUTHORIZATIONS.

For the purpose of carrying out title 23, United States Code, the following sums shall be available from the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—For the Interstate and National Highway System program under section 103 of that title $11,979,000,000 for fiscal year 1998, $11,808,000,000 for fiscal year 1999, $11,819,000,000 for fiscal year 2000, $11,916,000,000 for fiscal year 2001, $12,242,000,000 for fiscal year 2002, and $12,776,000,000 for fiscal year 2003, of which—

(A) $4,600,000,000 for fiscal year 1998, $4,609,000,000 for fiscal year 1999, $4,637,000,000 for fiscal year 2000, $4,674,000,000 for fiscal year 2001, $4,773,000,000 for fiscal year 2002, and $4,918,000,000 for fiscal year 2003 shall be available for the Interstate maintenance component; and

(B) $1,400,000,000 for fiscal year 1998, $1,403,000,000 for fiscal year 1999, $1,411,000,000 for fiscal year 2000, $1,423,000,000 for fiscal year 2001, $1,453,000,000 for fiscal year 2002, and $1,497,000,000 for fiscal year 2003 shall be available for the Interstate bridge component.

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title $7,000,000,000 for fiscal year 1998, $7,014,000,000 for fiscal year 1999, $7,056,000,000 for fiscal year 2000, $7,113,000,000 for fiscal year 2001, $7,263,000,000 for fiscal year 2002, and $7,484,000,000 for fiscal year 2003.

(3) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title $1,150,000,000 for fiscal year 1998, $1,152,000,000 for fiscal year 1999, $1,159,000,000 for fiscal year 2000, $1,169,000,000 for fiscal year 2001, $1,193,000,000 for fiscal year 2002, and $1,230,000,000 for fiscal year 2003.

(4) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title $200,000,000 for each of fiscal years 1998 through 2003.

(B) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title $90,000,000 for each of fiscal years 1998 through 2003.

(C) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title $172,000,000 for each of fiscal years 1998 through 2003.

(D) COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.—For the Cooperative Federal Lands Transportation Program under section 207 of that title $74,000,000 for each of fiscal years 1998 through 2003.

SEC. 1102. APPORTIONMENTS.

(a) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) and the set-asides authorized by subsection (f), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the National Highway System, the congestion mitigation and air quality improvement program, and the surface transportation program, for that fiscal year, among the States in the following manner:

"(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—

"(A) INTERSTATE MAINTENANCE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System—

"(i) 50 percent in the ratio that—

"(I) the total lane miles on Interstate System routes designated under—

"(aa) section 103;

"(bb) section 139(a) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997);

in each State; bears to

"(II) the total of all such lane miles in all States; and

"(ii) 50 percent in the ratio that—

"(I) the total vehicle miles traveled on lanes on Interstate System routes designated under—

"(aa) section 103;

"(bb) section 139(a) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997);

in each State; bears to

"(II) the total of all such vehicle miles traveled in all States.

"(B) INTERSTATE BRIDGE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing bridges on the Interstate System, in the ratio that—

"(i) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the

Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in each State; bears to

"(ii) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in all States.

"(C) OTHER NATIONAL HIGHWAY SYSTEM COMPONENT.—

"(i) IN GENERAL.—For the National Highway System (excluding funds apportioned under subparagraph (A) or (B)), $36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands and the remainder apportioned as follows:

"(I) 20 percent of the apportionments in the ratio that—

"(aa) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

"(bb) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

"(II) 29 percent of the apportionments in the ratio that—

"(aa) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

"(bb) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

"(III) 18 percent of the apportionments in the ratio that—

"(aa) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in each State; bears to

"(bb) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in all States.

"(IV) 24 percent of the apportionments in the ratio that—

"(aa) the total diesel fuel used on highways in each State; bears to

"(bb) the total diesel fuel used on highways in all States.

"(V) 9 percent of the apportionments in the ratio that—

"(aa) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

"(bb) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

"(ii) DATA.—Each calculation under clause (i) shall be based on the latest available data.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding subparagraphs (A) through (C), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

"(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

"(ii) the total of all weighted nonattainment and maintenance area populations in all States.

"(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

"(i) 0.8 if—

"(I) at the time of the apportionment, the area is a maintenance area; or

"(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under that subpart;

"(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under that subpart;

"(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under that subpart;

"(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under that subpart; or

"(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide.

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—

"(i) CARBON MONOXIDE NONATTAINMENT AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.2.

"(ii) CARBON MONOXIDE MAINTENANCE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was at one time also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide but has been redesignated as a maintenance area, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.1.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

"(i) 20 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 30 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 25 percent of the apportionments in the ratio that—

"(I) the total square footage of structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in each State; bears to

"(II) the total square footage of structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in all States.

"(iv) 25 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) DATA.—Each calculation under subparagraph (A) shall be based on the latest available data.

"(C) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(b) EFFECT OF CERTAIN AMENDMENTS.—Section 104 of title 23, United States Code, is amended by striking subsection (h) and inserting the following:

"(h) EFFECT OF CERTAIN AMENDMENTS.—Notwithstanding any other provision of law, deposits into the Highway Trust Fund resulting from the amendments made by section 901 of the Taxpayer Relief Act of 1997 shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Intermodal Surface Transportation Efficiency Act of 1997 and this title .".

(c) ISTEA TRANSITION.—

(1) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall determine, with respect to each State—

(A) the total apportionments for the fiscal year under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program;

(B) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway programs (as defined in section 101 of title 23, United States Code), excluding apportionments for the Federal lands highways program under section 204 of that title;

(C) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway

programs (as defined in section 101 of title 23, United States Code), excluding—

(i) apportionments authorized under section 104 of that title for construction of the Interstate System;

(ii) apportionments for the Interstate substitute program under section 103(e)(4) of that title (as in effect on the day before the date of enactment of this Act);

(iii) apportionments for the Federal lands highways program under section 204 of that title; and

(iv) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943);

(D) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (B); by

(ii) the applicable percentage determined under paragraph (2); and

(E) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (C); by

(ii) the applicable percentage determined under paragraph (2).

(2) APPLICABLE PERCENTAGES.—

(A) FISCAL YEAR 1998.—For fiscal year 1998—

(i) the applicable percentage referred to in paragraph (1)(D)(ii) shall be 145 percent; and

(ii) the applicable percentage referred to in paragraph (1)(E)(ii) shall be 107 percent.

(B) FISCAL YEARS THEREAFTER.—For each of fiscal years 1999 through 2003, the applicable percentage referred to in paragraph (1)(D)(ii) or (1)(E)(ii), respectively, shall be a percentage equal to the product obtained by multiplying—

(i) the percentage specified in clause (i) or (ii), respectively, of subparagraph (A); by

(ii) the percentage that—

(I) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for the fiscal year; bears to

(II) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for fiscal year 1998.

(3) MAXIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, in the case of each State with respect to which the total apportionments determined under paragraph (1)(A) is greater than the product determined under paragraph (1)(D), the Secretary shall reduce proportionately the apportionments to the State under section 104 of title 23, United States Code, for the National Highway System component of the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program so that the total of the apportionments is equal to the product determined under paragraph (1)(D).

(B) REDISTRIBUTION OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds made available under subparagraph (A) shall be redistributed proportionately under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program, to States not subject to a reduction under subparagraph (A).

(ii) LIMITATION.—The ratio that—

(I) the total apportionments to a State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program, after the application of clause (i); bears to

(II) the annual average of the total apportionments determined under paragraph (1)(B) with respect to the State;

may not exceed, in the case of fiscal year 1998, 145 percent, and, in the case of each of fiscal years 1999 through 2003, 145 percent as adjusted in the manner described in paragraph (2)(B).

(4) MINIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall apportion to each State such additional amounts as are necessary to ensure that—

(i) the total apportionments to the State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program, after the application of paragraph (3); is equal to

(ii) the greater of—

(I) the product determined with respect to the State under paragraph (1)(E); or

(II) the total apportionments to the State for fiscal year 1997 for all Federal-aid highway programs, excluding—

(aa) apportionments for the Federal lands highways program under section 204 of title 23, United States Code;

(bb) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943); and

(cc) demonstration projects under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240).

(B) OBLIGATION.—Amounts apportioned under subparagraph (A)—

(i) shall be considered to be sums made available for expenditure on the surface transportation program, except that—

(I) the amounts shall not be subject to paragraphs (1) and (2) of section 133(d) of title 23, United States Code; and

(II) 50 percent of the amounts shall be subject to section 133(d)(3) of that title;

(ii) shall be available for any purpose eligible for funding under section 133 of that title; and

(iii) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are apportioned.

(C) AUTHORIZATION OF CONTRACT AUTHORITY.—

(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this paragraph.

(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(d) MINIMUM GUARANTEE.—

(1) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Minimum guarantee

"(a) ADJUSTMENT.—

"(1) IN GENERAL.—In fiscal year 1998 and each fiscal year thereafter on October 1, or as soon as practicable thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that—

"(A) the ratio that—

"(i) each State's percentage of the total apportionments for the fiscal year—

"(I) under section 104 for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program; and

"(II) under this section and section 1102(c) of the Intermodal Surface Transportation Efficiency Act of 1997 for ISTEA transition; bears to

"(ii) each State's percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available;

is not less than 0.90; and

"(B) in the case of a State specified in paragraph (2), the State's percentage of the total apportionments for the fiscal year described in subclauses (I) and (II) of subparagraph (A)(i) is—

"(i) not less than the percentage specified for the State in paragraph (2); but

"(ii) not greater than the product determined for the State under section 1102(c)(1)(D) of the Intermodal Surface Transportation Efficiency Act of 1997 for the fiscal year.

"(2) STATE PERCENTAGES.—The percentage referred to in paragraph (1)(B) for a specified State shall be determined in accordance with the following table:

"State	Percentage
Alaska	1.24
Arkansas	1.33
Delaware	0.47
Hawaii	0.55
Idaho	0.82
Montana	1.06
Nevada	0.73
New Hampshire	0.52
New Jersey	2.41
New Mexico	1.05
North Dakota	0.73
Rhode Island	0.58
South Dakota	0.78
Vermont	0.47
Wyoming	0.76.

"(b) TREATMENT OF ALLOCATIONS.—

"(1) OBLIGATION.—Amounts allocated under subsection (a)—

"(A) shall be available for obligation when allocated and shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are allocated; and

"(B) shall be available for any purpose eligible for funding under this title.

"(2) SET-ASIDE.—Fifty percent of the amounts allocated under subsection (a) shall be subject to section 133(d)(3).

"(c) TREATMENT OF WITHHELD APPORTIONMENTS.—For the purpose of subsection (a), any funds that, but for section 158(b) or any other provision of law under which Federal-aid highway funds are withheld from apportionment, would be apportioned to a State for a fiscal year under a section referred to in subsection (a) shall be treated as being apportioned in that fiscal year.

"(d) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

"105. Minimum guarantee.".

(e) AUDITS OF HIGHWAY TRUST FUND.—Section 104 of title 23, United States Code, is amended by striking subsection (i) and inserting the following:

"(i) AUDITS OF HIGHWAY TRUST FUND.—From available administrative funds deducted under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.".

(f) TECHNICAL AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting "NOTIFICATION TO STATES.—" after "(e)";

(B) in the first sentence—

(i) by striking "(other than under subsection (b)(5) of this section)"; and

(ii) by striking "and research";

(C) by striking the second sentence; and

(D) in the last sentence, by striking ", except that" and all that follows through "such funds"; and

(2) in subsection (f)—

(A) by striking "(f)(1) On" and inserting the following:

"(f) METROPOLITAN PLANNING.—

"(1) SET-ASIDE.—On";

(B) by striking "(2) These" and inserting the following:

"(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—These";

(C) by striking "(3) The" and inserting the following:

"(3) USE OF FUNDS.—The"; and

(D) by striking "(4) The" and inserting the following:

"(4) DISTRIBUTION OF FUNDS WITHIN STATES.—The".

(g) CONFORMING AMENDMENTS.—

(1) Section 146(a) of title 23, United States Code, is amended in the first sentence by striking ", 104(b)(2), and 104(b)(6)" and inserting "and 104(b)(2)".

(2)(A) Section 150 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 150.

(3) Section 158 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(iii) in paragraph (1) (as so redesignated)—

(I) by striking "AFTER THE FIRST YEAR" and inserting "IN GENERAL"; and

(II) by striking ", 104(b)(2), 104(b)(5), and 104(b)(6)" and inserting "and 104(b)(2)"; and

(iv) in paragraph (2) (as redesignated by clause (ii)), by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraph (1)"; and

(B) by striking subsection (b) and inserting the following:

"(b) EFFECT OF WITHHOLDING OF FUNDS.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to that State.".

(4)(A) Section 157 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 157.

(5)(A) Section 115(b)(1) of title 23, United States Code, is amended by striking "or 104(b)(5), as the case may be,".

(B) Section 137(f)(1) of title 23, United States Code, is amended by striking "section 104(b)(5)(B) of this title" and inserting "section 104(b)(1)(A)".

(C) Section 141(c) of title 23, United States Code, is amended by striking "section 104(b)(5) of this title" each place it appears and inserting "section 104(b)(1)(A)".

(D) Section 142(c) of title 23, United States Code, is amended by striking "(other than section 104(b)(5)(A))".

(E) Section 159 of title 23, United States Code, is amended—

(i) by striking "(5) of" each place it appears and inserting "(5) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997) of"; and

(ii) in subsection (b)—

(I) in paragraphs (1)(A)(i) and (3)(A), by striking "section 104(b)(5)(A)" each place it appears and inserting "section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)";

(II) in paragraph (1)(A)(ii), by striking "section 104(b)(5)(B)" and inserting "section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)";

(III) in paragraph (3)(B), by striking "(5)(B)" and inserting "(5)(B) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)"; and

(IV) in paragraphs (3) and (4), by striking "section 104(b)(5)" each place it appears and inserting "section 104(b)(5) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)".

(F) Section 161(a) of title 23, United States Code, is amended by striking "paragraphs (1), (3), and (5)(B) of section 104(b)" each place it appears and inserting "paragraphs (1) and (3) of section 104(b)".

(6)(A) Section 104(g) of title 23, United States Code, is amended—

(i) in the first sentence, by striking "sections 130, 144, and 152 of this title" and inserting "subsection (b)(1)(B) and sections 130 and 152";

(ii) in the first and second sentences—

(I) by striking "section" and inserting "provision"; and

(II) by striking "such sections" and inserting "those provisions"; and

(iii) in the third sentence—

(I) by striking "section 144" and inserting "subsection (b)(1)(B)"; and

(II) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(C)".

(B) Section 115 of title 23, United States Code, is amended—

(i) in subsection (a)(1)(A)(i), by striking "104(b)(2), 104(b)(3), 104(f), 144," and inserting "104(b)(1)(B), 104(b)(2), 104(b)(3), 104(f),"; and

(ii) in subsection (c), by striking "144,,".

(C) Section 120(e) of title 23, United States Code, is amended in the last sentence by striking "and in section 144 of this title".

(D) Section 151(d) of title 23, United States Code, is amended by striking "section 104(a), section 307(a), and section 144 of this title" and inserting "subsections (a) and (b)(1)(B) of section 104 and section 307(a)".

(E) Section 204(c) of title 23, United States Code, is amended in the first sentence by striking "or section 144 of this title".

(F) Section 303(g) of title 23, United States Code, is amended by striking "section 144 of this title" and inserting "section 104(b)(1)(B)".

SEC. 1103. OBLIGATION CEILING.

(a) GENERAL LIMITATIONS.—Subject to the other provisions of this section and notwithstanding any other provision of law, the total amount of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $21,800,000,000 for fiscal year 1998;

(2) $22,802,000,000 for fiscal year 1999;

(3) $22,939,000,000 for fiscal year 2000;

(4) $23,183,000,000 for fiscal year 2001;

(5) $23,699,000,000 for fiscal year 2002; and

(6) $24,548,000,000 for fiscal year 2003.

(b) EXCEPTIONS.—

(1) IN GENERAL.—The limitations under subsection (a) shall not apply to obligations of funds under—

(A) section 105(a) of title 23, United States Code (but, for each of fiscal years 1998 through 2003, only in an amount equal to the amount included for section 157 of title 23, United States Code, in the baseline determined by the Congressional Budget Office for the fiscal year 1998 budget), excluding amounts allocated under section 105(a)(1)(B) of that title;

(B) section 125 of that title;

(C) section 157 of that title (as in effect on the day before the date of enactment of this Act);

(D) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(E) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);

(F) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2119);

(G) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198); and

(H) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027).

(2) EFFECT OF OTHER LAW.—A provision of law establishing a limitation on obligations for Federal-aid highways and highway safety construction programs may not amend or limit the applicability of this subsection, unless the provision specifically amends or limits that applicability.

(c) APPLICABILITY TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations for Federal-aid highways and highway safety construction programs established by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code.

(d) OBLIGATION AUTHORITY.—Section 118 of title 23, United States Code, is amended by adding at the end the following:

"(g) OBLIGATION AUTHORITY.—

"(1) DISTRIBUTION.—For each fiscal year, the Secretary shall—

"(A) distribute the total amount of obligation authority for Federal-aid highways and highway safety construction programs made available for the fiscal year by allocation in the ratio that—

"(i) the total of the sums made available for Federal-aid highways and highway safety construction programs that are apportioned or allocated to each State for the fiscal year; bears to

"(ii) the total of the sums made available for Federal-aid highways and highway safety construction programs that are apportioned or allocated to all States for the fiscal year;

"(B) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways that have been apportioned to a State; and

"(C) notwithstanding subparagraphs (A) and (B), not distribute—

"(i) amounts deducted under section 104(a) for administrative expenses;

"(ii) amounts set aside under section 104(k) for Interstate 4R and bridge projects;

"(iii) amounts made available under sections 143, 164, 165, 204, 206, 207, and 322;

"(iv) amounts made available under section 111 of title 49;

"(v) amounts made available under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.);

"(vi) amounts made available under section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938);

"(vii) amounts made available under sections 1503, 1603, and 1604 of the Intermodal Surface Transportation Efficiency Act of 1997;

"(viii) amounts made available under section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 201);

"(ix) amounts made available under section 105(a)(1)(A) to the extent that the amounts are subject to any obligation limitation under section 1103(a) of the Intermodal Surface Transportation Efficiency Act of 1997;

"(x) amounts made available for implementation of programs under chapter 5 of this title and sections 5222, 5232, and 5241 of title 49; and

"(xi) amounts made available under section 412 of the Woodrow Wilson Memorial Bridge Authority Act of 1995.

"(2) REDISTRIBUTION.—Notwithstanding paragraph (1), the Secretary shall, after August 1 of each of fiscal years 1998 through 2003—

"(A) revise a distribution of the funds made available under paragraph (1) for the fiscal year if a State will not obligate the amount distributed during the fiscal year; and

"(B) redistribute sufficient amounts to those States able to obligate amounts in addition to the amounts previously distributed during the fiscal year, giving priority to those States that have large unobligated balances of funds apportioned under section 104 and under section 144 (as in effect on the day before the date of enactment of this subparagraph).".

(e) APPLICABILITY OF OBLIGATION LIMITATIONS.—An obligation limitation established by a provision of any other Act shall not apply to obligations under a program funded under this Act or title 23, United States Code, unless—

(1) the provision specifically amends or limits the applicability of this subsection; or

(2) an obligation limitation is specified in this Act with respect to the program.

SEC. 1104. OBLIGATION AUTHORITY UNDER SURFACE TRANSPORTATION PROGRAM.

Section 133 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3) shall make available during the 3-fiscal year period of 1998 through 2000, and the 3-fiscal year period of 2001 through 2003, an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

"(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during each such period; by

"(B) the ratio that—

"(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

"(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

"(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).".

SEC. 1105. EMERGENCY RELIEF.

(a) FEDERAL SHARE.—Section 120(e) of title 23, United States Code, is amended in the first sentence by striking "highway system" and inserting "highway".

(b) ELIGIBILITY AND FUNDING.—Section 125 of title 23, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively;

(3) by inserting after the section heading the following:

"(a) GENERAL ELIGIBILITY.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any part of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

"(1) natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

"(2) catastrophic failure from any external cause.

"(b) RESTRICTION ON ELIGIBILITY.—In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges that have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

"(c) FUNDING.—Subject to the following limitations, there are hereby authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis:

"(1) Not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out the provisions of this section, except that, if in any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated in such fiscal year, the unobligated balance of such amount shall remain available until expended and shall be in addition to amounts otherwise available to carry out this section each year.

"(2) Pending such appropriation or replenishment, the Secretary may obligate from any funds heretofore or hereafter appropriated for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, provided that such funds are reimbursed from the appropriations authorized in paragraph (1) of this subsection when such appropriations are made.";

(4) in subsection (d) (as so redesignated), by striking "subsection (c)" both places it appears and inserting "subsection (e)"; and

(5) in subsection (e) (as so redesignated), by striking "on any of the Federal-aid highway systems" and inserting "Federal-aid highways".

(c) SAN MATEO COUNTY, CALIFORNIA.—Notwithstanding any other provision of law, a project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, that—

(1) was destroyed as a result of a combination of storms in the winter of 1982–1983 and a mountain slide; and

(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities;

shall be eligible for assistance under section 125(a) of title 23, United States Code, if the project complies with the local coastal plan.

SEC. 1106. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(j) USE OF FEDERAL LAND MANAGEMENT AGENCY FUNDS.—Notwithstanding any other provision of law, the funds appropriated to any Federal land management agency may be used to pay the non-Federal share of the cost of any Federal-aid highway project the Federal share of which is funded under section 104.

"(k) USE OF FEDERAL LANDS HIGHWAYS PROGRAM FUNDS.—Notwithstanding any other provision of law, the funds made available to carry out the Federal lands highways program under section 204 may be used to pay the non-Federal share of the cost of any project that is funded under section 104 and that provides access to or within Federal or Indian lands.".

(b) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by adding at the end the following: "Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to the pay the Federal share of the cost of the project.".

(c) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, and Indian reservation roads and bridges.

"(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

"(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

"(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

"(A) shall be developed in cooperation with States and metropolitan planning organizations; and

"(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

"(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

"(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.";

(2) in subsection (b), by striking the first 3 sentences and inserting the following: "Funds available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay for the cost of transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within public lands, national parks, and Indian reservations. In connection with activities under the preceding sentence, the Secretary and the Secretary of the appropriate Federal land management agency may enter into construction contracts and other appropriate contracts with a State or civil subdivision of a State or Indian tribe.";

(3) in the first sentence of subsection (e), by striking "Secretary of the Interior" and inserting "Secretary of the appropriate Federal land management agency";

(4) in subsection (h), by adding at the end the following:

"(8) A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.";

(5) by striking subsection (i) and inserting the following:

"(i) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

"(2) TRANSPORTATION PLANNING COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section."; and

(6) in subsection (j), by striking the second sentence and inserting the following: "The Indian tribal government, in cooperation with the Secretary of the Interior, and as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with subsection (a).".

SEC. 1107. RECREATIONAL TRAILS PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 205 the following:

"§ 206. Recreational trails program

"(a) DEFINITIONS.—

"(1) MOTORIZED RECREATION.—The term 'motorized recreation' means off-road recreation using any motor-powered vehicle, except for a motorized wheelchair.

"(2) RECREATIONAL TRAIL; TRAIL.—The term 'recreational trail' or 'trail' means a thoroughfare or track across land or snow, used for recreational purposes such as—

"(A) pedestrian activities, including wheelchair use;

"(B) skating or skateboarding;

"(C) equestrian activities, including carriage driving;

"(D) nonmotorized snow trail activities, including skiing;

"(E) bicycling or use of other human-powered vehicles;

"(F) aquatic or water activities; and

"(G) motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.

"(b) PROGRAM.—In accordance with this section, the Secretary, in consultation with the Secretary of the Interior and the Secretary of Agriculture, shall carry out a program to provide and maintain recreational trails (referred to in this section as the 'program').

"(c) STATE RESPONSIBILITIES.—To be eligible for apportionments under this section—

"(1) a State may use apportionments received under this section for construction of new trails crossing Federal lands only if the construction is—

"(A) permissible under other law;

"(B) necessary and required by a statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.);

"(C) approved by the administering agency of the State designated under paragraph (2); and

"(D) approved by each Federal agency charged with management of the affected lands, which approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(2) the Governor of a State shall designate the State agency or agencies that will be responsible for administering apportionments received under this section; and

"(3) the State shall establish within the State a State trail advisory committee that represents both motorized and nonmotorized trail users.

"(d) USE OF APPORTIONED FUNDS.—

"(1) IN GENERAL.—Funds made available under this section shall be obligated for trails and trail-related projects that—

"(A) have been planned and developed under the laws, policies, and administrative procedures of each State; and

"(B) are identified in, or further a specific goal of, a trail plan or trail plan element included or referenced in a metropolitan transportation plan required under section 134 or a statewide transportation plan required under section 135, consistent with the statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.).

"(2) PERMISSIBLE USES.—Permissible uses of funds made available under this section include—

"(A) maintenance and restoration of existing trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages;

"(C) purchase and lease of trail construction and maintenance equipment;

"(D) construction of new trails;

"(E) acquisition of easements and fee simple title to property for trails or trail corridors;

"(F) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment received by the State for a fiscal year; and

"(G) operation of educational programs to promote safety and environmental protection as these objectives relate to the use of trails.

"(3) USE OF APPORTIONMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), of the apportionments received for a fiscal year by a State under this section—

"(i) 40 percent shall be used for trail or trail-related projects that facilitate diverse recreational trail use within a trail corridor, trailside, or trailhead, regardless of whether the project is for diverse motorized use, for diverse nonmotorized use, or to accommodate both motorized and nonmotorized recreational trail use;

"(ii) 30 percent shall be used for uses relating to motorized recreation; and

"(iii) 30 percent shall be used for uses relating to nonmotorized recreation.

"(B) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than 1 percent of all such fuel use in the United States, shall be exempted from the requirements of subparagraph (A) upon application to the Secretary by the State demonstrating that the State meets the conditions of this subparagraph.

"(C) WAIVER AUTHORITY.—Upon the request of a State trail advisory committee established under subsection (c)(3), the Secretary may waive, in whole or in part, the requirements of subparagraph (A) with respect to the State if the State certifies to the Secretary that the State does not have sufficient projects to meet the requirements of subparagraph (A).

"(D) STATE ADMINISTRATIVE COSTS.—State administrative costs eligible for funding under paragraph (2)(F) shall be exempt from the requirements of subparagraph (A).

"(e) ENVIRONMENTAL BENEFIT OR MITIGATION.—To the extent practicable and consistent with the other requirements of this section, a State should give consideration to project proposals that provide for the redesign, reconstruction, nonroutine maintenance, or relocation of trails to benefit the natural environment or to mitigate and minimize the impact to the natural environment.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—Subject to the other provisions of this subsection, the Federal share of the cost of a project under this section shall not exceed 80 percent.

"(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency that sponsors a project under this section may contribute additional Federal funds toward the cost of a project, except that—

"(A) the share attributable to the Secretary of Transportation may not exceed 80 percent; and

"(B) the share attributable to the Secretary and the Federal agency jointly may not exceed 95 percent.

"(3) USE OF FUNDS FROM FEDERAL PROGRAMS TO PROVIDE NON-FEDERAL SHARE.—Notwithstanding any other provision of law,

amounts made available by the Federal Government under any Federal program that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section;

may be credited toward the non-Federal share of the cost of the project.

"(4) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments to the non-Federal share of an individual project under this section if the Federal share of the cost of all projects carried out by the State under the program (excluding projects funded under paragraph (2) or (3)) using funds apportioned to the State for a fiscal year does not exceed 80 percent.

"(5) STATE ADMINISTRATIVE COSTS.—The Federal share of the administrative costs of a State under this subsection shall be determined in accordance with section 120(b).

"(g) USES NOT PERMITTED.—A State may not obligate funds apportioned under this section for—

"(1) condemnation of any kind of interest in property;

"(2) construction of any recreational trail on National Forest System land for any motorized use unless—

"(A) the land has been apportioned for uses other than wilderness by an approved forest land and resource management plan or has been released to uses other than wilderness by an Act of Congress; and

"(B) the construction is otherwise consistent with the management direction in the approved forest land and resource management plan;

"(3) construction of any recreational trail on Bureau of Land Management land for any motorized use unless the land—

"(A) has been apportioned for uses other than wilderness by an approved Bureau of Land Management resource management plan or has been released to uses other than wildernessK by an Act of Congress; and

"(B) the construction is otherwise consistent with the management direction in the approved management plan; or

"(4) upgrading, expanding, or otherwise facilitating motorized use or access to trails predominantly used by nonmotorized trail users and on which, as of May 1, 1991, motorized use is prohibited or has not occurred.

"(h) PROJECT ADMINISTRATION.—

"(1) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, SERVICES, OR NEW RIGHT-OF-WAY.—

"(A) IN GENERAL.—Nothing in this title or other law shall prevent a project sponsor from offering to donate funds, materials, services, or a new right-of-way for the purposes of a project eligible for assistance under this section. Any funds, or the fair market value of any materials, services, or new right-of-way, may be donated by any project sponsor and shall be credited to the non-Federal share in accordance with subsection (f).

"(B) FEDERAL PROJECT SPONSORS.—Any funds or the fair market value of any materials or services may be provided by a Federal project sponsor and shall be credited to the Federal agency's share in accordance with subsection (f).

"(2) RECREATIONAL PURPOSE.—A project funded under this section is intended to enhance recreational opportunity and is not subject to section 138 of this title or section 303 of title 49.

"(3) CONTINUING RECREATIONAL USE.—At the option of each State, funds made available under this section may be treated as Land and Water Conservation Fund apportionments for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-8(f)(3)).

"(4) COOPERATION BY PRIVATE PERSONS.—

"(A) WRITTEN ASSURANCES.—As a condition of making available apportionments for work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the land will cooperate with the State and participate as necessary in the activities to be conducted.

"(B) PUBLIC ACCESS.—Any use of the apportionments to a State under this section on privately owned land must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by the apportionments.

"(i) APPORTIONMENT.—

"(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State that meets the requirements of subsection (c).

"(2) APPORTIONMENT.—Subject to subsection (j), for each fiscal year, the Secretary shall apportion—

"(A) 50 percent of the amounts made available to carry out this section equally among eligible States; and

"(B) 50 percent of the amounts made available to carry out this section among eligible States in proportion to the quantity of nonhighway recreational fuel used in each eligible State during the preceding year.

"(j) ADMINISTRATIVE COSTS.—

"(1) IN GENERAL.—Whenever an apportionment is made under subsection (i) of the amounts made available to carry out this section, the Secretary shall first deduct an amount, not to exceed 1 percent of the authorized amounts, to pay the costs to the Secretary for administration of, and research authorized under, the program.

"(2) USE OF CONTRACTS.—To carry out research funded under paragraph (1), the Secretary may—

"(A) enter into contracts with for-profit organizations; and

"(B) enter into contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations.

"(k) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $20,000,000 for fiscal year 1999, $22,000,000 for fiscal year 2000, $23,000,000 for fiscal year 2001, $24,000,000 for fiscal year 2002, and $25,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

(b) CONFORMING AMENDMENTS.—

(1) The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title I (16 U.S.C. 1261 et seq.).

(2) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 206 and inserting the following:

"206. Recreational trails program.".

SEC. 1108. VALUE PRICING PILOT PROGRAM.

(a) IN GENERAL.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in the subsection heading, by striking "CONGESTION" and inserting "VALUE"; and

(2) in paragraph (1), by striking "congestion" each place it appears and inserting "value".

(b) INCREASED NUMBER OF PROJECTS.—Section 1012(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence by striking "5" and inserting "15".

(c) ELIGIBILITY OF PREIMPLEMENTATION COSTS.— Section 1012(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence—

(1) by inserting after "Secretary shall fund" the following: "all preimplementation costs and project design, and"; and

(2) by inserting after "Secretary may not fund" the following: "the implementation costs of".

(d) TOLLING.—Section 1012(b)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking "a pilot program under this section, but not on more than 3 of such programs" and inserting "any value pricing pilot program under this subsection".

(e) HOV PASSENGER REQUIREMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking paragraph (6) and inserting the following:

"(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 146(c) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.".

(f) FUNDING.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by adding at the end the following:

"(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY.—

"(i) IN GENERAL.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this subsection but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

"(I) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

"(II) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

"(III) shall be available for any purpose eligible for funding under section 133 of that title.

"(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of

title 23, United States Code, except that the Federal share of the cost of any project under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.".

(g) CONFORMING AMENDMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in paragraph (1), by striking "projects" each place it appears and inserting "programs"; and

(2) in paragraph (5)—

(A) by striking "projects" and inserting "programs"; and

(B) by striking "traffic, volume" and inserting "traffic volume".

SEC. 1109. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—Section 143 of title 23, United States Code, is amended to read as follows:

"§ 143. Highway use tax evasion projects

"(a) DEFINITION OF STATE.—In this section, the term 'State' means the 50 States and the District of Columbia.

"(b) PROJECTS.—

"(1) IN GENERAL.—The Secretary shall use funds made available under paragraph (7) to carry out highway use tax evasion projects in accordance with this subsection.

"(2) ALLOCATION OF FUNDS.—The funds may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary.

"(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

"(4) LIMITATION ON USE OF FUNDS.—Funds made available under paragraph (7) shall be used only—

"(A) to expand efforts to enhance motor fuel tax enforcement;

"(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

"(C) to supplement motor fuel tax examinations and criminal investigations;

"(D) to develop automated data processing tools to monitor motor fuel production and sales;

"(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

"(F) to reimburse State expenses that supplement existing fuel tax compliance efforts; and

"(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes.

"(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

"(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

"(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY OF FUNDS.—Funds authorized under this paragraph shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(c) EXCISE FUEL REPORTING SYSTEM.—

"(1) IN GENERAL.—Not later than April 1, 1998, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development and maintenance by the Internal Revenue Service of an excise fuel reporting system (referred to in this subsection as the 'system').

"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall develop and maintain the system through contracts;

"(B) the system shall be under the control of the Internal Revenue Service; and

"(C) the system shall be made available for use by appropriate State and Federal revenue, tax, or law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) AUTHORIZATION OF APPROPRIATIONS FROM HIGHWAY TRUST FUND.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

"(A) $8,000,000 for development of the system; and

"(B) $2,000,000 for each of fiscal years 1998 through 2003 for operation and maintenance of the system.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 143 and inserting the following:

"143. Highway use tax evasion projects.".

(2) Section 1040 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is repealed.

(3) Section 8002 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 2203) is amended—

(A) in the first sentence of subsection (g), by striking "section 1040 of this Act" and inserting "section 143 of title 23, United States Code,"; and

(B) by striking subsection (h).

SEC. 1110. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "pedestrian walkways and" after "construction of"; and

(B) by striking "(other than the Interstate System)";

(2) in subsection (e), by striking ", other than a highway access to which is fully controlled,";

(3) by striking subsection (g) and inserting the following:

"(g) PLANNING AND DESIGN.—

"(1) IN GENERAL.—Bicyclists and pedestrians shall be given consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively.

"(2) CONSTRUCTION.—Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

"(3) SAFETY AND CONTIGUOUS ROUTES.—Transportation plans and projects shall provide consideration for safety and contiguous routes for bicyclists and pedestrians.";

(4) in subsection (h)—

(A) by striking "No motorized vehicles shall" and inserting "Motorized vehicles may not"; and

(B) by striking paragraph (3) and inserting the following:

"(3) wheelchairs that are powered; and"; and

(5) by striking subsection (j) and inserting the following:

"(j) DEFINITIONS.—In this section:

"(1) BICYCLE TRANSPORTATION FACILITY.—The term 'bicycle transportation facility' means a new or improved lane, path, or shoulder for use by bicyclists or a traffic control device, shelter, or parking facility for bicycles.

"(2) PEDESTRIAN.—The term 'pedestrian' means any person traveling by foot or any mobility impaired person using a wheelchair.

"(3) WHEELCHAIR.—The term 'wheelchair' means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or powered.".

SEC. 1111. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I and II of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $16,600,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

SEC. 1112. FEDERAL SHARE PAYABLE.

Section 120 of title 23, United States Code (as amended by section 1106(a)), is amended—

(1) in each of subsections (a) and (b), by adding at the end the following: "In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection."; and

(2) by adding at the end the following:

"(1) CREDIT FOR NON-FEDERAL SHARE.—

"(1) ELIGIBILITY.—A State may use as a credit toward the non-Federal share requirement for any program under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240) or this title, other than the emergency relief program authorized by section 125, toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain, without the use of Federal funds, highways, bridges, or tunnels that serve the public purpose of interstate commerce.

"(2) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—The credit toward any non-Federal share under paragraph (1) shall not reduce nor replace State funds required to match Federal funds for any program under this title.

"(B) CONDITIONS ON RECEIPT OF CREDIT.—

"(i) AGREEMENT WITH THE SECRETARY.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreements as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding 3 fiscal years.

"(ii) EXCEPTION.—Notwithstanding clause (i), a State may receive a credit under paragraph (1) for a fiscal year if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than 30 percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years.

"(3) TREATMENT.—

"(A) IN GENERAL.—Use of the credit toward a non-Federal share under paragraph (1) shall not expose the agencies from which the credit is received to additional liability, additional regulation, or additional administrative oversight.

"(B) CHARTERED MULTISTATE AGENCIES.—When credit is applied from a chartered multistate agency under paragraph (1), the credit shall be applied equally to all charter States.

"(C) NO ADDITIONAL STANDARDS.—A public, quasi-public, or private agency from which the credit for which the non-Federal share is calculated under paragraph (1) shall not be subject to any additional Federal design standards or laws (including regulations) as a result of providing the credit beyond the standards and laws to which the agency is already subject.".

SEC. 1113. STUDIES AND REPORTS.

(a) HIGHWAY ECONOMIC REQUIREMENT SYSTEM.—

(1) METHODOLOGY.—

(A) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the methodology used by the Department of Transportation to determine highway needs using the highway economic requirement system (referred to in this subsection as the "model").

(B) REQUIRED ELEMENT.—The evaluation shall include an assessment of the extent to which the model estimates an optimal level of highway infrastructure investment, including an assessment as to when the model may be overestimating or underestimating investment requirements.

(C) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the evaluation.

(2) STATE INVESTMENT PLANS.—

(A) STUDY.—In consultation with State transportation departments and other appropriate State and local officials, the Comptroller General of the United States shall conduct a study on the extent to which the highway economic requirement system of the Federal Highway Administration can be used to provide States with useful information for developing State transportation investment plans and State infrastructure investment projections.

(B) REQUIRED ELEMENTS.—The study shall—

(i) identify any additional data that may need to be collected beyond the data submitted, prior to the date of enactment of this Act, to the Federal Highway Administration through the highway performance monitoring system; and

(ii) identify what additional work, if any, would be required of the Federal Highway Administration and the States to make the model useful at the State level.

(C) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(b) INTERNATIONAL ROUGHNESS INDEX.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the international roughness index that is used as an indicator of pavement quality on the Federal-aid highway system.

(2) REQUIRED ELEMENTS.—The study shall specify the extent of usage of the index and the extent to which the international roughness index measurement is reliable across different manufacturers and types of pavement.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(c) REPORTING OF RATES OF OBLIGATION.—Section 104 of title 23, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (m); and

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

"(j) REPORTING OF RATES OF OBLIGATION.—On an annual basis, the Secretary shall publish or otherwise report rates of obligation of funds apportioned or set aside under this section and sections 103 and 133 according to—

"(1) program;

"(2) funding category or subcategory;

"(3) type of improvement;

"(4) State; and

"(5) sub-State geographic area, including urbanized and rural areas, on the basis of the population of each such area.".

SEC. 1114. DEFINITIONS.

(a) FEDERAL-AID HIGHWAY FUNDS AND PROGRAM.—

(1) IN GENERAL.—Section 101(a) of title 23, United States Code, is amended by inserting before the undesignated paragraph defining "Federal-aid highways" the following:

"The term 'Federal-aid highway funds' means funds made available to carry out the Federal-aid highway program.

"The term 'Federal-aid highway program' means all programs authorized under chapters 1, 3, and 5.".

(2) CONFORMING AMENDMENTS.—

(A) Section 101(d) of title 23, United States Code, is amended by striking "the construction of Federal-aid highways or highway planning, research, or development" and inserting "the Federal-aid highway program".

(B) Section 104(m)(1) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended by striking "Federal-aid highways and the highway safety construction programs" and inserting "the Federal-aid highway program".

(C) Section 107(b) of title 23, United States Code, is amended in the second sentence by striking "Federal-aid highways" and inserting "the Federal-aid highway program".

(b) ALPHABETIZATION OF DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended by reordering the undesignated paragraphs so that they are in alphabetical order.

SEC. 1115. COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code (as amended by section 1107(a)), is amended by inserting after section 206 the following:

"§ 207. Cooperative Federal Lands Transportation Program

"(a) IN GENERAL.—There is established the Cooperative Federal Lands Transportation Program (referred to in this section as the 'program'). Funds available for the program may be used for projects, or portions of projects, on highways that are owned or maintained by States or political subdivisions of States and that cross, are adjacent to, or lead to federally owned land or Indian reservations (including Army Corps of Engineers reservoirs), as determined by the State. Such projects shall be proposed by a State and selected by the Secretary. A project proposed by a State under this section shall be on a highway or bridge owned or maintained by the State, or 1 or more political subdivisions of the State, and may be a highway or bridge construction or maintenance project eligible under this title or any project of a type described in section 204(h).

"(b) DISTRIBUTION OF FUNDS FOR PROJECTS.—

"(1) IN GENERAL.—

"(A) IN GENERAL.—The Secretary—

"(i) after consultation with the Administrator of General Services, the Secretary of the Interior, and other agencies as appropriate (including the Army Corps of Engineers), shall determine the percentage of the total land in each State that is owned by the Federal Government or that is held by the Federal Government in trust;

"(ii) shall determine the sum of the percentages determined under clause (i) for States with respect to which the percentage is 4.5 or greater; and

"(iii) shall determine for each State included in the determination under clause (ii) the percentage obtained by dividing—

"(I) the percentage for the State determined under clause (i); by

"(II) the sum determined under clause (ii).

"(B) ADJUSTMENT.—The Secretary shall—

"(i) reduce any percentage determined under subparagraph (A)(iii) that is greater than 7.5 percent to 7.5 percent; and

"(ii) redistribute the percentage points equal to any reduction under clause (i) among other States included in the determination under subparagraph (A)(ii) in proportion to the percentages for those States determined under subparagraph (A)(iii).

"(2) AVAILABILITY TO STATES.—Except as provided in paragraph (3), for each fiscal year, the Secretary shall make funds available to carry out eligible projects in a State

in an amount equal to the amount obtained by multiplying—

"(A) the percentage for the State, if any, determined under paragraph (1); by

"(B) the funds made available for the program for the fiscal year.

"(3) SELECTION OF PROJECTS.—The Secretary may establish deadlines for States to submit proposed projects for funding under this section, except that in the case of fiscal year 1998 the deadline may not be earlier than January 1, 1998. For each fiscal year, if a State does not have pending, by that deadline, applications for projects with an estimated cost equal to at least 3 times the amount for the State determined under paragraph (2), the Secretary may distribute, to 1 or more other States, at the Secretary's discretion, ⅓ of the amount by which the estimated cost of the State's applications is less than 3 times the amount for the State determined under paragraph (2).

"(c) TRANSFERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a State and the Secretary may agree to transfer amounts made available to a State under this section to the allocations of the State under section 202 for use in carrying out projects on any Federal lands highway that is located in the State.

"(2) SPECIAL RULE.—This paragraph applies to a State that contains a national park that was visited by more than 2,500,000 people in 1996 and comprises more than 3,000 square miles of land area, including surface water, that is located in the State. For such a State, 50 percent of the amount that would otherwise be made available to the State for each fiscal year under the program shall be made available only for eligible highway uses in the national park and within the borders of the State. For the purpose of making allocations under section 202(c), the Secretary may not take into account the past or future availability, for use on park roads and parkways in a national park, of funds made available for use in a national park by this paragraph.

"(d) RIGHTS-OF-WAY ACROSS FEDERAL LAND.—Nothing in this section affects any claim for a right-of-way across Federal land.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $74,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 207 and inserting the following:

"207. Cooperative Federal Lands Transportation Program.".

SEC. 1116. TRADE CORRIDOR AND BORDER CROSSING PLANNING AND BORDER INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) BORDER REGION.—The term "border region" means—

(A) the region located within 60 miles of the United States border with Mexico; and

(B) the region located within 60 miles of the United States border with Canada.

(2) BORDER STATE.—The term "border State" means a State of the United States that—

(A) is located along the border with Mexico; or

(B) is located along the border with Canada.

(3) BORDER STATION.—The term "border station" means a controlled port of entry into the United States located in the United States at the border with Mexico or Canada, consisting of land occupied by the station and the buildings, roadways, and parking lots on the land.

(4) FEDERAL INSPECTION AGENCY.—The term "Federal inspection agency" means a Federal agency responsible for the enforcement of immigration laws (including regulations), customs laws (including regulations), and agriculture import restrictions, including the United States Customs Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, the Food and Drug Administration, the United States Fish and Wildlife Service, and the Department of State.

(5) GATEWAY.—The term "gateway" means a grouping of border stations defined by proximity and similarity of trade.

(6) NON-FEDERAL GOVERNMENTAL JURISDICTION.—The term "non-Federal governmental jurisdiction" means a regional, State, or local authority involved in the planning, development, provision, or funding of transportation infrastructure needs.

(b) BORDER CROSSING PLANNING INCENTIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall make incentive grants to States and to metropolitan planning organizations designated under section 134 of title 23, United States Code.

(2) USE OF GRANTS.—The grants shall be used to encourage joint transportation planning activities and to improve people and vehicle movement into and through international gateways as a supplement to statewide and metropolitan transportation planning funding made available under other provisions of this Act and under title 23, United States Code.

(3) CONDITION OF GRANTS.—As a condition of receiving a grant under paragraph (1), a State transportation department or a metropolitan planning organization shall certify to the Secretary that it commits to be engaged in joint planning with its counterpart agency in Mexico or Canada.

(4) LIMITATION ON AMOUNT.—Each State transportation department or metropolitan planning organization may receive not more than $100,000 under this subsection for any fiscal year.

(5) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,400,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project under this subsection shall be determined in accordance with subsection (f).

(c) TRADE CORRIDOR PLANNING INCENTIVE GRANTS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States to encourage, within the framework of the statewide transportation planning process of the State under section 135 of title 23, United States Code, cooperative multistate corridor analysis of, and planning for, the safe and efficient movement of goods along and within international or interstate trade corridors of national importance.

(B) IDENTIFICATION OF CORRIDORS.—Each corridor referred to in subparagraph (A) shall be cooperatively identified by the States along the corridor.

(2) CORRIDOR PLANS.—

(A) IN GENERAL.—As a condition of receiving a grant under paragraph (1), a State shall enter into an agreement with the Secretary that specifies that, in cooperation with the other States along the corridor, the State will submit a plan for corridor improvements to the Secretary not later than 2 years after receipt of the grant.

(B) COORDINATION OF PLANNING.—Planning with respect to a corridor under this subsection shall be coordinated with transportation planning being carried out by the States and metropolitan planning organizations along the corridor and, to the extent appropriate, with transportation planning being carried out by Federal land management agencies, by tribal governments, or by government agencies in Mexico or Canada.

(3) MULTISTATE AGREEMENTS FOR TRADE CORRIDOR PLANNING.—The consent of Congress is granted to any 2 or more States—

(A) to enter into multistate agreements, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of interstate trade corridor planning activities; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable to make the agreements effective.

(4) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $3,000,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project under this subsection shall be determined in accordance with subsection (f).

(d) FEDERAL ASSISTANCE FOR TRADE CORRIDORS AND BORDER INFRASTRUCTURE SAFETY AND CONGESTION RELIEF.—

(1) APPLICATIONS FOR GRANTS.—The Secretary shall make grants to States or metropolitan planning organizations that submit an application that—

(A) demonstrates need for assistance in carrying out transportation projects that are necessary to relieve traffic congestion or improve enforcement of motor carrier safety laws; and

(B) includes strategies to involve both the public and private sectors in the proposed project.

(2) SELECTION OF STATES, METROPOLITAN PLANNING ORGANIZATIONS, AND PROJECTS TO RECEIVE GRANTS.—In selecting States, metropolitan planning organizations, and projects to receive grants under this subsection, the Secretary shall consider—

(A) the annual volume of commercial vehicle traffic at the border stations or ports of entry of each State as compared to the annual volume of commercial vehicle traffic at the border stations or ports of entry of all States;

(B) the extent to which commercial vehicle traffic in each State has grown since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103-182) as compared to the extent to which that traffic has grown in each other State;

(C) the extent of border transportation improvements carried out by each State since the date of enactment of that Act;

(D) the reduction in commercial and other travel time through a major international gateway expected as a result of the project;

(E) the extent of leveraging of Federal funds provided under this subsection, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding;

(F) improvements in vehicle and highway safety and cargo security in and through the gateway concerned;

(G) the degree of demonstrated coordination with Federal inspection agencies;

(H) the extent to which the innovative and problem solving techniques of the proposed project would be applicable to other border stations or ports of entry;

(I) demonstrated local commitment to implement and sustain continuing comprehensive border planning processes and improvement programs; and

(J) other factors to promote transport efficiency and safety, as determined by the Secretary.

(3) USE OF GRANTS.—

(A) IN GENERAL.—A grant under this subsection shall be used to develop project plans, and implement coordinated and comprehensive programs of projects, to improve efficiency and safety.

(B) TYPE OF PLANS AND PROGRAMS.—The plans and programs may include—

(i) improvements to transport and supporting infrastructure;

(ii) improvements in operational strategies, including electronic data interchange and use of telecommunications to expedite vehicle and cargo movement;

(iii) modifications to regulatory procedures to expedite vehicle and cargo flow;

(iv) new infrastructure construction;

(v) purchase, installation, and maintenance of weigh-in-motion devices and associated electronic equipment in Mexico or Canada if real time data from the devices is provided to the nearest border station and to State commercial vehicle enforcement facilities that serve the border station; and

(vi) other institutional improvements, such as coordination of binational planning, programming, and border operation, with special emphasis on coordination with—

(I) Federal inspection agencies; and

(II) their counterpart agencies in Mexico and Canada.

(4) CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE FOR LAW ENFORCEMENT PURPOSES.—At the request of the Administrator of General Services, in consultation with the Attorney General, the Secretary may transfer, during the period of fiscal years 1998 through 2001, not more than $10,000,000 of the amounts made available under paragraph (5) to the Administrator of General Services for the construction of transportation infrastructure necessary for law enforcement in border States.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $125,000,000 for each of fiscal years 1998 through 2003.

(e) COORDINATION OF PLANNING.—

(1) PLANNING AND DEVELOPMENT OF BORDER STATIONS.—The General Services Administration shall be the coordinating Federal agency in the planning and development of new or expanded border stations.

(2) COOPERATIVE ACTIVITIES.—In carrying out paragraph (1), the Administrator of General Services shall cooperate with Federal inspection agencies and non-Federal governmental jurisdictions to ensure that—

(A) improvements to border station facilities take into account regional and local conditions, including the alignment of highway systems and connecting roadways; and

(B) all facility requirements, associated costs, and economic impacts are identified.

(f) COST SHARING.—A grant under this section shall be used to pay the Federal share of the cost of a project. The Federal share shall not exceed 80 percent.

(g) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this section but not allocated exceeds $4,000,000 as of September 30 of any year, the excess amount—

(1) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

(2) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

(3) shall be available for any purpose eligible for funding under section 133 of that title.

SEC. 1117. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Section 201(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the second sentence, by inserting before the period at the end the following: ", except that each allocation to a State shall remain available for expenditure in the State for the fiscal year in which the allocation is allocated and for the 3 following fiscal years"; and

(2) by inserting after the second sentence the following: "Funds authorized under this section for fiscal year 1998 or a fiscal year thereafter, and not expended by a State during the 4 fiscal years referred to in the preceding sentence, shall be released to the Commission for reallocation and shall remain available until expended.".

(b) SUBSTITUTE CORRIDOR.—Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) by striking "(b) The Commission" and inserting the following:

"(b) DESIGNATIONS.—

"(1) IN GENERAL.—The Commission"; and

(3) by adding at the end the following:

"(2) SUBSTITUTE CORRIDOR.—In lieu of Corridor H in Virginia, the Appalachian development highway system shall include the Virginia portion of the segment identified in section 1105(c)(29) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597).".

(c) FEDERAL SHARE FOR PREFINANCED PROJECTS.—Section 201(h)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "70 per centum" and inserting "80 percent".

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking subsection (g) and inserting the following:

"(g) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—

"(A) FISCAL YEARS 1998 THROUGH 2003.—For the continued construction of the Appalachian development highway system approved as of September 30, 1996, in accordance with this section, there shall be available from the Highway Trust Fund (other than the Mass Transit Account) $40,000,000 for each of fiscal years 1998 through 2000, $50,000,000 for fiscal year 2001, $60,000,000 for fiscal year 2002, and $70,000,000 for fiscal year 2003.

"(B) OBLIGATION AUTHORITY.—The Secretary shall provide equivalent amounts of obligation authority for the funds authorized under subparagraph (A).

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be determined in accordance with this section and the funds shall remain available in accordance with subsection (a).".

SEC. 1118. INTERSTATE 4R AND BRIDGE DISCRETIONARY PROGRAM.

(a) IN GENERAL.—Section 104 of title 23, United States Code (as amended by section 1113(c)(1)), is amended by inserting after subsection (j) the following:

"(k) SET-ASIDE FOR INTERSTATE 4R AND BRIDGE PROJECTS.—

"(1) IN GENERAL.—For each of fiscal years 1998 through 2003, before any apportionment is made under subsection (b)(1), the Secretary shall set aside $70,000,000 from amounts to be apportioned under subsection (b)(1)(A), and $70,000,000 from amounts to be apportioned under subsection (b)(1)(B), for allocation by the Secretary—

"(A) for projects for resurfacing, restoring, rehabilitating, or reconstructing any route or portion of a route on the Interstate System (other than any highway designated as a part of the Interstate System under section 103(c)(4) and any toll road on the Interstate System that is not subject to an agreement under section 119(e) (as in effect on December 17, 1991) or an agreement under section 129(a));

"(B) for projects for a highway bridge the replacement, rehabilitation, or seismic retrofit cost of which is more than $10,000,000; and

"(C) for projects for a highway bridge the replacement, rehabilitation, or seismic retrofit cost of which is less than $10,000,000 if the cost is at least twice the amount reserved under section 144(c) by the State in which the bridge is located for the fiscal year in which application is made for an allocation for the bridge under this subsection.

"(2) REQUIRED ALLOCATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), for each of fiscal years 1998 through 2003, the Secretary shall allocate on October 1, for use for highway bridge projects, at least $20,000,000 of the amounts set aside under paragraph (1) to any State that—

"(i) is apportioned for fiscal year 1998 under paragraphs (1)(B), (1)(C)(i)(III), and (3)(A)(iii) of subsection (b) an amount that is less than the amount apportioned to the State for the highway bridge replacement and rehabilitation program under section 144 for fiscal year 1997; and

"(ii) was apportioned for that program for fiscal year 1997 an amount greater than $125,000,000.

"(B) EXCEPTION.—A State that transferred funds from the highway bridge replacement and rehabilitation program during any of fiscal years 1995 through 1997 in an amount greater than 10 percent of the apportionments for that program for the fiscal year shall not be eligible for an allocation under subparagraph (A).

"(C) ADDITIONAL ALLOCATION.—An allocation to a State under subparagraph (A) shall be in addition to any allocation to the State under paragraph (1).

"(3) AVAILABILITY TO STATES OF INTERSTATE 4R FUNDS.—The Secretary may grant the application of a State for funds made available for a fiscal year for a project described in paragraph (1)(A) if the Secretary determines that—

"(A) the State has obligated or demonstrates that it will obligate for the fiscal year all of the apportionments to the State under subparagraphs (A) and (B) of subsection (b)(1) other than an amount that, by itself, is insufficient to pay the Federal share of the cost of a project described in paragraph (1)(A) that has been submitted by the State to the Secretary for approval; and

"(B) the State is willing and able to—

"(i) obligate the funds within 1 year after the date on which the funds are made available;

"(ii) apply the funds to a project that is ready to be commenced; and

"(iii) in the case of construction work, begin work within 90 days after the date of obligation of the funds.

"(4) ELIGIBILITY OF CERTAIN BRIDGES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this subsection.

"(B) LIMITATION.—The amount of assistance under subparagraph (A) shall not exceed the cumulative amount that the agency has expended for capital and operating costs to subsidize the transit system.

"(C) DETERMINATION BY THE SECRETARY.—Before authorizing an expenditure of funds under this paragraph, the Secretary shall make a determination that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement, seismic retrofitting, or rehabilitation project.

"(D) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of expenditure.

"(5) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Amounts made available under this subsection shall remain available until expended.".

(b) CONFORMING AMENDMENT.—Section 118 of title 23, United States Code, is amended by striking subsection (c).

SEC. 1119. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 321 the following:

"§ 322. Magnetic levitation transportation technology deployment program

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station.

"(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

"(3) MAGLEV.—The term 'MAGLEV' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

"(4) PARTNERSHIP POTENTIAL.—The term 'partnership potential' has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 1978).

"(b) ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make available financial assistance to provide the Federal share of full project costs of eligible projects selected under this section.

"(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than ⅔.

"(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

"(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

"(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

"(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

"(2) require an amount of Federal funds for project financing that will not exceed the sum of—

"(A) the amounts made available under subsection (h)(1)(A); and

"(B) the amounts made available by States under subsection (h)(4);

"(3) result in an operating transportation facility that provides a revenue producing service;

"(4) be undertaken through a public and private partnership, with at least ⅓ of full project costs paid using non-Federal funds;

"(5) satisfy applicable statewide and metropolitan planning requirements;

"(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

"(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

"(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

"(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

"(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

"(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

"(3) States, regions, and localities financially contribute to the project;

"(4) implementation of the project will create new jobs in traditional and emerging industries;

"(5) the project will augment MAGLEV networks identified as having partnership potential;

"(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

"(7) financial assistance would foster the timely implementation of a project; and

"(8) life-cycle costs in design and engineering are considered and enhanced.

"(f) PROJECT SELECTION.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 eligible project for financial assistance.

"(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

"(h) FUNDING.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1999 and $20,000,000 for fiscal year 2000.

"(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

"(II) the availability of the funds shall be determined in accordance with paragraph (2).

"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2000 and 2001, $250,000,000 for fiscal year 2002, and $300,000,000 for fiscal year 2003.

"(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

"(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

"(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Infrastructure Finance and Innovation Act of 1997, including loans, loan guarantees, and lines of credit.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 321 the following:

"322. Magnetic levitation transportation technology deployment program.".

SEC. 1120. WOODROW WILSON MEMORIAL BRIDGE.

(a) DEFINITIONS.—Section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 628) is amended—

(1) in paragraph (3), by striking ", including approaches thereto"; and

(2) in paragraph (5), by striking "to be determined under section 407. Such" and all that follows and inserting the following: "as described in the record of decision executed by the Secretary in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The term includes ongoing short-term rehabilitation and repairs to the Bridge.".

(b) OWNERSHIP OF BRIDGE.—

(1) CONVEYANCE BY THE SECRETARY.—Section 407(a)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by inserting "or any Capital Region jurisdiction" after "Authority" each place it appears.

(2) AGREEMENT.—Section 407 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by striking subsection (c) and inserting the following:

"(c) AGREEMENT.—

"(1) IN GENERAL.—The agreement referred to in subsection (a) is an agreement concerning the Project that is executed by the Secretary and the Authority or any Capital Region jurisdiction that accepts ownership of the Bridge.

"(2) TERMS OF THE AGREEMENT.—The agreement shall—

"(A) identify whether the Authority or a Capital Region jurisdiction will accept ownership of the Bridge;

"(B) contain a financial plan satisfactory to the Secretary, which shall be prepared before the execution of the agreement, that specifies—

"(i) the total cost of the Project, including any cost-saving measures;

"(ii) a schedule for implementation of the Project, including whether any expedited design and construction techniques will be used; and

"(iii) the sources of funding that will be used to cover any costs of the Project not funded from funds made available under section 412; and

"(C) contain such other terms and conditions as the Secretary determines to be appropriate.".

(c) FEDERAL CONTRIBUTION.—The Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 627) is amended by adding at the end the following:

"SEC. 412. FEDERAL CONTRIBUTION.

"(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $100,000,000 for fiscal year 1998, $100,000,000 for fiscal year 1999, $125,000,000 for fiscal year 2000, $175,000,000 for fiscal year 2001, $200,000,000 for fiscal year 2002, and $200,000,000 for fiscal year 2003, to pay the costs of planning, preliminary engineering and design, final engineering, acquisition of rights-of-way, and construction of the Project, except that the costs associated with the Bridge shall be given priority over other eligible costs, other than design costs, of the Project.

"(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that—

"(A) the funds shall remain available until expended;

"(B) the Federal share of the cost of the Bridge component of the Project shall not exceed 100 percent; and

"(C) the Federal share of the cost of any other component of the Project shall not exceed 80 percent.

"(b) USE OF APPORTIONED FUNDS.—Nothing in this title limits the authority of any Capital Region jurisdiction to use funds apportioned to the jurisdiction under paragraph (1) or (3) of section 104(b) of title 23, United States Code, in accordance with the requirements for such funds, to pay any costs of the Project.

"(c) AVAILABILITY OF APPORTIONED FUNDS.—None of the funds made available under this section shall be available before the execution of the agreement described in section 407(c), except that the Secretary may fund the maintenance and rehabilitation of the Bridge and the design of the Project.".

(d) CONFORMING AMENDMENT.—Section 405(b)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 629) is amended by striking "the Signatories as to the Federal share of the cost of the Project and the terms and conditions related to the timing of the transfer of the Bridge to".

SEC. 1121. NATIONAL HIGHWAY SYSTEM COMPONENTS.

The National Highway System consists of the routes and transportation facilities depicted on the map submitted by the Secretary to Congress with the report entitled "Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals" and dated May 24, 1996.

SEC. 1122. HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(1) in the section heading, by striking "**program**";

(2) by striking subsections (a) through (n), (p), and (q);

(3) by inserting after the section heading the following:

"(a) DEFINITION OF REHABILITATE.—In this section, the term 'rehabilitate' (in any of its forms), with respect to a bridge, means to carry out major work necessary—

"(1) to address the structural deficiencies, functional obsolescence, or physical deterioration of the bridge; or

"(2) to correct a major safety defect of the bridge, including seismic retrofitting.

"(b) BRIDGE INVENTORY.—

"(1) IN GENERAL.—In consultation with the States, the Secretary shall—

"(A) annually inventory all highway bridges on public roads that cross waterways, other topographical barriers, other highways, and railroads;

"(B) classify each such bridge according to serviceability, safety, and essentiality for public use; and

"(C) assign each such bridge a priority for replacement or rehabilitation based on the classification under subparagraph (B).

"(2) CONSULTATION.—In preparing an inventory of highway bridges on Indian reservation roads and park roads under paragraph (1), the Secretary shall consult with the Secretary of the Interior and the States.

"(3) INVENTORY OF HISTORICAL BRIDGES.—At the request of a State, the Secretary may inventory highway bridges on public roads for historical significance.

"(c) CERTIFICATION BY THE STATE.—Not later than 180 days after the end of each fiscal year beginning with fiscal year 1998, each State shall certify to the Secretary, either that—

"(1) the State has reserved, from funds apportioned to the State for the preceding fiscal year, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), an amount that is not less than the amount apportioned to the State under this section for fiscal year 1997; or

"(2) the amount that the State will reserve, from funds apportioned to the State for the period consisting of fiscal years 1998 through 2001, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), will be not less than 4 times the amount apportioned to the State under this section for fiscal year 1997.

"(d) USE OF RESERVED FUNDS.—A State may use funds reserved under subsection (c) to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures on a highway bridge on a public road that crosses a waterway, other topographical barrier, other highway, or railroad.

"(e) OFF-SYSTEM BRIDGES.—

"(1) REQUIRED EXPENDITURE.—For each fiscal year, an amount equal to not less than 15 percent of the amount apportioned to a State under this section for fiscal year 1997 shall be expended by the State for projects to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures on highway bridges located on public roads that are functionally classified as local roads or rural minor collectors.

"(2) USE OF FUNDS TO MEET REQUIRED EXPENDITURE.—Funds reserved under subsection (c) and funds made available under section 104(b)(1) for the National Highway System or under section 104(b)(3) for the surface transportation program may be used to meet the requirement for expenditure under paragraph (1).

"(3) REDUCTION OF REQUIRED EXPENDITURE.—After consultation with local and State officials in a State, the Secretary may, with respect to the State, reduce the requirement for expenditure under paragraph (1) if the Secretary determines that the State has inadequate needs to justify the expenditure.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be as determined under section 120(b).

"(g) BRIDGE PERMIT EXEMPTION.—

"(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to each bridge authorized to be replaced, in whole or in part, under this section.

"(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425; 33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title if the bridge is over waters that are—

"(A) not used and not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and

"(B)(i) not tidal; or

"(ii) tidal but used only by recreational boating, fishing, and other small vessels that are less than 21 feet in length.

"(h) INDIAN RESERVATION ROAD BRIDGES.—

"(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall establish a nationwide priority program for improving deficient Indian reservation road bridges.

"(2) RESERVATION OF FUNDS.—

"(A) IN GENERAL.—Of the amounts authorized for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $9,000,000 for projects to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures for deficient Indian reservation road bridges, including multiple-pipe culverts.

"(B) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in subparagraph (A) must—

"(i) have an opening of 20 feet or more;

"(ii) be on an Indian reservation road;

"(iii) be unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; and

"(iv) be recorded in the national bridge inventory administered by the Secretary under subsection (b).

"(3) APPROVAL REQUIREMENT.—Funds to carry out Indian reservation road bridge projects under this subsection shall be made available only on approval of plans, specifications, and estimates by the Secretary.";

(4) by redesignating subsection (o) as subsection (i); and

(5) in subsection (i) (as so redesignated)—

(A) in paragraph (1), by inserting "for alternative transportation purposes (including bikeway and walkway projects eligible for funding under this title)" after "adaptive reuse";

(B) in paragraph (3)—

(i) by inserting "(regardless of whether the intended use is for motorized vehicular traffic or for alternative public transportation purposes)" after "intended use"; and

(ii) by inserting "or for alternative public transportation purposes" after "no longer used for motorized vehicular traffic"; and

(C) in the second sentence of paragraph (4)—

(i) by inserting "for motorized vehicles, alternative vehicular traffic, or alternative public transportation" after "historic bridge"; and

(ii) by striking "up to an amount not to exceed the cost of demolition".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

"144. Highway bridge replacement and rehabilitation.".

SEC. 1123. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHED PROGRAM.—Section 149(a) of title 23, United States Code, is amended by striking "ESTABLISHMENT.—The Secretary shall establish" and inserting "IN GENERAL.—The Secretary shall carry out".

(b) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended in the first sentence—

(1) by striking "that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994" and inserting "that is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) or classified as a submarginal ozone nonattainment area under that Act, or if the project or program is for a maintenance area,";

(2) in paragraph (1)—

(A) in subparagraph (A), by striking "clauses (xii) and" and inserting "clause"; and

(B) in subparagraph (B), by striking "such section" and inserting "section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))";

(3) in paragraph (2), by inserting "or maintenance" after "State implementation";

(4) in paragraph (3), by inserting "or maintenance of the standard" after "standard"; and

(5) in paragraph (4), by inserting "or maintenance" after "attainment".

(c) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) STATES RECEIVING MINIMUM APPORTIONMENT.—

"(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(2) for any project eligible under the surface transportation program under section 133.

"(2) STATES WITH A NONATTAINMENT AREA.—If a State has a nonattainment area or maintenance area and receives funds under section 104(b)(2)(D) above the amount of funds that the State would have received based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2), the State may use that portion of the funds not based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2) for any project in the State eligible under section 133.".

(d) FEDERAL SHARE.—Section 120(c) of title 23, United States Code, is amended in the first sentence by striking "The" and inserting "Except in the case of a project funded from sums apportioned under section 104(b)(2), the".

(e) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended by inserting after the undesignated paragraph defining "maintenance" the following:

"The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).".

(2) Section 149(b)(1)(A)(ii) of title 23, United States Code, is amended by striking "an area" and all that follows and inserting "a maintenance area; or".

SEC. 1124. SAFETY BELT USE LAW REQUIREMENTS.

Section 355 of the National Highway System Designation Act of 1995 (109 Stat. 624) is amended—

(1) in the section heading, by striking "**AND MAINE**";

(2) in subsection (a)—

(A) by striking "States of New Hampshire and Maine shall each" and inserting "State of New Hampshire shall"; and

(B) in paragraph (1), by striking "and 1996" and inserting "through 2000"; and

(3) by striking "or Maine" each place it appears.

SEC. 1125. SENSE OF THE SENATE CONCERNING RELIANCE ON PRIVATE ENTERPRISE.

(a) IN GENERAL.—It is the sense of the Senate that each agency authorized to expend funds made available under this Act, or an amendment made by this Act, or a recipient of any form of a grant or other Federal assistance under this Act, or an amendment made by this Act—

(1) should, in expending the funds or assistance, rely on entities in the private enterprise system to provide such goods and services as are reasonably and expeditiously available through ordinary business channels; and

(2) shall not duplicate or compete with entities in the private enterprise system.

(b) PROCEDURES.—The Secretary should provide procedures to inform each agency that administers this Act and each recipient of a grant or other Federal assistance of the sense of the Senate expressed in subsection (a).

SEC. 1126. STUDY OF USE OF UNIFORMED POLICE OFFICERS ON FEDERAL-AID HIGHWAY CONSTRUCTION PROJECTS.

(a) IN GENERAL.—In consultation with the States and State transportation departments, the Secretary shall conduct a study on the extent and effectiveness of use by States of uniformed police officers on Federal-aid highway construction projects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under subsection (a), including any legislative and administrative recommendations of the Secretary.

SEC. 1127. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)(i), by striking ", except to" and all that follows through "services";

(2) by striking subparagraph (C) and inserting the following:

"(C) SELECTION, PERFORMANCE, AND AUDITS.—

"(i) IN GENERAL.—All requirements for architectural, engineering, and related services at any phase of a highway project funded in whole or in part with Federal-aid highway funds shall be performed by a contract awarded in accordance with subparagraph (A).

"(ii) PROHIBITION ON STATE RESTRICTION.—A State shall not impose any overhead restriction that would preclude any qualified firm from being eligible to compete for contracts awarded in accordance with subparagraph (A).

"(iii) COMPLIANCE WITH FEDERAL ACQUISITION REGULATIONS.—The process for selection, award, performance, administration, and audit of the resulting contracts shall comply with the cost principles and cost accounting principles of the Federal Acquisition Regulations, including parts 30, 31, and 36 of the Regulations."; and

(3) by adding at the end the following:

"(H) COMPLIANCE.—

"(i) IN GENERAL.—A State shall comply with the qualifications-based selection process, contracting based on the Federal Acquisition Regulations, and the single audit procedures required under this paragraph, or with an existing State law or a statute enacted in accordance with the legislative session exemption under subparagraph (G), with respect to any architecture, engineering, or related service contract for any phase of a Federal-aid highway project.

"(ii) STATES WITH ALTERNATIVE PROCESS.—Any State that, after November 28, 1995, enacted legislation to establish an alternative State process as a substitute for the contract administration and audit procedures required under this paragraph or was granted a

waiver under subparagraph (G) shall submit the legislation to the Secretary, not later than 60 days after the date of enactment of this subparagraph, for certification that the State legislation is in compliance with the statutory timetable and substantive criteria specified in subparagraph (G).".

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

SEC. 1201. ADMINISTRATIVE EXPENSES.

Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Whenever an apportionment is made of the sums made available for expenditure on the surface transportation program under section 133, the congestion mitigation and air quality improvement program under section 149, or the Interstate and National Highway System program under section 103, the Secretary shall deduct a sum, in an amount not to exceed 1½ percent of all sums so made available, as the Secretary determines necessary to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2.

"(2) CONSIDERATION OF UNOBLIGATED BALANCES.—In making the determination described in paragraph (1), the Secretary shall take into account the unobligated balance of any sums deducted under this subsection in prior fiscal years.

"(3) AVAILABILITY.—The sum deducted under paragraph (1) shall remain available until expended.".

SEC. 1202. REAL PROPERTY ACQUISITION AND CORRIDOR PRESERVATION.

(a) ADVANCE ACQUISITION OF REAL PROPERTY.—Section 108 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 108. Advance acquisition of real property";

and

(2) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of real property for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

"(2) CONSTRUCTION.—The agreement between the Secretary and the State for the reimbursement of the cost of the real property shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.".

(b) CREDIT FOR ACQUIRED LANDS.—Section 323(b) of title 23, United States Code, is amended—

(1) in the subsection heading, by striking "DONATED" and inserting "ACQUIRED";

(2) by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the State share of the cost of a project with respect to which Federal assistance is provided from the Highway Trust Fund (other than the Mass Transit Account) may be credited in an amount equal to the fair market value of any land that—

"(A) is obtained by the State, without violation of Federal law; and

"(B) is incorporated into the project.

"(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into a project and credited under paragraph (1) shall be established in the manner determined by the Secretary, except that—

"(A) the fair market value shall not include any increase or decrease in the value of donated property caused by the project; and

"(B) the fair market value of donated land shall be established as of the earlier of—

"(i) the date on which the donation becomes effective; or

"(ii) the date on which equitable title to the land vests in the State.";

(3) by striking paragraph (3);

(4) in paragraph (4), by striking "to which the donation is applied"; and

(5) by redesignating paragraph (4) as paragraph (3).

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 108 and inserting the following:

"108. Advance acquisition of real property.".

SEC. 1203. AVAILABILITY OF FUNDS.

Section 118 of title 23, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Any Federal-aid highway funds released by the final payment on a project, or by the modification of a project agreement, shall be credited to the same program funding category for which the funds were previously apportioned and shall be immediately available for obligation.

"(2) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—Any Federal-aid highway funds apportioned to a State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of this paragraph) and credited under paragraph (1) may be transferred by the Secretary in accordance with section 103(d).".

SEC. 1204. PAYMENTS TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second and third sentences and inserting the following: "The payments may also be made for the value of such materials as—

"(1) have been stockpiled in the vicinity of the construction in conformity to plans and specifications for the projects; and

"(2) are not in the vicinity of the construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in the vicinity.";

(2) by striking subsection (b) and inserting the following:

"(b) PROJECT AGREEMENTS.—

"(1) PAYMENTS.—A payment under this chapter may be made only for a project covered by a project agreement.

"(2) SOURCE OF PAYMENTS.—After completion of a project in accordance with the project agreement, a State shall be entitled to payment, out of the appropriate sums apportioned or allocated to the State, of the unpaid balance of the Federal share of the cost of the project.";

(3) by striking subsections (c) and (d); and

(4) by redesignating subsection (e) as subsection (c).

SEC. 1205. PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.

(a) IN GENERAL.—Section 156 of title 23, United States Code, is amended to read as follows:

"§ 156. Proceeds from the sale or lease of real property

"(a) MINIMUM CHARGE.—Subject to section 142(f), a State shall charge, at a minimum, fair market value for the sale, use, lease, or lease renewal (other than for utility use and occupancy or for a transportation project eligible for assistance under this title) of real property acquired with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account).

"(b) EXCEPTIONS.—The Secretary may grant an exception to the requirement of subsection (a) for a social, environmental, or economic purpose.

"(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net income from the revenues obtained by a State under subsection (a) shall be used by the State for projects eligible under this title.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 156 and inserting the following:

"156. Proceeds from the sale or lease of real property.".

SEC. 1206. METRIC CONVERSION AT STATE OPTION.

Section 205(c)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 109 note; 109 Stat. 577) is amended by striking "Before September 30, 2000, the" and inserting "The".

SEC. 1207. REPORT ON OBLIGATIONS.

Section 104(m) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended—

(1) by inserting "REPORT TO CONGRESS.—" before "The Secretary";

(2) by striking "not later than" and all that follows through "a report" and inserting "a report for each fiscal year";

(3) in paragraph (1), by striking "preceding calendar month" and inserting "preceding fiscal year";

(4) by striking paragraph (2);

(5) in paragraph (3), by striking "such preceding month" and inserting "that preceding fiscal year"; and

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 1208. TERMINATIONS.

(a) RIGHT-OF-WAY REVOLVING FUND.—Section 108 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TERMINATION OF RIGHT-OF-WAY REVOLVING FUND.—

"(1) IN GENERAL.—Funds apportioned and advanced to a State by the Secretary from the right-of-way revolving fund established by this section prior to the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997 shall remain available to the State for use on the projects for which the funds were advanced for a period of 20 years from the date on which the funds were advanced.

"(2) CREDIT TO HIGHWAY TRUST FUND.—With respect to a project for which funds have been advanced from the right-of-way revolving fund, upon the termination of the 20-year period referred to in paragraph (1), when actual construction is commenced, or upon approval by the Secretary of the plans, specifications, and estimates for the actual construction of the project on the right-of-way, whichever occurs first—

"(A) the Highway Trust Fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120, out of any Federal-aid highway funds apportioned to the State in which the project is located and available for obligation for projects of the type funded; and

"(B) the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the Highway Trust Fund.".

(b) PILOT TOLL COLLECTION PROGRAM.—Section 129 of title 23, United States Code, is amended by striking subsection (d).

(c) NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.—As soon as practicable after the date of enactment of this Act, the Secretary shall take such action as is necessary for the termination of the National Recreational Trails Advisory Committee established by section 1303 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1262) (as in effect on the day before the date of enactment of this Act).

(d) CONGRESSIONAL BRIDGE COMMISSIONS.—Public Law 87-441 (76 Stat. 59) is repealed.

SEC. 1209. INTERSTATE MAINTENANCE.

(a) INTERSTATE FUNDS.—Section 119 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (d); and

(3) by striking subsection (f) and inserting the following:

"(f) TRANSFERABILITY OF FUNDS.—

"(1) UNCONDITIONAL.—A State may transfer an amount not to exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).

"(2) UPON ACCEPTANCE OF CERTIFICATION.—If a State certifies to the Secretary that any part of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) is in excess of the needs of the State for resurfacing, restoring, rehabilitating, or reconstructing routes and bridges on the Interstate System in the State and that the State is adequately maintaining the routes and bridges, and the Secretary accepts the certification, the State may transfer, in addition to the amount authorized to be transferred under paragraph (1), an amount not to exceed 20 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).".

(b) ELIGIBILITY.—Section 119 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking "and rehabilitating" and inserting ", rehabilitating, and reconstructing";

(2) by striking subsections (b), (c), (e), and (g);

(3) by inserting after subsection (a) the following:

"(b) ELIGIBLE ACTIVITIES.—

"(1) IN GENERAL.—A State—

"(A) may use funds apportioned under subparagraph (A) or (B) of section 104(b)(1) for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System, including—

"(i) resurfacing, restoring, rehabilitating, and reconstructing bridges, interchanges, and overcrossings;

"(ii) acquiring rights-of-way; and

"(iii) intelligent transportation system capital improvements that are infrastructure-based to the extent that they improve the performance of the Interstate System; but

"(B) may not use the funds for construction of new travel lanes other than high-occupancy vehicle lanes or auxiliary lanes.

"(2) EXPANSION OF CAPACITY.—

"(A) USING TRANSFERRED FUNDS.—Notwithstanding paragraph (1), funds transferred under subsection (c)(1) may be used for construction to provide for expansion of the capacity of an Interstate System highway (including a bridge).

"(B) USING FUNDS NOT TRANSFERRED.—

"(i) IN GENERAL.—In lieu of transferring funds under subsection (c)(1) and using the transferred funds for the purpose described in subparagraph (A), a State may use an amount of the sums apportioned to the State under subparagraph (A) or (B) of section 104(b)(1) for the purpose described in subparagraph (A).

"(ii) LIMITATION.—The sum of the amount used under clause (i) and any amount transferred under subsection (c)(1) by a State may not exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1).''; and

(4) by redesignating subsection (f) as subsection (c).

(c) CONFORMING AMENDMENTS.—

(1) Section 119(a) of title 23, United States Code, is amended in the first sentence by striking "; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in subsection (e)".

(2) Section 1009(c)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 119 note; 105 Stat. 1934) is amended by striking "section 119(f)(1)" and inserting "section 119(c)(1)".

CHAPTER 2—PROJECT APPROVAL

SEC. 1221. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code (as amended by section 1118), is amended by inserting after subsection (k) the following:

"(l) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

"(1) TRANSFER OF HIGHWAY FUNDS.—Funds made available under this title and transferred for transit projects shall be administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

"(2) TRANSFER OF TRANSIT FUNDS.—Funds made available under chapter 53 of title 49 and transferred for highway projects shall be administered by the Secretary in accordance with this title, except that the provisions of that chapter relating to the non-Federal share shall apply to the transferred funds.

"(3) TRANSFER TO AMTRAK AND PUBLICLY-OWNED PASSENGER RAIL LINES.—Funds made available under this title or chapter 53 of title 49 and transferred to the National Railroad Passenger Corporation or to any publicly-owned intercity or intracity passenger rail line shall be administered by the Secretary in accordance with subtitle V of title 49, except that the provisions of this title or chapter 53 of title 49, as applicable, relating to the non-Federal share shall apply to the transferred funds.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority provided for projects described in paragraphs (1) through (3) shall be transferred in the same manner and amount as the funds for the projects are transferred.".

SEC. 1222. PROJECT APPROVAL AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 106. Project approval and oversight";

(2) by redesignating subsections (e) and (f) as subsections (g) and (h), respectively;

(3) by striking subsections (a) through (d) and inserting the following:

"(a) IN GENERAL.—Except as otherwise provided in this section, the State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require. The Secretary shall act upon such plans, specifications, and estimates as soon as practicable after they have been submitted, and shall enter into a formal project agreement with the State transportation department formalizing the conditions of the project approval. The execution of such project agreement shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

"(b) PROJECT AGREEMENT.—The project agreement shall make provision for State funds required for the State's pro rata share of the cost of construction of the project and for the maintenance of the project after completion of construction. The Secretary may rely upon representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials where a part of the project is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

"(c) SPECIAL RULES FOR PROJECT OVERSIGHT.—

"(1) NHS PROJECTS.—Except as otherwise provided in subsection (d) of this section, the Secretary may discharge to the State any of the Secretary's responsibilities for the design, plans, specifications, estimates, contract awards, and inspection of projects under this title on the National Highway System. Before discharging responsibilities to the State, the Secretary shall reach agreement with the State as to the extent to which the State may assume the responsibilities of the Secretary under this subsection. The Secretary may not assume any greater responsibility than the Secretary is permitted under this title as of September 30, 1997, except upon agreement by the Secretary and the State.

"(2) NON-NHS PROJECTS.—For all projects under this title that are off the National Highway System, the State may request that the Secretary no longer review and approve the design, plans, specifications, estimates, contract awards, and inspection of projects under this title. After receiving any such request, the Secretary shall undertake project review only as requested by the State.

"(d) RESPONSIBILITIES OF THE SECRETARY.—

"(1) IN GENERAL.—Subject to paragraph (2), nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under any Federal law other than this title.

"(2) LIMITATION.—Any responsibility or obligation of the Secretary under sections 113 and 114 of this title shall not be affected and may not be discharged under this section, section 133, or section 149.

"(e) VALUE ENGINEERING ANALYSIS.—In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid

highway shall be accompanied by a value engineering or other cost reduction analysis.

"(f) FINANCIAL PLAN.—The Secretary shall require a financial plan to be prepared for any project with an estimated total cost of $1,000,000,000 or more.".

(b) STANDARDS.—

(1) ELIMINATION OF GUIDELINES AND ANNUAL CERTIFICATION REQUIREMENTS.—Section 109 of title 23, United States Code, is amended—

(A) by striking subsection (m); and

(B) by redesignating subsections (n) through (q) as subsections (m) through (p), respectively.

(2) SAFETY STANDARDS.—Section 109 of title 23, United States Code (as amended by paragraph (1)), is amended by adding at the end the following:

"(q) PHASE CONSTRUCTION.—Safety considerations for a project under this title may be met by phase construction.".

(c) PROGRAMS; PROJECT AGREEMENTS; CERTIFICATION ACCEPTANCE.—Sections 110 and 117 of title 23, United States Code, are repealed.

(d) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23 is amended—

(A) by striking the item relating to section 106 and inserting the following:

"106. Project approval and oversight.";

and

(B) by striking the items relating to sections 110 and 117.

(2) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining "project agreement" by striking "the provisions of subsection (a) of section 110 of this title" and inserting "section 106".

(3) Section 114(a) of title 23, United States Code, is amended in the second sentence by striking "section 117 of this title" and inserting "section 106".

SEC. 1223. SURFACE TRANSPORTATION PROGRAM.

(a) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 133 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking "10" and inserting "8"; and

(B) in the first sentence of paragraph (3)(A), by striking "80" and inserting "82"; and

(2) in subsection (e)—

(A) in paragraph (3)(B)(i), by striking "if the Secretary" and all that follows through "activities"; and

(B) in paragraph (5), by adding at the end the following:

"(C) INNOVATIVE FINANCING.—

"(i) IN GENERAL.—For each fiscal year, the average annual non-Federal share of the total cost of all projects to carry out transportation enhancement activities in a State shall be not less than the non-Federal share authorized for the State under section 120(b).

"(ii) EXCEPTION.—Subject to clause (i), notwithstanding section 120, in the case of projects to carry out transportation enhancement activities—

"(I) funds from other Federal agencies, and other contributions that the Secretary determines are of value, may be credited toward the non-Federal share of project costs;

"(II) the non-Federal share may be calculated on a project, multiple-project, or program basis; and

"(III) the Federal share of the cost of an individual project subject to subclause (I) or (II) may be equal to 100 percent.".

(b) PROGRAM APPROVAL.—Section 133(e) of title 23, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) PROGRAM APPROVAL.—

"(A) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

"(i) certifies that the State will meet all the requirements of this section; and

"(ii) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

"(B) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—As necessary, each State shall request from the Secretary adjustments to the amount of obligations referred to in subparagraph (A)(ii).

"(C) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under subparagraph (A) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.".

(c) PAYMENTS.—Section 133(e)(3)(A) of title 23, United States Code, is amended by striking the second sentence.

SEC. 1224. DESIGN-BUILD CONTRACTING.

(a) AUTHORITY.—Section 112(b) of title 23, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(2) in paragraph (2)(A), by striking "Each" and inserting "Subject to paragraph (3), each"; and

(3) by adding at the end the following:

"(3) DESIGN-BUILD CONTRACTING.—

"(A) IN GENERAL.—A State transportation department may award a contract for the design and construction of a qualified project described in subparagraph (B) using competitive selection procedures approved by the Secretary.

"(B) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter that involves installation of an intelligent transportation system or that consists of a usable project segment and for which—

"(i) the Secretary has approved the use of design-build contracting described in subparagraph (A) under criteria specified in regulations promulgated by the Secretary; and

"(ii) the total costs are estimated to exceed—

"(I) in the case of a project that involves installation of an intelligent transportation system, $5,000,000; and

"(II) in the case of a usable project segment, $50,000,000.".

(b) COMPETITIVE BIDDING DEFINED.—Section 112 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) COMPETITIVE BIDDING DEFINED.—In this section, the term 'competitive bidding' means the procedures used to award contracts for engineering and design services under subsection (b)(2) and design-build contracts under subsection (b)(3).".

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than the effective date specified in subsection (e), the Secretary shall promulgate regulations to carry out the amendments made by this section.

(2) CONTENTS.—The regulations shall—

(A) identify the criteria to be used by the Secretary in approving the use by a State transportation department of design-build contracting; and

(B) establish the procedures to be followed by a State transportation department for obtaining the Secretary's approval of the use of design-build contracting by the department and the selection procedures used by the department.

(d) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing in this section or the amendments made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning design-build contracting that is being carried out by the Secretary as of the date of enactment of this Act.

(e) EFFECTIVE DATE FOR AMENDMENTS.—The amendments made by this section take effect 2 years after the date of enactment of this Act.

SEC. 1225. INTEGRATED DECISIONMAKING PROCESS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"§ 354. Integrated decisionmaking process

"(a) DEFINITIONS.—In this section:

"(1) INTEGRATED DECISIONMAKING PROCESS.—The term 'integrated decisionmaking process' means the integrated decisionmaking process established with respect to a surface transportation project under subsection (b).

"(2) NEPA PROCESS.—The term 'NEPA process' means the process of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a surface transportation project.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(4) SURFACE TRANSPORTATION PROJECT.—The term 'surface transportation project' means—

"(A) a highway construction project that is subject to the approval of the Secretary under title 23; and

"(B) a capital project (as defined in section 5302(a)(1)).

"(b) ESTABLISHMENT OF INTEGRATED DECISIONMAKING PROCESSES FOR SURFACE TRANSPORTATION PROJECTS.—The Secretary shall—

"(1) establish an integrated decisionmaking process for surface transportation projects that designates major decision points likely to have significant environmental effects and conflicts; and

"(2) integrate the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with the requirements established by the Secretary for transportation planning and decisionmaking.

"(c) INTEGRATED DECISIONMAKING GOALS.—The integrated decisionmaking process for surface transportation projects should, to the maximum extent practicable, accomplish the following major goals:

"(1) Integrate the NEPA process with the planning, predesign stage, and decisionmaking for surface transportation projects at the earliest possible time.

"(2) Integrate all applicable Federal, State, tribal, and local permitting requirements.

"(3) Integrate national transportation, social, safety, economic, and environmental goals with State, tribal, and local land use and growth management initiatives.

"(4) Consolidate Federal, State, tribal, and local decisionmaking to achieve the best overall public interest according to an agreed schedule.

"(d) STREAMLINING.—

"(1) AVOIDANCE OF DELAYS, PREVENTION OF CONFLICTS, AND ELIMINATION OF UNNECESSARY DUPLICATION.—The Secretary shall design the integrated decisionmaking process to avoid delays in decisionmaking, prevent conflicts between cooperating agencies and members of the public, and eliminate unnecessary duplication of review and decisionmaking relating to surface transportation projects.

"(2) INTEGRATION; COMPREHENSIVE PROCESS.—The NEPA process—

"(A) shall be integrated with the transportation planning and decisionmaking of the Federal, State, tribal, and local transportation agencies; and

"(B) serve as a comprehensive decisionmaking process.

"(3) OTHER REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall—

"(i) establish a concurrent transportation and environmental coordination process to reduce paperwork, combine review documents, and eliminate duplicative reviews;

"(ii) develop interagency agreements to streamline and improve interagency coordination and processing time;

"(iii) apply strategic and programmatic approaches to better integrate and expedite the NEPA process and transportation decisionmaking; and

"(iv) ensure, in appropriate cases, by conducting concurrent reviews whenever possible, that any analyses and reviews conducted by the Secretary consider the needs of other reviewing agencies.

"(B) TIME SCHEDULES.—To comply with subparagraph (A)(ii), time schedules shall be consistent with sections 1501.8 and 1506.10 of title 40, Code of Federal Regulations (or any successor regulations).

"(4) CONCURRENT PROCESSING.—

"(A) IN GENERAL.—The integrated decisionmaking process shall, to the extent practicable, include a procedure to provide for concurrent (rather than sequential) processing of all Federal, State, tribal, and local reviews and decisions emanating from those reviews.

"(B) INCONSISTENCY WITH OTHER REQUIREMENTS.—Subparagraph (A) does not require concurrent review if concurrent review would be inconsistent with other statutory or regulatory requirements.

"(e) INTERAGENCY COOPERATION.—

"(1) LEAD AND COOPERATING AGENCY CONCEPTS.—The lead and cooperating agency concepts of section 1501 of title 40, Code of Federal Regulations (or any successor regulation), shall be considered essential elements to ensure integration of transportation decisionmaking.

"(2) RESPONSIBILITIES.—The Secretary shall—

"(A) not later than 60 days after the date on which a surface transportation project is selected for study by a State, identify each Federal agency that may be required to participate in the integrated decisionmaking process relating to the surface transportation project and notify the agency of the surface transportation project;

"(B) afford State, regional, tribal, and local governments with decisionmaking authority on surface transportation projects the opportunity to serve as cooperating agencies;

"(C) provide cooperating agencies the results of any analysis or other information related to a surface transportation project;

"(D) host an early scoping meeting for Federal agencies and, when appropriate, conduct field reviews, as soon as practicable in the environmental review process;

"(E) solicit from each cooperating agency as early as practicable the data and analyses necessary to facilitate execution of the duties of each cooperating agency;

"(F) use, to the maximum extent possible, scientific, technical, and environmental data and analyses previously prepared by or for other Federal, State, tribal, or local agencies, after an independent evaluation by the Secretary of the data and analyses;

"(G) jointly, with the cooperating agencies, host public meetings and other community participation processes; and

"(H) ensure that the NEPA process and documentation provide all necessary information for the cooperating agency to—

"(i) discharge the responsibilities of the cooperating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other law; and

"(ii) grant approvals, permits, licenses, and clearances.

"(f) ENHANCED SCOPING PROCESS.—During the scoping process for a surface transportation project, in addition to other statutory and regulatory requirements, the Secretary shall, to the extent practicable—

"(1) provide the public with clearly understandable milestones that occur during an integrated decisionmaking process;

"(2) ensure that all agencies with jurisdiction by law or with special expertise have sufficient information and data to discharge their responsibilities;

"(3) ensure that all agencies with jurisdiction by law or with special expertise, and the public, are invited to participate in the initial scoping process;

"(4) coordinate with other agencies to ensure that the agencies provide to the Secretary, not later than 30 days after the first interagency scoping meeting, any preliminary concerns about how the proposed project may affect matters within their jurisdiction or special expertise based on information available at the time of the scoping meeting; and

"(5) in cooperation with all cooperating agencies, develop a schedule for conducting all necessary environmental and other review processes.

"(g) USE OF TITLE 23 FUNDS.—

"(1) USE BY STATES.—A State may use funds made available under section 104(b) or 105 of title 23 or section 1102(c) of the Intermodal Surface Transportation Efficiency Act of 1997 to provide resources to Federal or State agencies involved in the review or permitting process for a surface transportation project in order to meet a time schedule established under this section.

"(2) USE AT SECRETARY'S DISCRETION.—At the request of another Federal agency involved in the review or permitting process for a surface transportation project, the Secretary may provide funds under chapter 1 of title 23 to the agency to provide resources necessary to meet the time schedules established under this section.

"(2) AMOUNT.—Funds may be provided under paragraph (1) in the amount by which the cost to complete a environmental review in accordance with a time schedule established under this section exceeds the cost that would be incurred if there were no such time schedule.

"(3) NOT FINAL AGENCY ACTION.—The provision of funds under paragraph (1) does not constitute a final agency action.

"(h) STATE ROLE.—

"(1) IN GENERAL.—For any project eligible for assistance under chapter 1 of title 23, a State may require, by law or agreement coordinating with all related State agencies, that all State agencies that—

"(A) have jurisdiction by Federal or State law over environmental, growth management, or land-use related issues that may be affected by a surface transportation project; or

"(B) have responsibility for issuing any environment related reviews, analyses, opinions, or determinations;

be subject to the coordinated environmental review process provided under this section in issuing any analyses or approvals or taking any other action relating to the project.

"(2) ALL AGENCIES.—If a State requires that any State agency participate in a coordinated environmental review process, the State shall require all affected State agencies to participate.

"(i) EARLY ACTION REGARDING POTENTIALLY INSURMOUNTABLE OBSTACLES.—If, at any time during the integrated decisionmaking process for a proposed surface transportation project, a cooperating agency determines that there is any potentially insurmountable obstacle associated with any of the alternative transportation projects that might be undertaken to address the obstacle, the Secretary shall—

"(1) convene a meeting among the cooperating agencies to address the obstacle;

"(2) initiate conflict resolution efforts under subsection (j); or

"(3) eliminate from consideration the alternative transportation project with which the obstacle is associated.

"(j) CONFLICT RESOLUTION.—

"(1) FORUM.—The NEPA process shall be used as a forum to coordinate the actions of Federal, State, regional, tribal, and local agencies, the private sector, and the public to develop and shape surface transportation projects.

"(2) APPROACHES.—Collaborative, problem solving, and consensus building approaches shall be used (and, when appropriate, mediation may be used) to implement the integrated decisionmaking process with a goal of appropriately considering factors relating to transportation development, economic prosperity, protection of public health and the environment, community and neighborhood preservation, and quality of life for present and future generations.

"(3) UNRESOLVED ISSUES.—

"(A) NOTIFICATION.—If, before the final transportation NEPA document is approved—

"(i) an issue remains unresolved between the lead Federal agency and the cooperating agency; and

"(ii) efforts have been exhausted to resolve the issue at the field levels of each agency—

"(I) within the applicable timeframe of the interagency schedule established under subsection (f)(5); or

"(II) if no timeframe is established, within 90 days;

the field level officer of the lead agency shall notify the field level officer of the cooperating agency that the field level officer of the lead agency intends to bring the issue to the personal attention of the heads of the agencies.

"(B) EFFORTS BY THE AGENCY HEADS.—The head of the lead agency shall contact the head of the cooperating agency and attempt to resolve the issue within 30 days after notification by the field level officer of the unresolved issue.

"(C) CONSULTATION WITH CEQ.—The heads of the agencies are encouraged to consult with the Chair of the Council on Environmental Quality during the 30-day period under subparagraph (B).

"(D) FAILURE TO RESOLVE.—If the heads of the agencies do not resolve the issue within the time specified in subparagraph (B), the referral process under part 1504 of title 40, Code of Federal Regulations (or any successor regulation), shall be initiated with respect to the issue.

"(k) JUDICIAL REVIEW.—Nothing in this section affects the reviewability of any final agency action in a district court of the United States or any State court.

"(l) STATUTORY CONSTRUCTION.—Nothing in this section affects—

"(1) the applicability of the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other statute; or

"(2) the responsibility of any Federal, State, tribal, or local officer to comply with or enforce any statute or regulation.".

(b) TIMETABLE; REPORT TO CONGRESS.—The Secretary, in consultation with the Chair of the Council on Environmental Quality and after notice and opportunity for public comment—

(1) not later than 180 days after the date of enactment of this Act, shall design the integrated decisionmaking process required by the amendment made by subsection (a);

(2) not later than 1 year after the date of enactment of this Act, shall promulgate a regulation governing implementation of an integrated decisionmaking process in accordance with the amendment made by subsection (a); and

(3) not later than 2 years after the date of enactment of this Act, shall submit to Congress a report identifying any additional legislative or other solutions that would further enhance the integrated decisionmaking process.

(c) CONFORMING AMENDMENT.—The analysis for subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"354. Integrated decisionmaking process.".

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

SEC. 1231. DEFINITION OF OPERATIONAL IMPROVEMENT.

Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining "operational improvement" and inserting the following:

"The term 'operational improvement' means the installation, operation, or maintenance, in accordance with subchapter II of chapter 5, of public infrastructure to support intelligent transportation systems and includes the installation or operation of any traffic management activity, communication system, or roadway weather information and prediction system, and any other improvement that the Secretary may designate that enhances roadway safety and mobility during adverse weather.".

SEC. 1232. ELIGIBILITY OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—Section 129(c) of title 23, United States Code, is amended by inserting "in accordance with sections 103, 133, and 149," after "toll or free,".

(b) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(5) of title 23, United States Code (as amended by section 1234), is amended by adding at the end the following:

"(R) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.".

(c) SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, United States Code, is amended by adding at the end the following:

"(12) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.".

(d) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (4) the following:

"(5) if the project or program is to construct a ferry boat or ferry terminal facility and if the conditions described in section 129(c) are met.".

SEC. 1233. FLEXIBILITY OF SAFETY PROGRAMS.

Section 133(d) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) SAFETY PROGRAMS.—

"(A) IN GENERAL.—With respect to funds apportioned for each of fiscal years 1998 through 2003—

"(i) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 130;

"(ii) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 152; and

"(iii) an amount equal to 6 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 130 or 152.

"(B) TRANSFER OF FUNDS.—If a State certifies to the Secretary that any part of the amount set aside by the State under subparagraph (A)(i) is in excess of the needs of the State for activities under section 130 and the Secretary accepts the certification, the State may transfer that excess part to the set-aside of the State under subparagraph (A)(ii).

"(C) TRANSFERS TO OTHER SAFETY PROGRAMS.—A State may transfer funds set aside under subparagraph (A)(iii) to the apportionment of the State under section 402 or the allocation of the State under section 31104 of title 49.".

SEC. 1234. ELIGIBILITY OF PROJECTS ON THE NATIONAL HIGHWAY SYSTEM.

Section 103(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

"(5) ELIGIBLE PROJECTS FOR NHS.—Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1)(C) for the National Highway System may be obligated for any of the following:

"(A) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the National Highway System.

"(B) Operational improvements for segments of the National Highway System.

"(C) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System, construction of a transit project eligible for assistance under chapter 53 of title 49, and capital improvements to any National Railroad Passenger Corporation passenger rail line or any publicly-owned intercity passenger rail line, if—

"(i) the highway, transit, or rail project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

"(ii) the construction or improvements will improve the level of service on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

"(iii) the construction or improvements are more cost-effective than an improvement to the fully access-controlled highway described in clause (i).

"(D) Highway safety improvements for segments of the National Highway System.

"(E) Transportation planning in accordance with sections 134 and 135.

"(F) Highway research and planning in accordance with chapter 5.

"(G) Highway-related technology transfer activities.

"(H) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

"(I) Fringe and corridor parking facilities.

"(J) Carpool and vanpool projects.

"(K) Bicycle transportation and pedestrian walkways in accordance with section 217.

"(L) Development, establishment, and implementation of management systems under section 303.

"(M) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101–640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction, except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

"(N) Publicly-owned intracity or intercity passenger rail or bus terminals, including terminals of the National Railroad Passenger Corporation and publicly-owned intermodal surface freight transfer facilities, other than seaports and airports, if the terminals and facilities are located on or adjacent to National Highway System routes or connections to the National Highway System selected in accordance with paragraph (2).

"(O) Infrastructure-based intelligent transportation systems capital improvements.

"(P) In the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, any project eligible for funding under section 133, any airport, and any seaport.

"(Q) Publicly owned components of magnetic levitation transportation systems.".

SEC. 1235. ELIGIBILITY OF PROJECTS UNDER THE SURFACE TRANSPORTATION PROGRAM.

Section 133(b) of title 23, United States Code (as amended by section 1232(c)), is amended—

(1) in paragraph (2), by striking "and publicly owned intracity or intercity bus terminals and facilities" and inserting ", including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus or rail";

(2) in paragraph (3)—

(A) by striking "and bicycle" and inserting "bicycle"; and

(B) by inserting before the period at the end the following: ", and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)";

(3) in paragraph (4)—

(A) by inserting ", publicly owned passenger rail," after "Highway";

(B) by inserting "infrastructure" after "safety"; and

(C) by inserting before the period at the end the following: ", and any other noninfrastructure highway safety improvements";

(4) in the first sentence of paragraph (11)—

(A) by inserting "natural habitat and" after "participation in" each place it appears;

(B) by striking "enhance and create" and inserting "enhance, and create natural habitats and"; and

(C) by inserting "natural habitat and" before "wetlands conservation"; and

(5) by adding at the end the following:

"(13) Publicly owned intercity passenger rail infrastructure, including infrastructure owned by the National Railroad Passenger Corporation.

"(14) Publicly owned passenger rail vehicles, including vehicles owned by the National Railroad Passenger Corporation.

"(15) Infrastructure-based intelligent transportation systems capital improvements.

"(16) Publicly owned components of magnetic levitation transportation systems.

"(17) Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.".

SEC. 1236. DESIGN FLEXIBILITY.

Section 109 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) REQUIREMENTS FOR FACILITIES.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

"(A) adequately serve the existing traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

"(B) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in subparagraph (A) and to conform to the particular needs of each locality.

"(2) CONSIDERATION OF PLANNED FUTURE TRAFFIC DEMANDS.—In carrying out paragraph (1), the Secretary shall ensure the consideration of the planned future traffic demands of the facility.".

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

SEC. 1301. STATE INFRASTRUCTURE BANK PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 162. State infrastructure bank program

"(a) DEFINITIONS.—In this section:

"(1) OTHER ASSISTANCE.—The term 'other assistance' includes any use of funds in an infrastructure bank—

"(A) to provide credit enhancements;

"(B) to serve as a capital reserve for bond or debt instrument financing;

"(C) to subsidize interest rates;

"(D) to ensure the issuance of letters of credit and credit instruments;

"(E) to finance purchase and lease agreements with respect to transit projects;

"(F) to provide bond or debt financing instrument security; and

"(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which the assistance is being provided.

"(2) STATE.—The term 'State' has the meaning given the term under section 401.

"(b) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—

"(A) PURPOSE OF AGREEMENTS.—Subject to this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

"(B) CONTENTS OF AGREEMENTS.—Each cooperative agreement shall specify procedures and guidelines for establishing, operating, and providing assistance from the infrastructure bank.

"(2) INTERSTATE COMPACTS.—If 2 or more States enter into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, Congress grants consent to those States to enter into an interstate compact establishing the bank in accordance with this section.

"(c) FUNDING.—

"(1) CONTRIBUTION.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (h)(1), a State that enters into a cooperative agreement under this section to contribute to the infrastructure bank established by the State not to exceed—

"(A)(i) the total amount of funds apportioned to the State under each of paragraphs (1) and (3) of section 104(b), excluding funds set aside under paragraphs (1) and (2) of section 133(d); and

"(ii) the total amount of funds allocated to the State under section 105 and under section 1102 of the Intermodal Surface Transportation Efficiency Act of 1997;

"(B) the total amount of funds made available to the State or other Federal transit grant recipient for capital projects (as defined in section 5302 of title 49) under sections 5307, 5309, and 5311 of title 49; and

"(C) the total amount of funds made available to the State under subtitle V of title 49.

"(2) CAPITALIZATION GRANT.—For the purposes of this section, Federal funds contributed to the infrastructure bank under this subsection shall constitute a capitalization grant for the infrastructure bank.

"(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) may be used to provide assistance from an infrastructure bank under this section with respect to a project only if the metropolitan planning organization designated for the area concurs, in writing, with the provision of the assistance.

"(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

"(1) IN GENERAL.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section.

"(2) SUBORDINATION OF LOANS.—The amount of any loan or other assistance provided for the project may be subordinated to any other debt financing for the project.

"(3) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section shall not be made in the form of a grant.

"(e) QUALIFYING PROJECTS.—

"(1) IN GENERAL.—Subject to paragraph (2), funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under this title, for capital projects (as defined in section 5302 of title 49), or for any other project that the Secretary determines to be appropriate.

"(2) INTERSTATE FUNDS.—Funds contributed to an infrastructure bank from funds apportioned to a State under subparagraph (A) or (B) of section 104(b)(1) may be used only to provide assistance with respect to projects eligible for assistance under those subparagraphs.

"(3) RAIL PROGRAM FUNDS.—Funds contributed to an infrastructure bank from funds made available to a State under subtitle V of title 49 shall be used in a manner consistent with any project description specified under the law making the funds available to the State.

"(f) INFRASTRUCTURE BANK REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), in order to establish an infrastructure bank under this section, each State establishing such a bank shall—

"(A) contribute, at a minimum, to the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank under subsection (c);

"(B) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances and its ability to pay claims under credit enhancement programs of the bank;

"(C) ensure that investment income generated by funds contributed to the bank will be—

"(i) credited to the bank;

"(ii) available for use in providing loans and other assistance to projects eligible for assistance from the bank; and

"(iii) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

"(D) ensure that any loan from the bank will bear interest at or below market rates, as determined by the State, to make the project that is the subject of the loan feasible;

"(E) ensure that repayment of the loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

"(F) ensure that the term for repaying any loan will not exceed the lesser of—

"(i) 35 years after the date of the first payment on the loan under subparagraph (E); or

"(ii) the useful life of the investment; and

"(G) require the bank to make a biennial report to the Secretary and to make such other reports as the Secretary may require in guidelines.

"(2) WAIVERS BY THE SECRETARY.—The Secretary may waive a requirement of any of subparagraphs (C) through (G) of paragraph (1) with respect to an infrastructure bank if the Secretary determines that the waiver is consistent with the objectives of this section.

"(g) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

"(h) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

"(1) ensure that Federal disbursements shall be at an annual rate of not more than 20 percent of the amount designated by the State for State infrastructure bank capitalization under subsection (c)(1), except that the Secretary may disburse funds to a State in an amount needed to finance a specific project; and

"(2) revise cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995 (Public Law 104–59) to comply with this section.

"(i) APPLICABILITY OF FEDERAL LAW.—

"(1) IN GENERAL.—The requirements of this title or title 49 that would otherwise apply to funds made available under that title and projects assisted with those funds shall apply to—

"(A) funds made available under that title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under section (f); and

"(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of that title (other than sections 113 and 114 of this title and section 5333 of title 49) is not consistent with the objectives of this section.

"(2) REPAYMENTS.—The requirements of this title or title 49 shall not apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall not be considered to be Federal funds.

"(j) UNITED STATES NOT OBLIGATED.—

"(1) IN GENERAL.—The contribution of Federal funds to an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party. No third party shall have any right against the United States for payment solely by virtue of the contribution.

"(2) STATEMENT.—Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

"(k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

"(l) PROGRAM ADMINISTRATION.—

"(1) IN GENERAL.—A State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

"(2) NON-FEDERAL FUNDS.—The limitation described in paragraph (1) shall not apply to non-Federal funds.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"162. State infrastructure bank program.".

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

SEC. 1311. SHORT TITLE.

This chapter may be cited as the "Transportation Infrastructure Finance and Innovation Act of 1997".

SEC. 1312. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

SEC. 1313. DEFINITIONS.

In this chapter:

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) interest during construction, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(2) FEDERAL CREDIT INSTRUMENT.—The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

(3) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(4) LINE OF CREDIT.—The term "line of credit" means an agreement entered into by the Secretary with an obligor under section 1316 to provide a direct loan at a future date upon the occurrence of certain events.

(5) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(6) LOCAL SERVICER.—The term "local servicer" means—

(A) a State infrastructure bank established under title 23, United States Code; or

(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

(7) OBLIGOR.—The term "obligor" means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(8) PROJECT.—The term "project" means any surface transportation project eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code.

(9) PROJECT OBLIGATION.—The term "project obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(10) SECURED LOAN.—The term "secured loan" means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 1315.

(11) STATE.—The term "State" has the meaning given the term in section 101 of title 23, United States Code.

(12) SUBSTANTIAL COMPLETION.—The term "substantial completion" means the opening of a project to vehicular or passenger traffic.

SEC. 1314. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

(a) ELIGIBILITY.—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project—

(A) shall be included in the State transportation plan required under section 135 of title 23, United States Code; and

(B) at such time as an agreement to make available a Federal credit instrument is entered into under this chapter, shall be included in the approved State transportation improvement program required under section 134 of that title.

(2) APPLICATION.—A State, a local servicer identified under section 1317(a), or the entity undertaking the project shall submit a project application to the Secretary.

(3) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $100,000,000; or

(ii) 50 percent of the amount of Federal-aid highway funds apportioned for the most recently-completed fiscal year under title 23, United States Code, to the State in which the project is located.

(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $30,000,000.

(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

(2) SELECTION CRITERIA.—The selection criteria shall include the following:

(A) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(B) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment. The Secretary shall require each project applicant to provide a preliminary rating opinion letter from a nationally recognized bond rating agency.

(C) The extent to which assistance under this chapter would foster innovative public-private partnerships and attract private debt or equity investment.

(D) The likelihood that assistance under this chapter would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(E) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(F) The amount of budget authority required to fund the Federal credit instrument made available under this chapter.

(c) FEDERAL REQUIREMENTS.—The following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

SEC. 1315. SECURED LOANS.

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs; or

(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 1314.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

(3) AUTHORIZATION PERIOD.—The Secretary may enter into a loan agreement during any of fiscal years 1998 through 2003.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) PAYMENT.—The secured loan—

(A) shall be payable, in whole or in part, from revenues generated by any rate covenant, coverage requirement, or similar security feature supporting the project obligations or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(4) INTEREST RATE.—The interest rate on the secured loan shall be equal to the yield on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of making a secured loan under this section.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

(4) DEFERRED PAYMENTS.—

(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay scheduled principal and interest on the secured loan, the Secretary may, pursuant to established criteria for the project agreed to by the entity undertaking the project and the Secretary, allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

(5) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—As soon as practicable after substantial completion of a project, the Secretary shall sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

SEC. 1316. LINES OF CREDIT.

(a) IN GENERAL.—

(1) AGREEMENTS.—The Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 1314.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNTS.—

(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(B) ONE-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay the costs specified in subsection (a)(2).

(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

(5) SECURITY.—The line of credit—

(A) shall be made available only in connection with a project obligation secured, in whole or in part, by a rate covenant, coverage requirement, or similar security feature or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

(7) RIGHTS OF THIRD PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to

the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A line of credit under this section shall not be issued for a project with respect to which another Federal credit instrument under this chapter is made available.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and be fully repaid, with interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

SEC. 1317. PROJECT SERVICING.

(a) REQUIREMENT.—The State in which a project that receives financial assistance under this chapter is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this chapter.

(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

(1) shall act as the agent for the Secretary; and

(2) may receive a servicing fee, subject to approval by the Secretary.

(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

SEC. 1318. OFFICE OF INFRASTRUCTURE FINANCE.

(a) DUTIES OF THE SECRETARY.—Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.".

(b) OFFICE OF INFRASTRUCTURE FINANCE.—

(1) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"§ 113. Office of Infrastructure Finance

"(a) ESTABLISHMENT.—The Secretary of Transportation shall establish within the Office of the Secretary an Office of Infrastructure Finance.

"(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 180 days after the date of enactment of this section.

"(c) FUNCTIONS.—The Director shall be responsible for—

"(1) carrying out the responsibilities of the Secretary described in section 301(9);

"(2) carrying out research on financing transportation infrastructure, including educational programs and other initiatives to support Federal, State, and local government efforts; and

"(3) providing technical assistance to Federal, State, and local government agencies and officials to facilitate the development and use of alternative techniques for financing transportation infrastructure.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"113. Office of Infrastructure Finance.".

SEC. 1319. STATE AND LOCAL PERMITS.

The provision of financial assistance under this chapter with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

SEC. 1320. REGULATIONS.

The Secretary may issue such regulations as the Secretary determines appropriate to carry out this chapter and the amendments made by this chapter.

SEC. 1321. FUNDING.

(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this chapter—

(A) $60,000,000 for fiscal year 1998;

(B) $60,000,000 for fiscal year 1999;

(C) $90,000,000 for fiscal year 2000;

(D) $90,000,000 for fiscal year 2001;

(E) $115,000,000 for fiscal year 2002; and

(F) $115,000,000 for fiscal year 2003.

(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this chapter, not more than $2,000,000 for each of fiscal years 1998 through 2003.

(3) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

(b) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this chapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this chapter shall be limited to the amounts specified in the following table:

Fiscal year:	Maximum amount of credit:
1998	$1,200,000,000
1999	$1,200,000,000
2000	$1,800,000,000
2001	$1,800,000,000
2002	$2,000,000,000
2003	$2,000,000,000.

(d) LIMITATIONS ON OBLIGATIONS.—Notwithstanding any other provision of law, the total amount of all obligations under subsection (a) shall not exceed—

(1) $60,000,000 for fiscal year 1998;

(2) $60,000,000 for fiscal year 1999;

(3) $90,000,000 for fiscal year 2000;

(4) $90,000,000 for fiscal year 2001;

(5) $115,000,000 for fiscal year 2002; and

(6) $115,000,000 for fiscal year 2003.

SEC. 1322. REPORT TO CONGRESS.

Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter, including a recommendation as to whether the objectives of this chapter are best served—

(1) by continuing the program under the authority of the Secretary;

(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter without Federal participation.

Subtitle D—Safety

SEC. 1401. OPERATION LIFESAVER.

Section 104 of title 23, United States Code (as amended by section 1102(a)), is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by striking "subsection (f)" and inserting "subsections (d) and (f)"; and

(2) in subsection (d), by striking paragraph (1) and inserting the following:

"(1) OPERATION LIFESAVER.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $500,000 of the funds authorized to be appropriated for the surface transportation program for the fiscal year to carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.".

SEC. 1402. RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.

Section 104(d) of title 23, United States Code, is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

"(A) IN GENERAL.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,000,000 of the funds authorized to be appropriated for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings.

"(B) ELIGIBLE CORRIDORS.—Funds made available under subparagraph (A) shall be expended for projects in—

"(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause); and

"(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D).

"(C) REQUIRED INCLUSION OF HIGH SPEED RAIL LINES.—A corridor selected by the Secretary under subparagraph (B) shall include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.

"(D) CONSIDERATIONS IN CORRIDOR SELECTION.—In selecting corridors under subparagraph (B), the Secretary shall consider—

"(i) projected rail ridership volume in each corridor;

"(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

"(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

"(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

"(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.".

SEC. 1403. RAILWAY-HIGHWAY CROSSINGS.

Section 130 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "structures, and" and inserting "structures,"; and

(B) by inserting after "grade crossings," the following: "trespassing countermeasures in the immediate vicinity of a public railway-highway grade crossing, railway-highway crossing safety education, enforcement of traffic laws relating to railway-highway crossing safety, and projects at privately owned railway-highway crossings if each such project is publicly sponsored and the Secretary determines that the project would serve a public benefit,";

(2) in subsection (d), by adding at the end the following: "In a manner established by the Secretary, each State shall submit a report that describes completed railway-highway crossing projects funded under this section to the Department of Transportation for inclusion in the National Grade Crossing Inventory prepared by the Department of Transportation and the Association of American Railroads."; and

(3) by striking subsection (e).

SEC. 1404. HAZARD ELIMINATION PROGRAM.

(a) IN GENERAL.—Section 152 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting ", bicyclists," after "motorists";

(2) in subsection (b), by striking "highway safety improvement project" and inserting "safety improvement project, including a project described in subsection (a)"; and

(3) in subsection (c), by striking "on any public road (other than a highway on the Interstate System)." and inserting the following: "on—

"(1) any public road;

"(2) any public transportation vehicle or facility, any publicly owned bicycle or pedestrian pathway or trail, or any other facility that the Secretary determines to be appropriate; or

"(3) any traffic calming measure.".

(b) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended—

(A) in the undesignated paragraph defining "highway safety improvement project", by striking "highway safety" and inserting "safety"; and

(B) by moving that undesignated paragraph to appear before the undesignated paragraph defining "Secretary".

(2) Section 152 of title 23, United States Code, is amended in subsections (f) and (g) by striking "highway safety improvement projects" each place it appears and inserting "safety improvement projects".

SEC. 1405. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1301(a)), is amended by adding at the end the following:

"§ 163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

"(a) DEFINITIONS.—In this section:

"(1) ALCOHOL CONCENTRATION.—The term 'alcohol concentration' means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

"(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

"(3) LICENSE SUSPENSION.—The term 'license suspension' means the suspension of all driving privileges.

"(4) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

"(5) REPEAT INTOXICATED DRIVER LAW.—The term 'repeat intoxicated driver law' means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within 5 years after a conviction for that offense whose alcohol concentration with respect to the second or subsequent offense was determined on the basis of a chemical test to be equal to or greater than 0.15 shall receive—

"(A) a license suspension for not less than 1 year;

"(B) an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

"(C) either—

"(i) an assignment of 30 days of community service; or

"(ii) 5 days of imprisonment.

"(b) TRANSFER OF FUNDS.—

"(1) FISCAL YEARS 2001 AND 2002.—

"(A) IN GENERAL.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used for alcohol-impaired driving programs.

"(B) DERIVATION OF AMOUNT TO BE TRANSFERRED.—An amount transferred under subparagraph (A) may be derived—

"(i) from the apportionment of the State under section 104(b)(1);

"(ii) from the apportionment of the State under section 104(b)(3); or

"(iii) partially from the apportionment of the State under section 104(b)(1) and partially from the apportionment of the State under section 104(b)(3).

"(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer 3 percent of the funds apportioned to the State on that date under each of paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used for alcohol-impaired driving programs.

"(3) FEDERAL SHARE.—The Federal share of the cost of a project carried out under section 402 with funds transferred under paragraph (1) or (2) shall be 100 percent.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

"(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

"(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

"(ii) the ratio that—

"(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

"(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

"(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under that section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1301(b)), is amended by adding at the end the following:

"163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.".

SEC. 1406. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1405(a)), is amended by adding at the end the following:

"§ 164. Safety incentive grants for use of seat belts

"(a) DEFINITIONS.—In this section:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

"(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term 'multipurpose passenger motor vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

"(3) NATIONAL AVERAGE SEAT BELT USE RATE.—The term 'national average seat belt use rate' means, in the case of each of calendar years 1995 through 2001, the national average seat belt use rate for that year, as determined by the Secretary.

"(4) PASSENGER CAR.—The term 'passenger car' means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

"(5) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

"(6) SAVINGS TO THE FEDERAL GOVERNMENT.—The term 'savings to the Federal Government' means the amount of Federal budget savings relating to Federal medical costs (including savings under the medicare and medicaid programs under titles XVIII

and XIX of the Social Security Act (42 U.S.C. 1395 et seq.)), as determined by the Secretary.

"(7) SEAT BELT.—The term 'seat belt' means—

"(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

"(8) STATE SEAT BELT USE RATE.—The term 'State seat belt use rate' means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary—

"(A) for each of calendar years 1995 through 1997, by the State, as adjusted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

"(B) for each of calendar years 1998 through 2001, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

"(b) DETERMINATIONS BY THE SECRETARY.—Not later than 30 days after the date of enactment of this section, and not later than September 1 of each calendar year thereafter through September 1, 2002, the Secretary shall determine—

"(1)(A) which States had, for each of the previous calendar years (referred to in this subsection as the 'previous calendar year') and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and

"(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate for the previous calendar year exceeds the national average seat belt use rate for that year; and

"(2) in the case of each State that is not a State described in paragraph (1)(A)—

"(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1995 through the calendar year preceding the previous calendar year; and

"(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

"(c) ALLOCATIONS.—

"(1) STATES WITH GREATER THAN THE NATIONAL AVERAGE SEAT BELT USE RATE.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

"(2) OTHER STATES.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

"(d) USE OF FUNDS.—For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

"(e) CRITERIA.—Not later than 180 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

"(f) FUNDING.—

"(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $60,000,000 for fiscal year 1998, $70,000,000 for fiscal year 1999, $80,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $100,000,000 for each of fiscal years 2002 and 2003.

"(2) PROPORTIONATE ADJUSTMENT.—If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph (1), the allocation to each State under subsection (c) shall be reduced proportionately.

"(3) USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts—

"(A) shall be apportioned in accordance with section 104(b)(3);

"(B) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d); and

"(C) shall be available for any purpose eligible for funding under section 133.

"(4) ADMINISTRATIVE EXPENSES.—Not more than 2 percent of the funds made available to carry out this section may be used to pay the necessary administrative expenses incurred in carrying out this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1405(b)), is amended by adding at the end the following:

"164. Safety incentive grants for use of seat belts.".

SEC. 1407. AUTOMATIC CRASH PROTECTION UNBELTED TESTING STANDARD.

(a) IN GENERAL.—

(1) TESTING WITH SIMULTANEOUS USE.—Beginning on the date of enactment of this Act, for the purpose of certification under section 30115 of title 49, United States Code, of compliance with the motor vehicle safety standards under section 30111 of that title, a manufacturer or distributor of a motor vehicle shall be deemed to be in compliance with applicable performance standards for occupant crash protection if the motor vehicle meets the applicable requirements for testing with the simultaneous use of both an automatic restraint system and a manual seat belt.

(2) PROHIBITION.—In no case shall a manufacturer or distributor use, for the purpose of the certification referred to in paragraph (1), testing that provides for the use of an automatic restraint system without the use of a manual seat belt.

(b) REVISION OF STANDARDS.—The Secretary shall issue such revised standards under section 30111 of title 49, United States Code, as are necessary to conform to subsection (a).

Subtitle E—Environment

SEC. 1501. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1406(a)) is amended by adding at the end the following:

"§ 165. National scenic byways program

"(a) DESIGNATION OF ROADS.—

"(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as National Scenic Byways or All-American Roads.

"(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

"(3) NOMINATION.—To be considered for the designation, a road must be nominated by a State or a Federal land management agency and must first be designated as a State scenic byway or, in the case of a road on Federal land, as a Federal land management agency byway.

"(b) GRANTS AND TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States to—

"(A) implement projects on highways designated as National Scenic Byways or All-American Roads, or as State scenic byways; and

"(B) plan, design, and develop a State scenic byway program.

"(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

"(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway or All-American Road and that is consistent with the corridor management plan for the byway;

"(B) each eligible project along a State-designated scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as a National Scenic Byway or All-American Road; and

"(C) each eligible project that is associated with the development of a State scenic byway program.

"(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

"(1) An activity related to the planning, design, or development of a State scenic byway program.

"(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

"(3) Safety improvements to a State scenic byway, National Scenic Byway, or All-American Road to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, National Scenic Byway, or All-American Road.

"(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, passing lane, overlook, or interpretive facility.

"(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

"(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

"(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

"(8) Development and implementation of a scenic byways marketing program.

"(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

"(e) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byways project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $17,000,000 for fiscal year 1999, $19,000,000 for fiscal year 2000, $19,000,000 for fiscal year 2001, $21,000,000 for fiscal year 2002, and $23,000,000 for fiscal year 2003.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

"165. National scenic byways program.".

SEC. 1502. PUBLIC-PRIVATE PARTNERSHIPS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

"(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

"(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

"(B) cost sharing of any project expense;

"(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

"(D) any other form of participation approved by the Secretary.

"(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(2) to an entity described in paragraph (1).

"(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

"(A) may include the costs of vehicle refueling infrastructure and other capital investments associated with the project; and

"(B) shall—

"(i) include only the incremental cost of an alternative fueled vehicle compared to a conventionally fueled vehicle that would otherwise be borne by a private party; and

"(ii) apply other governmental financial purchase contributions in the calculation of net incremental cost.

"(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.".

SEC. 1503. WETLAND RESTORATION PILOT PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) surface transportation has unintended but negative consequences for wetlands and other water resources;

(2) in almost every State, construction and other highway activities have reduced or eliminated wetland functions and values, such as wildlife habitat, ground water recharge, flood control, and water quality benefits;

(3) the United States has lost more than ½ of the estimated 220,000,000 acres of wetlands that existed during colonial times; and

(4) while the rate of human-induced destruction and conversion of wetlands has slowed in recent years, the United States has suffered unacceptable wetland losses as a result of highway projects.

(b) ESTABLISHMENT.—The Secretary shall establish a national wetland restoration pilot program (referred to in this section as the "program") to fund mitigation projects to offset the degradation of wetlands, or the loss of functions and values of the aquatic resource, resulting from projects carried out before December 27, 1977, under title 23, United States Code (or similar projects as determined by the Secretary), for which mitigation has not been performed.

(c) APPLICATIONS.—To be eligible for funding under the program, a State shall submit an application to the Secretary that includes—

(1) a description of the wetland proposed to be restored by a mitigation project described in subsection (b) (referred to in this section as a "wetland restoration project") under the program (including the size and quality of the wetland);

(2) such information as is necessary to establish a nexus between—

(A) a project carried out under title 23, United States Code (or a similar project as determined by the Secretary); and

(B) the wetland values and functions proposed to be restored by the wetland restoration project;

(3) a description of the benefits expected from the proposed wetland restoration project (including improvement of water quality, improvement of wildlife habitat, ground water recharge, and flood control);

(4) a description of the State's level of commitment to the proposed wetland restoration project (including the monetary commitment of the State and any development of a State or regional conservation plan that includes the proposed wetland restoration); and

(5) the estimated total cost of the wetland restoration project.

(d) SELECTION OF WETLAND RESTORATION PROJECTS.—

(1) INTERAGENCY COUNCIL.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall establish an interagency advisory council to—

(A) review the submitted applications that meet the requirements of subsection (c); and

(B) not later than 60 days after the application deadline, select wetland restoration projects for funding under the program.

(2) SELECTION CRITERIA FOR PRIORITY WETLAND RESTORATION PROJECTS.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall give priority in funding under this section to wetland restoration projects that—

(A) provide for long-term monitoring and maintenance of wetland resources;

(B) are managed by an entity, such as a nature conservancy, with expertise in the long-term monitoring and protection of wetland resources; and

(C) have a high likelihood of success.

(e) REPORTS.—Not later than April 1, 2000, and April 1, 2003, the Secretary shall submit a report to Congress on the results of the program.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for fiscal year 1998, $13,000,000 for fiscal year 1999, $14,000,000 for fiscal year 2000, $17,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $24,000,000 for fiscal year 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle F—Planning

SEC. 1601. METROPOLITAN PLANNING.

(a) IN GENERAL.—Section 134 of title 23, United States Code, is amended to read as follows:

"§ 134. Metropolitan planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—Congress finds that it is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

"(3) CONTENTS.—The plans and programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

"(4) PROCESS.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) REDESIGNATION.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(3) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(4) STRUCTURE.—Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization as of June 1, 1991); and

"(C) appropriate State officials.

"(5) OTHER AUTHORITY.—Nothing in this subsection interferes with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; or

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities under State law.

"(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, shall be retained, except that the boundaries may be adjusted by agreement of the affected metropolitan planning organizations and Governors in the manner described in subsection (b)(2).

"(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997 as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established by agreement between the appropriate units of general purpose local government (including the central city) and the Governor;

"(B) shall encompass at least the urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period;

"(C) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census; and

"(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(e) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—If more than 1 metropolitan planning organization has authority within a metropolitan planning area or an area that is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each such metropolitan planning organization shall consult with the other metropolitan planning organizations designated for the area and the State in the development of plans and programs required by this section.

"(f) SCOPE OF PLANNING PROCESS.—The metropolitan transportation planning process for a metropolitan area under this section shall consider the following:

"(1) Supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.

"(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

"(3) Increasing the accessibility and mobility options available to people and for freight.

"(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

"(5) Enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight.

"(6) Promoting efficient system management and operation.

"(7) Emphasizing the preservation of the existing transportation system.

"(g) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—

"(1) IN GENERAL.—

"(A) DEVELOPMENT.—In accordance with this subsection, each metropolitan planning organization shall develop, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long-range transportation plan for its metropolitan area.

"(B) FORECAST PERIOD.—In developing long-range transportation plans, the metropolitan planning process shall address—

"(i) the considerations under subsection (f); and

"(ii) any State or local goals developed within the cooperative metropolitan planning process;

as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process.

"(C) FUNDING ESTIMATES.—For the purpose of developing the long-range transportation plan, the State shall consult with the metropolitan planning organization and each public transit agency in developing estimates of funds that are reasonably expected to be available to support plan implementation.

"(2) LONG-RANGE TRANSPORTATION PLAN.—A long-range transportation plan under this subsection shall, at a minimum, contain—

"(A) an identification of transportation facilities (including major roadways and transit, multimodal, and intermodal facilities) that should function as a future integrated transportation system, giving emphasis to those facilities that serve important national, regional, and metropolitan transportation functions;

"(B) an identification of transportation strategies necessary to—

"(i) ensure preservation, including requirements for management, operation, modernization, and rehabilitation, of the existing and future transportation system; and

"(ii) make the most efficient use of existing transportation facilities to relieve congestion, to efficiently serve the mobility needs of people and goods, and to enhance access within the metropolitan planning area; and

"(C) a financial plan that demonstrates how the long-range transportation plan can be implemented, indicates total resources from public and private sources that are reasonably expected to be available to carry out the plan (without any requirement for indicating project-specific funding sources), and recommends any additional financing strategies for needed projects and programs.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before adopting a long-range transportation plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan.

"(5) PUBLICATION OF LONG-RANGE TRANSPORTATION PLAN.—Each long-range transportation plan prepared by a metropolitan planning organization shall be—

"(A) published or otherwise made readily available for public review; and

"(B) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

"(B) OPPORTUNITY FOR COMMENT.—In developing the program, the metropolitan planning organization, in cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(C) FUNDING ESTIMATES.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(D) UPDATING AND APPROVAL.—The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) CONTENTS.—The transportation improvement program shall include—

"(A) a list, in order of priority, of proposed federally supported projects and strategies to be carried out within each 3-year-period after the initial adoption of the transportation improvement program; and

"(B) a financial plan that—

"(i) demonstrates how the transportation improvement program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program (without any requirement for indicating project-specific funding sources); and

"(iii) identifies innovative financing techniques to finance projects, programs, and strategies (without any requirement for indicating project-specific funding sources).

"(3) INCLUDED PROJECTS.—

"(A) CHAPTER 1 AND CHAPTER 53 PROJECTS.—A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of this title shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of this title that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(4) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall, in cooperation with the State and any affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(5) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the transportation improvement program development required under paragraph (1), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program—

"(i) by—

"(I) in the case of projects under chapter 1, the State; and

"(II) in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

"(ii) in cooperation with the metropolitan planning organization.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project of higher priority in the program.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—

"(A) REQUIRED DESIGNATIONS.—The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

"(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and any affected public transit operator.

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies.

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—In addition to the transportation improvement program development required under subsection (h)(1), all federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System) or under chapter 53 of title 49 shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a transportation management area on the National Highway System shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

"(ii) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor.

"(C) EFFECT OF FAILURE TO CERTIFY.—

"(i) WITHHOLDING OF FUNDS.—If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

"(iii) FEASIBILITY OF PRIVATE ENTERPRISE PARTICIPATION.—The Secretary shall not withhold certification under this paragraph based on the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated metropolitan transportation plan and program that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or programs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title or chapter 53 of title 49, in the case of a transportation management area classified as nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be programmed in the area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project results from an approved congestion management system.

"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

"(l) LIMITATION.—Nothing in this section confers on a metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not eligible for assistance under this title or chapter 53 of title 49.

"(m) FUNDING.—

"(1) IN GENERAL.—Funds set aside under section 104(f) of this title and section 5303 of title 49 shall be available to carry out this section.

"(2) UNUSED FUNDS.—Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 134 and inserting the following:

"134. Metropolitan planning.".

SEC. 1602. STATEWIDE PLANNING.

Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Statewide planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight throughout each State.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134 of this title and sections 5303 through 5305 of title 49, each State shall develop transportation plans and programs for all areas of the State.

"(3) CONTENTS.—The plans and programs for each State shall provide for the development and integrated management and operation of transportation systems (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal State transportation system and an integral part of the intermodal transportation system of the United States.

"(4) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) SCOPE OF PLANNING PROCESS.—Each State shall carry out a transportation planning process that shall consider the following:

"(1) Supporting the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency.

"(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

"(3) Increasing the accessibility and mobility options available to people and for freight.

"(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

"(5) Enhancing the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight.

"(6) Promoting efficient system management and operation.

"(7) Emphasizing the preservation of the existing transportation system.

"(c) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall—

"(1) coordinate the planning with the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

"(2) carry out the responsibilities of the State for the development of the transportation portion of the State air quality implementation plan to the extent required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(d) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum, consider—

"(1) with respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.

"(e) LONG-RANGE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—Each State shall develop a long-range transportation plan, with a minimum 20-year forecast period, for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the plan shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

"(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area, the plan shall be developed in consultation with local elected officials representing units of general purpose local government.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

"(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—The State shall develop a transportation improvement program for all areas of the State.

"(B) CONSULTATION WITH GOVERNMENTS.—

"(i) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

"(ii) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with units of general purpose local government.

"(iii) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(C) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(2) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall—

"(i) be consistent with the long-range transportation plan developed under this section for the State;

"(ii) be identical to the project as described in an approved metropolitan transportation improvement program; and

"(iii) be in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—

"(i) IN GENERAL.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(ii) LIMITATION.—Clause (i) does not require the indication of project-specific funding sources.

"(E) PRIORITIES.—The program shall reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

"(3) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

"(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals (excluding projects carried out on the National Highway System) shall be selected, from the approved statewide transportation improvement program, by the State in cooperation with the affected local officials.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out in areas described in subparagraph (A) on the National Highway System shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials.

"(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and, on a finding that the planning process through which the program was developed is consistent with this section and section 134, approved not less frequently than biennially by the Secretary.

"(5) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law,

action by the Secretary shall not be required to advance a project included in the approved statewide transportation improvement program in place of another project of higher priority in the program.

"(g) FUNDING.—Funds set aside under section 505 of this title and section 5313(b) of title 49 shall be available to carry out this section.

"(h) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section or section 134 are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section or section 134 shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 1603. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish an advanced travel forecasting procedures program—

(1) to provide for completion of the advanced transportation model developed under the Transportation Analysis Simulation System (referred to in this section as "TRANSIMS"); and

(2) to provide support for early deployment of the advanced transportation modeling computer software and graphics package developed under TRANSIMS and the program established under this section to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available under this section to—

(1) provide funding for completion of core development of the advanced transportation model;

(2) develop user-friendly advanced transportation modeling computer software and graphics packages;

(3) provide training and technical assistance with respect to the implementation and application of the advanced transportation model to States, local governments, and metropolitan planning organizations with responsibility for travel modeling; and

(4) allocate funds to not more than 12 entities described in paragraph (3), representing a diversity of populations and geographic regions, for a pilot program to enable transportation management areas designated under section 134(i) of title 23, United States Code, to convert from the use of travel forecasting procedures in use by the areas as of the date of enactment of this Act to the use of the advanced transportation model.

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for fiscal year 1998, $3,000,000 for fiscal year 1999, $6,500,000 for fiscal year 2000, $5,000,000 for fiscal year 2001, $4,000,000 for fiscal year 2002, and $2,500,000 for fiscal year 2003.

(2) ALLOCATION OF FUNDS.—

(A) FISCAL YEARS 1998 AND 1999.—For each of fiscal years 1998 and 1999, 100 percent of the funds made available under paragraph (1) shall be allocated to activities in described in paragraphs (1), (2), and (3) of subsection (b).

(B) FISCAL YEARS 2000 THROUGH 2003.—For each of fiscal years 2000 through 2003, not more than 50 percent of the funds made available under paragraph (1) may be allocated to activities described in subsection (b)(4).

(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of—

(A) any activity described in paragraph (1), (2), or (3) of subsection (b) shall not exceed 100 percent; and

(B) any activity described in subsection (b)(4) shall not exceed 80 percent.

SEC. 1604. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.

(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a comprehensive initiative to investigate and address the relationships between transportation and community and system preservation.

(b) RESEARCH.—

(1) IN GENERAL.—In cooperation with appropriate Federal agencies, State, regional, and local governments, and other entities eligible for assistance under subsection (d), the Secretary shall carry out a comprehensive research program to investigate the relationships between transportation, community preservation, and the environment.

(2) REQUIRED ELEMENTS.—The program shall provide for monitoring and analysis of projects carried out with funds made available to carry out subsections (c) and (d).

(c) PLANNING.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to plan, develop, and implement strategies to integrate transportation and community and system preservation plans and practices.

(2) PURPOSES.—The purposes of the allocations shall be—

(A) to improve the efficiency of the transportation system;

(B) to reduce the impacts of transportation on the environment;

(C) to reduce the need for costly future investments in public infrastructure; and

(D) to provide efficient access to jobs, services, and centers of trade.

(3) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) propose projects for funding that address the purposes described in paragraph (2);

(B) demonstrate a commitment to public involvement, including involvement of nontraditional partners in the project team; and

(C) demonstrate a commitment of non-Federal resources to the proposed projects.

(d) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) have instituted preservation or development plans and programs that—

(i) meet the requirements of title 23 and chapter 53 of title 49, United States Code; and

(ii) are—

(I) coordinated with adopted preservation or development plans; or

(II) intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment;

(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

(i) spending policies that direct funds to high-growth areas;

(ii) urban growth boundaries to guide metropolitan expansion;

(iii) "green corridors" programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

(iv) other similar programs or policies as determined by the Secretary;

(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment; and

(D) propose projects for funding that address the purposes described in subsection (c)(2).

(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

(4) USE OF ALLOCATED FUNDS.—

(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

(i) any project eligible for funding under title 23 or chapter 53 of title 49, United States Code; or

(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

(I) transit-oriented development plans;

(II) traffic calming measures; or

(III) other coordinated transportation and community and system preservation practices.

(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $20,000,000 for each of fiscal years 1998 through 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle G—Technical Corrections

SEC. 1701. FEDERAL-AID SYSTEMS.

(a) IN GENERAL.—Section 103 of title 23, United States Code, is amended to read as follows:

"§ 103. Federal-aid systems

"(a) IN GENERAL.—For the purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

"(b) NATIONAL HIGHWAY SYSTEM.—

"(1) DESCRIPTION.—The National Highway System consists of an interconnected system of major routes and connectors that—

"(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

"(B) meet national defense requirements; and

"(C) serve interstate and interregional travel.

"(2) COMPONENTS.—The National Highway System consists of the following:

"(A) The Interstate System described in subsection (c).

"(B) Other urban and rural principal arterial routes.

"(C) Other connector highways (including toll facilities) that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

"(D) A strategic highway network consisting of a network of highways that are important to the United States strategic defense policy and that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime. The highways may be highways on or off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(E) Major strategic highway network connectors consisting of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network. The highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(3) MAXIMUM MILEAGE.—The mileage of highways on the National Highway System shall not exceed 178,250 miles.

"(4) MODIFICATIONS TO NHS.—

"(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State or that is proposed by a State and revised by the Secretary if the Secretary determines that the modification—

"(i) meets the criteria established for the National Highway System under this title; and

"(ii) enhances the national transportation characteristics of the National Highway System.

"(B) COOPERATION.—

"(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

"(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

"(c) INTERSTATE SYSTEM.—

"(1) DESCRIPTION.—

"(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico), consists of highways—

"(i) designed—

"(I) in accordance with the standards of section 109(b); or

"(II) in the case of highways in Alaska and Puerto Rico, in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway; and

"(ii) located so as—

"(I) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

"(II) to serve the national defense; and

"(III) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

"(B) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation 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.

"(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

"(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

"(4) INTERSTATE SYSTEM DESIGNATIONS.—

"(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

"(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

"(i) IN GENERAL.—If the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A), the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

"(ii) WRITTEN AGREEMENT OF STATES.—A designation under clause (i) shall be made only upon the written agreement of the State or States described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by the date that is 12 years after the date of the agreement.

"(iii) REMOVAL OF DESIGNATION.—

"(I) IN GENERAL.—If the State or States described in clause (i) have not substantially completed the construction of a highway designated under this subparagraph within the time provided for in the agreement between the Secretary and the State or States under clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

"(II) EFFECT OF REMOVAL.—Removal of the designation of a highway under subclause (I) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

"(iv) PROHIBITION ON REFERRAL AS INTERSTATE SYSTEM ROUTE.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as the highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a route on the Interstate System.

"(C) FINANCIAL RESPONSIBILITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the designation of a highway under this paragraph shall create no additional Federal financial responsibility with respect to the highway.

"(ii) CERTAIN HIGHWAYS.—Subject to section 119(b)(1)(B), a State may use funds available to the State under paragraphs (1) and (3) of section 104(b) for the resurfacing, restoration, rehabilitation, and reconstruction of a highway—

"(I) designated before March 9, 1984, as a route on the Interstate System under subparagraph (A) or as a future Interstate System route under subparagraph (B); or

"(II) designated under subparagraph (A) and located in Alaska or Puerto Rico.

"(d) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—

"(1) INTERSTATE CONSTRUCTION FUNDS NOT IN SURPLUS.—

"(A) IN GENERAL.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997), if the amount does not exceed the Federal share of the costs of construction of segments of the Interstate System in the State included in the most recent Interstate System cost estimate.

"(B) EFFECT OF TRANSFER.—Upon transfer of an amount under subparagraph (A), the construction on which the amount is based, as included in the most recent Interstate System cost estimate, shall be ineligible for funding under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997) or 104(k).

"(2) SURPLUS INTERSTATE CONSTRUCTION FUNDS.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of surplus funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997), if the State has fully financed all work eligible under the most recent Interstate System cost estimate.

"(3) APPLICABILITY OF CERTAIN LAWS.—Funds transferred under this subsection shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred.

"(e) UNOBLIGATED BALANCES OF INTERSTATE SUBSTITUTE FUNDS.—Unobligated balances of funds apportioned to a State under section 103(e)(4)(H) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997) shall be available for obligation by the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on that date.".

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining "Interstate System" by striking "subsection (e) of section 103 of this title" and inserting "section 103(c)".

(B) Section 104(f)(1) of title 23, United States Code, is amended by striking ", except that" and all that follows through "programs".

(C) Section 115(a) of title 23, United States Code, is amended—

(i) in the subsection heading, by striking "SUBSTITUTE,"; and

(ii) in paragraph (1)(A)(i), by striking "103(e)(4)(H),";

(D) Section 118 of title 23, United States Code (as amended by section 1118(b)), is amended—

(i) by striking subsection (d); and

(ii) by redesignating subsections (e), (f), and (g) (as added by section 1103(d)) as subsections (c), (d), and (e), respectively.

(E) Section 129(b) of title 23, United States Code, is amended in the first sentence by striking "which has been" and all that follows through "and has not" and inserting "which is a public road and has not".

(2)(A) Section 139 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 139.

(C) Section 119(a) of title 23, United States Code, is amended in the first sentence—

(i) by striking "sections 103 and 139(c) of this title" and inserting "section 103(c)(1) and, in Alaska and Puerto Rico, under section 103(c)(4)(A)"; and

(ii) by striking "section 139 (a) and (b) of this title" and inserting "subparagraphs (A) and (B) of section 103(c)(4)".

(D) Section 127(f) of title 23, United States Code, is amended by striking "section 139(a)" and inserting "section 103(c)(4)(A)".

(E) Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597) is amended by striking subparagraph (B) and inserting the following:

"(B) TREATMENT OF SEGMENTS.—Subject to subparagraph (C), segments designated as parts of the Interstate System under this paragraph shall be treated in the same manner as segments designated under section 103(c)(4)(A) of title 23, United States Code.".

SEC. 1702. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) DEFINITIONS AND DECLARATION OF POLICY.—

(1) CREATION OF POLICY SECTION.—Section 102 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 102. Declaration of policy";

(B) by redesignating subsection (a) as subsection (c) and moving that subsection to the end of section 146; and

(C) by redesignating subsection (b) as subsection (f) and moving that subsection to the end of section 118 (as amended by section 1701(b)(1)(D)(ii)).

(2) TRANSFER OF POLICY PROVISIONS.—Section 101 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 101. Definitions";

(B) in subsection (a), by striking "(a)";

(C) by striking subsection (b); and

(D) by redesignating subsections (c) through (e) as subsections (a) through (c), respectively, and moving those subsections to section 102 (as amended by paragraph (1)).

(3) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 101 and 102 and inserting the following:

"101. Definitions.
"102. Declaration of policy.".

(B) Section 47107(j)(1)(B) of title 49, United States Code, is amended by striking "section 101(a)" and inserting "section 101".

(b) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking "PROJECTS" and all that follows through "When a State" and inserting "PROJECTS.—When a State";

(B) by striking paragraphs (2) and (3); and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and indenting appropriately;

(2) by striking subsection (c);

(3) in subsection (d), by striking "section 135(f)" and inserting "section 135"; and

(4) by redesignating subsection (d) as subsection (c).

(c) MAINTENANCE.—Section 116 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in the first sentence, by striking "he" and inserting "the Secretary"; and

(B) in the second sentence, by striking "further projects" and inserting "further expenditure of Federal-aid highway program funds"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(d) INTERSTATE MAINTENANCE PROGRAM.—Section 119(a) of title 23, United States Code, is amended in the first sentence by striking "the date of enactment of this sentence" and inserting "March 9, 1984".

(e) ADVANCES TO STATES.—Section 124 of title 23, United States Code, is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

(f) DIVERSION.—

(1) IN GENERAL.—Section 126 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 126.

(g) RAILWAY-HIGHWAY CROSSINGS.—Section 130(f) of title 23, United States Code, is amended by striking "APPORTIONMENT" and all that follows through the first sentence and inserting "FEDERAL SHARE.—".

(h) SURFACE TRANSPORTATION PROGRAM.—Section 133(a) of title 23, United States Code, is amended by striking "ESTABLISHMENT.—The Secretary shall establish" and inserting "IN GENERAL.—The Secretary shall carry out".

(i) CONTROL OF JUNKYARDS.—Section 136 of title 23, United States Code, is amended by striking subsection (m) and inserting the following:

"(m) PRIMARY SYSTEM DEFINED.—For purposes of this section, the term 'primary system' means the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

(j) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

(k) NONDISCRIMINATION.—Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "subsection (a) of section 105 of this title," and inserting "section 106(a),";

(B) by striking "he" each place it appears and inserting "the Secretary";

(C) in the second sentence, by striking "He" and inserting "The Secretary";

(D) in the third sentence, by striking "In approving programs for projects on any of the Federal-aid systems," and inserting "Before approving any project under section 106(a),"; and

(E) in the last sentence, by striking "him" and inserting "the Secretary";

(2) by striking subsection (b);

(3) in the subsection heading of subsection (d), by striking "AND CONTRACTING"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(l) PRIORITY PRIMARY ROUTES.—

(1) IN GENERAL.—Section 147 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147.

(m) DEVELOPMENT OF A NATIONAL SCENIC AND RECREATIONAL HIGHWAY.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148.

(n) HAZARD ELIMINATION PROGRAM.—Section 152(e) of title 23, United States Code, is amended by striking "apportioned to" in the first sentence and all that follows through "shall be" in the second sentence.

(o) ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES.—

(1) IN GENERAL.—Section 155 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155.

SEC. 1703. NONDISCRIMINATION.

(a) IN GENERAL.—Section 324 of title 23, United States Code, is amended—

(1) by inserting "(d) PROHIBITION OF DISCRIMINATION ON THE BASIS OF SEX.—" before "No person"; and

(2) by moving subsection (d) (as designated by paragraph (1)) to the end of section 140 (as amended by section 1702(k)).

(b) CONFORMING AMENDMENTS.—

(1) Section 324 of title 23, United States Code, is repealed.

(2) The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 324.

SEC. 1704. STATE TRANSPORTATION DEPARTMENT.

(a) IN GENERAL.—Section 302 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a)";

(B) by striking the second sentence; and

(C) by adding at the end the following: "Compliance with this section shall have no effect on the eligibility of costs."; and

(2) by striking subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) Title 23, United States Code, is amended—

(A) by striking "State highway department" each place it appears and inserting "State transportation department"; and

(B) by striking "State highway departments" each place it appears and inserting "State transportation departments".

(2) The analysis for chapter 3 of title 23, United States Code, is amended in the item relating to section 302 by striking "highway" and inserting "transportation".

(3) Section 302 of title 23, United States Code, is amended in the section heading by striking "**highway**" and inserting "**transportation**".

(4) Section 410(h)(5) of title 23, United States Code, is amended in the paragraph heading by striking "HIGHWAY" and inserting "TRANSPORTATION".

(5) Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by striking "State highway department" and inserting "State transportation department".

(6) Section 138(c) of the Surface Transportation Assistance Act of 1978 (40 U.S.C. App. note to section 201 of the Appalachian Regional Development Act of 1965; Public Law 95-599) is amended in the first sentence by striking "State highway department" and inserting "State transportation department".

Subtitle H—Miscellaneous Provisions

SEC. 1801. DESIGNATION OF PORTION OF STATE ROUTE 17 IN NEW YORK AND PENNSYLVANIA AS INTERSTATE ROUTE 86.

(a) IN GENERAL.—Subject to subsection (b)(2), notwithstanding section 103(c), the portion of State Route 17 located between the junction of State Route 17 and Interstate Route 87 in Harriman, New York, and the junction of State Route 17 and Interstate Route 90 near Erie, Pennsylvania, is designated as Interstate Route 86.

(b) SUBSTANDARD FEATURES.—

(1) UPGRADING.—Each segment of State Route 17 described in subsection (a) that does not substantially meet the Interstate System design standards under section 109(b) of title 23, United States Code, in effect on the date of enactment of this Act shall be upgraded in accordance with plans and schedules developed by the applicable State.

(2) DESIGNATION.—Each segment of State Route 17 that on the date of enactment of this Act is not at least 4 lanes wide, separated by a median, access-controlled, and grade-separated shall—

(A) be designated as a future Interstate System route; and

(B) become part of Interstate Route 86 at such time as the Secretary determines that the segment substantially meets the Interstate System design standards described in paragraph (1).

(c) TREATMENT OF ROUTE.—

(1) MILEAGE LIMITATION.—The mileage of Interstate Route 86 designated under subsection (a) shall not be charged against the limitation established by section 103(c)(2) of title 23, United States Code.

(2) FEDERAL FINANCIAL RESPONSIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), the designation of Interstate Route 86 under subsection (a) shall not create increased Federal financial responsibility with respect to the designated Route.

(B) USE OF CERTAIN FUNDS.—A State may use funds available to the State under paragraphs (1) and (3) of section 104(b) of title 23, United States Code, to eliminate substandard features of, and to resurface, restore, rehabilitate, or reconstruct, any portion of the designated Route.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

SEC. 2001. STRATEGIC RESEARCH PLAN.

Subtitle III of title 49, United States Code, is amended—

(1) in the table of chapters, by inserting after the item relating to chapter 51 the following:

"52. RESEARCH AND DEVELOPMENT ... 5201";

and

(2) by inserting after chapter 51 the following:

"CHAPTER 52—RESEARCH AND DEVELOPMENT

"Sec.

"5201. Definitions.

"SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

"5211. Transactional authority.

"SUBCHAPTER II—STRATEGIC PLANNING

"5221. Strategic planning.

"5222. Authorization of contract authority.

"SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM

"5231. Multimodal Transportation Research and Development Program.

"5232. Authorization of contract authority.

"SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS

"5241. National university transportation centers.

"§ 5201. Definitions

"In this chapter:

"(1) DEPARTMENT.—The term 'Department' means the Department of Transportation.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

"§ 5211. Transactional authority

"To further the objectives of this chapter, the Secretary may make grants to, and enter into contracts, cooperative agreements, and other transactions with—

"(1) any person or any agency or instrumentality of the United States;

"(2) any unit of State or local government;

"(3) any educational institution; and

"(4) any other entity.

"SUBCHAPTER II—STRATEGIC PLANNING

"§ 5221. Strategic planning

"(a) AUTHORITY.—The Secretary shall establish a strategic planning process to—

"(1) determine national transportation research, development, and technology deployment priorities, strategies, and milestones over the next 5 years;

"(2) coordinate Federal transportation research, development, and technology deployment activities; and

"(3) measure the impact of the research, development, and technology investments described in paragraph (2) on the performance of the transportation system of the United States.

"(b) CRITERIA.—In developing strategic plans for intermodal, multimodal, and mode-specific research, development, and technology deployment, the Secretary shall consider the need to—

"(1) coordinate and integrate Federal, regional, State, and metropolitan planning research, development, and technology activities in urban and rural areas;

"(2) promote standards that facilitate a seamless and interoperable transportation system;

"(3) encourage innovation;

"(4) identify and facilitate initiatives and partnerships to deploy technology with the potential for improving transportation systems during the next 5-year and 10-year periods;

"(5) identify core research to support the long-term transportation technology and system needs of urban and rural areas of the United States, including safety;

"(6) ensure the ability of the United States to compete on a global basis; and

"(7) provide a means of assessing the impact of Federal research and technology investments on the performance of the transportation system of the United States.

"(c) IMPLEMENTATION.—

"(1) IN GENERAL.—In carrying out subsection (a), the Secretary shall adopt such policies and procedures as are appropriate—

"(A) to provide for integrated planning, coordination, and consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research, development, and technology transfer important to national transportation needs;

"(B) to promote the exchange of information on transportation-related research and development activities among the operating elements of the Department, other Federal departments and agencies, State and local governments, colleges and universities, industry, and other private and public sector organizations engaged in the activities;

"(C) to ensure that the research and development programs of the Department do not duplicate other Federal and, to the maximum extent practicable, private sector research and development programs; and

"(D) to ensure that the research and development activities of the Department—

"(i) make appropriate use of the talents, skills, and abilities at the Federal laboratories; and

"(ii) leverage, to the maximum extent practicable, the research, development, and technology transfer capabilities of institutions of higher education and private industry.

"(2) CONSULTATION.—The procedures and policies adopted under paragraph (1) shall include consultation with State officials and members of the private sector.

"(d) REPORTS.—

"(1) IN GENERAL.—Concurrent with the submission to Congress of the budget of the President for each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the strategic plans, goals, and milestones developed under subsections (a) and (b) to help guide research, development, and technology transfer activities during the 5-year period beginning on the date of the report.

"(2) COMPARISON TO PREVIOUS REPORT.—The report shall include a delineation of the progress made with respect to each of the plans, goals, and milestones specified in the previous report.

"(3) PROHIBITION ON OBLIGATION FOR FAILURE TO SUBMIT REPORT.—Beginning on the date of the submission to Congress of the budget of the President for fiscal year 2000, and on the date of the submission for each fiscal year thereafter, none of the funds made available under this chapter or chapter 5 of title 23 may be obligated until the report required under paragraph (1) for that fiscal year is submitted.

"§ 5222. Authorization of contract authority

"(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $1,500,000 for each of fiscal years 1998 through 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

"(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

"(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.

"(c) USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under subsection (a) exceed the amounts used to carry out section 5221 for the fiscal year, the excess amounts—

"(1) shall be apportioned in accordance with section 104(b)(3) of title 23;

"(2) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d) of that title; and

"(3) shall be available for any purpose eligible for funding under section 133 of that title.".

SEC. 2002. MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM.

Chapter 52 of title 49, United States Code (as added by section 2001), is amended by adding at the end the following:

"SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM

"§ 5231. Multimodal Transportation Research and Development Program

"(a) ESTABLISHMENT.—The Secretary shall establish a program to be known as the 'Multimodal Transportation Research and Development Program'.

"(b) PURPOSES.—The purposes of the Multimodal Transportation Research and Development Program are to—

"(1) enhance the capabilities of Federal agencies to meet national transportation needs, as defined by the missions of the agencies, through support for long-term and applied research and development that would benefit the various modes of transportation, including research and development in safety, security, mobility, energy and the environment, information and physical infrastructure, and industrial design;

"(2) identify and apply innovative research performed by the Federal Government, academia, and the private sector to the intermodal and multimodal transportation research, development, and deployment needs of the Department and the transportation enterprise of the United States;

"(3) identify and leverage research, technologies, and other information developed by the Federal Government for national defense and nondefense purposes for the benefit of the public, commercial, and defense transportation sectors; and

"(4) share information and analytical and research capabilities among the Federal Government, State and local governments, colleges and universities, and private organizations to advance their ability to meet their transportation research, development, and deployment needs.

"(c) PROCESS FOR CONSULTATION.—To advise the Secretary in establishing priorities within the Program, the Secretary shall establish a process for consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research.

"§ 5232. Authorization of contract authority

"(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $2,500,000 for each of fiscal years 1998 through 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

"(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

"(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.".

SEC. 2003. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

(a) IN GENERAL.—Chapter 52 of title 49, United States Code (as amended by section 2002), is amended by adding at the end the following:

"SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS

"§ 5241. National university transportation centers

"(a) IN GENERAL.—The Secretary shall make grants to, or enter into contracts with, the nonprofit institutions of higher learning selected under section 5317 (as in effect on the day before the date of enactment of this section)—

"(1) to operate 1 university transportation center in each of the 10 Federal administrative regions that comprise the Standard Federal Regional Boundary System; and

"(2) to continue operation of university transportation centers at the Mack-Blackwell National Rural Transportation Study Center, the National Center for Transportation and Industrial Productivity, the Institute for Surface Transportation Policy Studies, the Urban Transit Institute at the University of South Florida, the National Center for Advanced Transportation Technology, and the University of Alabama Transportation Research Center.

"(b) ADDITIONAL CENTERS.—

"(1) IN GENERAL.—The Secretary may make grants to nonprofit institutions of higher learning to establish and operate not more than 4 additional university transportation centers to address—

"(A) transportation management, research, and development, with special attention to increasing the number of highly skilled minority individuals and women entering the transportation workforce;

"(B) transportation and industrial productivity;

"(C) rural transportation;

"(D) advanced transportation technology;

"(E) international transportation policy studies;

"(F) transportation infrastructure technology;

"(G) urban transportation research;

"(H) transportation and the environment;

"(I) surface transportation safety; or

"(J) infrastructure finance studies.

"(2) SELECTION CRITERIA.—

"(A) APPLICATION.—A nonprofit institution of higher learning that desires to receive a grant under paragraph (1) shall submit an application to the Secretary in such manner and containing such information as the Secretary may require.

"(B) SELECTION OF RECIPIENTS.—The Secretary shall select each grant recipient under paragraph (1) on the basis of—

"(i) the demonstrated research and extension resources available to the recipient to carry out this section;

"(ii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-term transportation problems;

"(iii) the establishment by the recipient of a surface transportation program that encompasses several modes of transportation;

"(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program;

"(v) the strategic plan that the recipient proposes to carry out using the grant funds; and

"(vi) the extent to which private funds have been committed to a university and public-private partnerships established to fulfill the objectives specified in paragraph (1).

"(c) OBJECTIVES.—Each university transportation center shall use grant funds under subsection (a) or (b) to carry out—

"(1) multimodal basic and applied research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation;

"(2) an education program that includes multidisciplinary course work and participation in research; and

"(3) an ongoing program of technology transfer that makes research results available to potential users in a form that can be readily implemented, used, or otherwise applied.

"(d) MAINTENANCE OF EFFORT.—Before making a grant under subsection (a) or (b), the Secretary shall require the grant recipient to enter into an agreement with the Secretary to ensure that the recipient will maintain, during the period of the grant, a level of total expenditures from all other sources for establishing and operating a university transportation center and carrying out related research activities that is at least equal to the average level of those expenditures in the 2 fiscal years of the recipient prior to the award of a grant under subsection (a) or (b).

"(e) ADDITIONAL GRANTS AND CONTRACTS.—

"(1) GRANTS OR CONTRACTS.—In addition to grants under subsection (a) or (b), the Secretary may make grants to, or enter into contracts with, university transportation centers without the need for a competitive process.

"(2) USE OF GRANTS OR CONTRACTS.—A noncompetitive grant or contract under paragraph (1) shall be used for transportation research, development, education, or training consistent with the strategic plan approved as part of the selection process for the center.

"(f) FEDERAL SHARE.—The Federal share of the cost of establishing and operating a university transportation center and carrying out related research activities under this section shall be not more than 50 percent.

"(g) PROGRAM COORDINATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) coordinate research, education, training, and technology transfer activities carried out by grant recipients under this section;

"(B) disseminate the results of the research; and

"(C) establish and operate a clearinghouse for disseminating the results of the research.

"(2) REVIEW AND EVALUATION.—

"(A) IN GENERAL.—Not less often than annually, the Secretary shall review and evaluate programs carried out by grant recipients under this section.

"(B) NOTIFICATION OF DEFICIENCIES.—In carrying out subparagraph (A), if the Secretary determines that a university transportation center is deficient in meeting the objectives of this section, the Secretary shall notify the grant recipient operating the center of each deficiency and provide specific recommendations of measures that should be taken to address the deficiency.

"(C) DISQUALIFICATION.—If, after the end of the 180-day period that begins on the date of

notification to a grant recipient under subparagraph (B) with respect to a center, the Secretary determines that the recipient has not corrected each deficiency identified under subparagraph (B), the Secretary may, after notifying the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination—

"(i) disqualify the university transportation center from further participation under this section; and

"(ii) make a grant for the establishment of a new university transportation center, in lieu of the disqualified center, under subsection (a) or (b), as applicable.

"(3) FUNDING.—The Secretary may use not more than 1 percent of Federal funds made available under this section to carry out this subsection.

"(h) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.

"(3) TECHNOLOGY TRANSFER ACTIVITIES.—For each fiscal year, not less than 5 percent of the amounts made available to carry out this section shall be available to carry out technology transfer activities.

"(i) LIMITATION ON AVAILABILITY OF FUNDS.—Funds authorized under this section shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 5316 and 5317 of title 49, United States Code, are repealed.

(2) The analysis for chapter 53 of title 49, United States Code, is amended by striking the items relating to sections 5316 and 5317.

SEC. 2004. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Section 111 of title 49, United States Code, is amended—

(1) in subsection (b)(4), by striking the second sentence;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (J), by striking "and" at the end;

(ii) in subparagraph (K), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(L) transportation-related variables that influence global competitiveness.";

(B) in paragraph (2)—

(i) in the first sentence, by striking "national transportation system" and inserting "transportation systems of the United States";

(ii) by striking subparagraph (A) and inserting the following:

"(A) be coordinated with efforts to measure outputs and outcomes of the Department of Transportation and the transportation systems of the United States under the Government Performance and Results Act of 1993 (Public Law 103-62) and the amendments made by that Act;"; and

(iii) in subparagraph (C), by inserting ", made relevant to the States and metropolitan planning organizations," after "accuracy";

(C) in paragraph (3), by adding at the end the following: "The Bureau shall review and report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103-62), and the amendments made by that Act, and shall carry out such other reviews of the sources and reliability of other data collected by the heads of the operating administrations of the Department as shall be requested by the Secretary."; and

(D) by adding at the end the following:

"(7) SUPPORTING TRANSPORTATION DECISIONMAKING.—Ensuring that the statistics compiled under paragraph (1) are relevant for transportation decisionmaking by the Federal Government, State and local governments, transportation-related associations, private businesses, and consumers.";

(3) by redesignating subsections (d), (e), and (f) as subsections (h), (i), and (j), respectively;

(4) by striking subsection (g);

(5) by inserting after subsection (c) the following:

"(d) TRANSPORTATION DATA BASE.—

"(1) IN GENERAL.—In consultation with the Associate Deputy Secretary, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation data base for all modes of transportation.

"(2) USE.—The data base shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

"(3) CONTENTS.—The data base shall include—

"(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations, and by relevant classification;

"(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

"(C) information on the location and connectivity of transportation facilities and services; and

"(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

"(e) NATIONAL TRANSPORTATION LIBRARY.—

"(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

"(2) ACCESS.—The Bureau shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Bureau to make statistics readily accessible under subsection (c)(5).

"(3) COORDINATION.—The Bureau shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

"(f) NATIONAL TRANSPORTATION ATLAS DATA BASE.—

"(1) IN GENERAL.—The Director shall develop and maintain geospatial data bases that depict—

"(A) transportation networks;

"(B) flows of people, goods, vehicles, and craft over the networks; and

"(C) social, economic, and environmental conditions that affect or are affected by the networks.

"(2) INTERMODAL NETWORK ANALYSIS.—The data bases shall be able to support intermodal network analysis.

"(g) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State departments of transportation, metropolitan planning organizations, and institutions of higher education) for—

"(1) investigation of the subjects specified in subsection (c)(1) and research and development of new methods of data collection, management, integration, dissemination, interpretation, and analysis;

"(2) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (e); and

"(3) development and improvement of methods for sharing geographic data, in support of the national transportation atlas data base under subsection (f) and the National Spatial Data Infrastructure developed under Executive Order No. 12906.";

(6) by striking subsection (i) (as redesignated by paragraph (3)) and inserting the following:

"(i) PROHIBITION ON CERTAIN DISCLOSURES.—

"(1) IN GENERAL.—An officer or employee of the Bureau may not—

"(A) make any disclosure in which the data provided by an individual or organization under subsection (c)(2) can be identified;

"(B) use the information provided under subsection (c)(2) for a nonstatistical purpose; or

"(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c)(2).

"(2) PROHIBITION ON REQUESTS FOR CERTAIN DATA.—

"(A) GOVERNMENT AGENCIES.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c)(2) with the Bureau or retained by an individual respondent.

"(B) COURTS.—Any copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

"(i) shall be immune from legal process; and

"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) APPLICABILITY.—This paragraph shall apply only to information that permits information concerning an individual or organization to be reasonably inferred by direct or indirect means.

"(3) DATA COLLECTED FOR NONSTATISTICAL PURPOSES.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and

on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.";

(7) in subsection (j) (as redesignated by paragraph (3)), by striking "On or before January 1, 1994, and annually thereafter, the" and inserting "The"; and

(8) by adding at the end the following:

"(k) STUDY.—

"(1) IN GENERAL.—The Director shall carry out a study—

"(A) to measure the ton-miles and value-miles of international trade traffic carried by highway for each State;

"(B) to evaluate the accuracy and reliability of such measures for use in the formula for highway apportionments;

"(C) to evaluate the accuracy and reliability of the use of diesel fuel data as a measure of international trade traffic by State; and

"(D) to identify needed improvements in long-term data collection programs to provide accurate and reliable measures of international traffic for use in the formula for highway apportionments.

"(2) BASIS FOR EVALUATIONS.—The study shall evaluate the accuracy and reliability of measures for use as formula factors based on statistical quality standards developed by the Bureau in consultation with the Committee on National Statistics of the National Academy of Sciences.

"(3) REPORT.—Not later than 3 years after the date of enactment of this subsection, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study carried out under paragraph (1), including recommendations for changes in law necessary to implement the identified needs for improvements in long-term data collection programs.

"(l) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

"(m) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $26,000,000 for fiscal year 1998, $27,000,000 for fiscal year 1999, $28,000,000 for fiscal year 2000, $29,000,000 for fiscal year 2001, $30,000,000 for fiscal year 2002, and $31,000,000 for fiscal year 2003, except that not more than $500,000 for each fiscal year may be made available to carry out subsection (g).

"(2) AVAILABILITY.—Funds authorized under this subsection shall remain available for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23.".

(b) CONFORMING AMENDMENTS.—Section 5503 of title 49, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

SEC. 2005. RESEARCH AND TECHNOLOGY PROGRAM.

Title 23, United States Code, is amended—

(1) in the table of chapters, by adding at the end the following:

"5. Research and Technology ..... 501"; and

(2) by adding at the end the following:

"CHAPTER 5—RESEARCH AND TECHNOLOGY

"SUBCHAPTER I—RESEARCH AND TRAINING

"Sec.
"501. Definition of safety.
"502. Research and technology program.
"503. Advanced research program.
"504. Long-term pavement performance program.
"505. State planning and research program.
"506. Education and training.
"507. International highway transportation outreach program.
"508. National technology deployment initiatives and partnerships program.
"509. Infrastructure investment needs report.
"510. Innovative bridge research and construction program.
"511. Study of future strategic highway research program.
"512. Transportation and environment cooperative research program.

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

"521. Purposes.
"522. Definitions.
"523. Cooperation, consultation, and analysis.
"524. Research, development, and training.
"525. Intelligent transportation system integration program.
"526. Integration program for rural areas.
"527. Commercial vehicle intelligent transportation system infrastructure.
"528. Corridor development and coordination.
"529. Standards.
"530. Funding limitations.
"531. Use of innovative financing.
"532. Advisory committees.

"SUBCHAPTER III—FUNDING

"541. Funding.

"SUBCHAPTER I—RESEARCH AND TRAINING

"§ 501. Definition of safety

"In this chapter, the term 'safety' includes highway and traffic safety systems, research and development relating to vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

"§ 502. Research and technology program

"(a) GENERAL AUTHORITY AND COLLABORATIVE AGREEMENTS.—

"(1) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary—

"(i) shall carry out research, development, and technology transfer activities with respect to—

"(I) motor carrier transportation;

"(II) all phases of transportation planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions); and

"(III) the effect of State laws on the activities described in subclauses (I) and (II); and

"(ii) may test, develop, or assist in testing and developing any material, invention, patented article, or process.

"(B) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

"(i) independently;

"(ii) in cooperation with other Federal departments, agencies, and instrumentalities; or

"(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

"(C) TECHNICAL INNOVATION.—The Secretary shall develop and carry out programs to facilitate the application of such products of research and technical innovations as will improve the safety, efficiency, and effectiveness of the transportation system.

"(D) FUNDS.—

"(i) IN GENERAL.—Except as otherwise specifically provided in other sections of this chapter—

"(I) to carry out this subsection, the Secretary shall use—

"(aa) funds made available under section 541 for research, technology, and training; and

"(bb) such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose; and

"(II) the funds described in item (aa) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF FUNDS.—The Secretary shall use funds described in clause (i) to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

"(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State.

"(B) AGREEMENTS.—In carrying out this paragraph, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(C) FEDERAL SHARE.—

"(i) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this paragraph shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(ii) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in clause (i).

"(D) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this paragraph, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(3) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

"(b) MANDATORY ELEMENTS OF PROGRAM.—The Secretary shall include in the surface transportation research, development, and technology transfer programs under this subsection and as specified elsewhere in this title—

"(1) a coordinated long-term program of research for the development, use, and dissemination of performance indicators to measure the performance of the surface transportation systems of the United States, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the system; and

"(2) a program to strengthen and expand surface transportation infrastructure research, development, and technology transfer, which shall include, at a minimum—

"(A) methods and materials for improving the durability of surface transportation infrastructure facilities and extending the life of bridge structures, including new and innovative technologies to reduce corrosion;

"(B) a research and development program directed toward the reduction of costs, and the mitigation of impacts, associated with the construction of highways and mass transit systems;

"(C) a surface transportation research program to develop nondestructive evaluation equipment for use with existing infrastructure facilities and with next-generation infrastructure facilities that use advanced materials;

"(D)(i) information technology, including appropriate computer programs to collect and analyze data on the status of infrastructure facilities described in subparagraph (C) with respect to enhancing management, growth, and capacity; and

"(ii) dynamic simulation models of surface transportation systems for—

"(I) predicting capacity, safety, and infrastructure durability problems;

"(II) evaluating planned research projects; and

"(III) testing the strengths and weaknesses of proposed revisions to surface transportation operation programs;

"(E) new innovative technologies to enhance and facilitate field construction and rehabilitation techniques for minimizing disruption during repair and maintenance of structures;

"(F) initiatives to improve the ability of the United States to respond to emergencies and natural disasters and to enhance national defense mobility; and

"(G) an evaluation of traffic calming measures that promote community preservation, transportation mode choice, and safety.

"(c) REPORT ON GOALS, MILESTONES, AND ACCOMPLISHMENTS.—The goals, milestones, and accomplishments relevant to each of the mandatory program elements described in subsection (b) shall be specified in the report required under section 5221(d) of title 49.".

SEC. 2006. ADVANCED RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

"§ 503. Advanced research program

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish an advanced research program within the Federal Highway Administration to address longer-term, higher-risk research that shows potential benefits for improving the durability, mobility, efficiency, environmental impact, productivity, and safety of transportation systems.

"(2) DEVELOPMENT OF PARTNERSHIPS.—In carrying out the program, the Secretary shall attempt to develop partnerships with the public and private sectors.

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts for advanced research.

"(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $9,000,000 for fiscal year 2000, and $10,000,000 for each of fiscal years 2001 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary.".

SEC. 2007. LONG-TERM PAVEMENT PERFORMANCE PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2006), is amended by adding at the end the following:

"§ 504. Long-term pavement performance program

"(a) AUTHORITY.—The Secretary shall complete the long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section) and continued by the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240) through the midpoint of a planned 20-year life of the long-term pavement performance program (referred to in this section as the 'program').

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(1) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

"(2) analyze the data obtained in carrying out paragraph (1); and

"(3) prepare products to fulfill program objectives and meet future pavement technology needs.

"(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(A) the Federal share of the cost of any activity funded under this section shall be determined by the Secretary; and

"(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.".

SEC. 2008. STATE PLANNING AND RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2007), is amended by adding at the end the following:

"§ 505. State planning and research program

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—Two percent of the sums apportioned for fiscal year 1998 and each fiscal year thereafter to any State under section 104 (except section 104(f)) and any transfers or additions to the surface transportation program under section 133 shall be available for expenditure by the State transportation department, in consultation with the Secretary, in accordance with this section.

"(2) USE OF FUNDS.—The sums referred to in paragraph (1) shall be available only for—

"(A) intermodal metropolitan, statewide, and nonmetropolitan planning under sections 134 and 135;

"(B) development and implementation of management systems referred to in section 303;

"(C) studies, research, development, and technology transfer activities necessary for the planning, design, construction, management, operation, maintenance, regulation, and taxation of the use of surface transportation systems, including training and accreditation of inspection and testing on engineering standards and construction materials for the systems; and

"(D) studies of the economy, safety, and convenience of surface transportation usage and the desirable regulation and equitable taxation of surface transportation usage.

"(b) MINIMUM EXPENDITURES ON STUDIES, RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—For each fiscal year, not less than 25 percent of the funds of a State that are subject to subsection (a) shall be expended by the State transportation department for studies, research, development, and technology transfer activities described in subparagraphs (C) and (D) of subsection (a)(2) unless the State certifies to the Secretary for the fiscal year that the total expenditures by the State transportation department for transportation planning under sections 134 and 135 will exceed 75 percent of the amount of the funds and the Secretary accepts the certification.

"(2) EXEMPTION FROM SMALL BUSINESS ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

"(c) FEDERAL SHARE.—The Federal share of the cost of a project financed with funds referred to in subsection (a) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

"(d) ADMINISTRATION OF FUNDS.—Funds referred to in subsection (a) shall be combined and administered by the Secretary as a single fund, which shall be available for obligation for the same period as funds apportioned under section 104(b)(1).".

SEC. 2009. EDUCATION AND TRAINING.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2008), is amended by adding at the end the following:

"§ 506. Education and training

"(a) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall carry out a transportation assistance program that will provide access to modern highway technology to—

"(A) highway and transportation agencies in urbanized areas with populations of between 50,000 and 1,000,000 individuals;

"(B) highway and transportation agencies in rural areas; and

"(C) contractors that do work for the agencies.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services that will—

"(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

"(i) develop and expand their expertise in road and transportation areas (including pavement, bridge, safety management systems, and traffic safety countermeasures);

"(ii) improve roads and bridges;

"(iii) enhance—

"(I) programs for the movement of passengers and freight; and

"(II) intergovernmental transportation planning and project selection; and

"(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

"(B) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems;

"(C) operate, in cooperation with State transportation departments and universities—

"(i) local technical assistance program centers to provide transportation technology transfer services to rural areas and to urbanized areas with populations of between 50,000 and 1,000,000 individuals; and

"(ii) local technical assistance program centers designated to provide transportation technical assistance to Indian tribal governments; and

"(D) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

"(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $7,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $7,000,000 for fiscal year 2000, $8,000,000 for fiscal year 2001, $8,000,000 for fiscal year 2002, and $8,000,000 for fiscal year 2003 to be used to develop and administer the program established under this section and to provide technical and financial support for the centers operated under paragraph (2)(C).

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(b) NATIONAL HIGHWAY INSTITUTE.—

"(1) ESTABLISHMENT; DUTIES; PROGRAMS.—

"(A) ESTABLISHMENT.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute (referred to in this subsection as the 'Institute').

"(B) DUTIES.—

"(i) INSTITUTE.—In cooperation with State transportation departments, United States industry, and any national or international entity, the Institute shall develop and administer education and training programs of instruction for—

"(I) Federal Highway Administration, State, and local transportation agency employees;

"(II) regional, State, and metropolitan planning organizations;

"(III) State and local police, public safety, and motor vehicle employees; and

"(IV) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

"(ii) SECRETARY.—The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

"(C) TYPES OF PROGRAMS.—Programs that the Institute may develop and administer may include courses in modern developments, techniques, methods, regulations, management, and procedures relating to—

"(i) surface transportation;

"(ii) environmental factors;

"(iii) acquisition of rights-of-way;

"(iv) relocation assistance;

"(v) engineering;

"(vi) safety;

"(vii) construction;

"(viii) maintenance;

"(ix) operations;

"(x) contract administration;

"(xi) motor carrier activities;

"(xii) inspection; and

"(xiii) highway finance.

"(2) SET ASIDE; FEDERAL SHARE.—Not to exceed ¼ of 1 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding travel, subsistence, or salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

"(3) FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

"(i) by the Secretary at no cost to the States and local governments if the Secretary determines that provision at no cost is in the public interest; or

"(ii) by the State through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

"(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training received by them unless the Secretary determines that a lower cost is of critical importance to the public interest.

"(4) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

"(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

"(B) carry out its authority independently or in cooperation with any other branch of the Federal Government or any State agency, authority, association, institution, for-profit or nonprofit corporation, other national or international entity, or other person.

"(5) COLLECTION OF FEES.—

"(A) GENERAL RULE.—In accordance with this subsection, the Institute may assess and collect fees solely to defray the costs of the Institute in developing or administering education and training programs under this subsection.

"(B) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner that may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount that does not exceed the aggregate amount of the costs referred to in subparagraph (A) for the fiscal year.

"(C) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

"(ii) persons and entities to whom education or training is provided under this subsection.

"(D) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

"(E) USE.—All fees collected under this subsection shall be used to defray costs associated with the development or administration of education and training programs authorized under this subsection.

"(6) FUNDING.—

"(A) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for fiscal year 1998, $5,000,000 for fiscal year 1999, $5,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $6,000,000 for fiscal year 2002, and $6,000,000 for fiscal year 2003.

"(B) RELATION TO FEES.—The funds provided under this paragraph may be combined with or held separate from the fees collected under paragraph (5).

"(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(7) CONTRACTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this subsection.

"(c) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

"(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal departments, agencies, and instrumentalities, may make grants for fellowships for any purpose for which research, technology, or capacity building is authorized under this chapter.

"(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

"(A) IN GENERAL.—The Secretary shall carry out a transportation fellowship program, to be known as the 'Dwight David Eisenhower Transportation Fellowship Program', for the purpose of attracting qualified students to the field of transportation.

"(B) TYPES OF FELLOWSHIPS.—The program shall offer fellowships at the junior through postdoctoral levels of college education.

"(C) CITIZENSHIP.—Each recipient of a fellowship under the program shall be a United States citizen.

"(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $2,000,000 for each of fiscal years 1998 through 2003.

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(d) HIGHWAY CONSTRUCTION TRAINING PROGRAMS.—

"(1) USE OF FUNDS BY THE SECRETARY.—

"(A) IN GENERAL.—The Secretary, in cooperation with any other department or agency of the Federal Government, State agency, authority, association, institution, Indian tribal government, for-profit or nonprofit corporation, or other organization or person, may—

"(i) develop, conduct, and administer highway construction and technology training, including skill improvement, programs; and

"(ii) develop and fund Summer Transportation Institutes.

"(B) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into by the Secretary under this subsection.

"(C) FUNDING.—

"(i) IN GENERAL.—Before making apportionments under section 104(b) for a fiscal year, the Secretary shall deduct such sums as the Secretary determines are necessary, but not to exceed $10,000,000 for each fiscal year, to carry out this subsection.

"(ii) AVAILABILITY.—Sums deducted under clause (i) shall remain available until expended.

"(2) USE OF FUNDS APPORTIONED TO STATES.—Notwithstanding any other provision of law, upon request of a State transportation department to the Secretary, not to exceed ½ of 1 percent of the funds apportioned to the State for a fiscal year under paragraphs (1) and (3) of section 104(b) may be made available to carry out this subsection.

"(3) RESERVATION OF TRAINING POSITIONS FOR INDIVIDUALS RECEIVING WELFARE ASSISTANCE.—In carrying out this subsection, the Secretary and States may reserve training positions for individuals who receive welfare assistance from a State.".

SEC. 2010. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

(a) IN GENERAL.—Title 23, United States Code, is amended—

(1) by redesignating section 325 as section 507;

(2) by moving that section to appear at the end of subchapter I of chapter 5 (as amended by section 2009);

(3) in subsection (a) of that section, by inserting ", goods, and services" after "expertise"; and

(4) by striking subsection (c) of that section and inserting the following:

"(c) USE OF FUNDS.—

"(1) FUNDS DEPOSITED IN SPECIAL ACCOUNT.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person in a special account for the program established under this section with the Secretary of the Treasury.

"(2) USE OF FUNDS.—The funds deposited in the special account and other funds available to carry out this section shall be available to pay the cost of any activity eligible under this section, including the cost of promotional materials, travel, reception and representation expenses, and salaries and benefits of officers and employees of the Department of Transportation.

"(3) REIMBURSEMENTS.—Reimbursements for the salaries and benefits of Federal Highway Administration employees who provide services under this section shall be credited to the special account.

"(d) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out section 505 for any activity authorized under subsection (a).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 325.

SEC. 2011. NATIONAL TECHNOLOGY DEPLOYMENT INITIATIVES AND PARTNERSHIPS PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2010), is amended by adding at the end the following:

"§ 508. National technology deployment initiatives and partnerships program

"(a) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment initiatives and partnerships program (referred to in this section as the 'program').

"(b) PURPOSE.—The purpose of the program is to significantly accelerate the adoption of innovative technologies by the surface transportation community.

"(c) DEPLOYMENT GOALS.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish not more than 5 deployment goals to carry out subsection (a).

"(2) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, or sustainability.

"(3) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

"(d) CONTINUATION OF SHRP PARTNERSHIPS.—Under the program, the Secretary shall continue the partnerships established through the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section).

"(e) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology, including—

"(1) the testing and evaluation of products of the strategic highway research program;

"(2) the further development and implementation of technology in areas such as the Superpave system and the use of lithium salts to prevent and mitigate alkali silica reactivity; and

"(3) the provision of support for long-term pavement performance product implementation and technology access.

"(f) REPORTS.—Not later than 18 months after the date of enactment of this section, and biennially thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress and results of activities carried out under this section.

"(g) FUNDING.—

"(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $50,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(A) the Federal share of the cost of any activity under this section shall be determined by the Secretary; and

"(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(3) ALLOCATION.—To the extent appropriate to achieve the goals established under subsection (c), the Secretary may further allocate funds made available under this subsection to States for their use.".

SEC. 2012. INFRASTRUCTURE INVESTMENT NEEDS REPORT.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2011), is amended by adding at the end the following:

"§ 509. Infrastructure investment needs report

"Not later than January 31, 1999, and January 31 of every second year thereafter, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on estimates of the future highway and bridge needs of the United States.".

SEC. 2013. INNOVATIVE BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2012), is amended by adding at the end the following:

"§ 510. Innovative bridge research and construction program

"(a) IN GENERAL.—The Secretary shall establish and carry out a program to demonstrate the application of innovative material technology in the construction of bridges and other structures.

"(b) GOALS.—The goals of the program shall include—

"(1) the development of new, cost-effective innovative material highway bridge applications;

"(2) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

"(3) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(4) the development of engineering design criteria for innovative products and materials for use in highway bridges and structures; and

"(5) the development of highway bridges and structures that will withstand natural disasters, including alternative processes for the seismic retrofit of bridges.

"(c) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(1) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

"(A) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials; and

"(B) States to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of bridges or structures that demonstrates the application of innovative materials.

"(2) GRANTS.—

"(A) APPLICATIONS.—

"(i) SUBMISSION.—To receive a grant under this section, an entity described in paragraph (1) shall submit an application to the Secretary.

"(ii) CONTENTS.—The application shall be in such form and contain such information as the Secretary may require.

"(B) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this section based on whether the project that is the subject of the grant meets the goals of the program described in subsection (b).

"(d) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under subsection (c) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account)—

"(A) to carry out subsection (c)(1)(A) $1,000,000 for each of fiscal years 1998 through 2003; and

"(B) to carry out subsection (c)(1)(B)—

"(i) $10,000,000 for fiscal year 1998;

"(ii) $15,000,000 for fiscal year 1999;

"(iii) $17,000,000 for fiscal year 2000; and

"(iv) $20,000,000 for each of fiscal years 2001 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

SEC. 2014. USE OF BUREAU OF INDIAN AFFAIRS ADMINISTRATIVE FUNDS.

Section 204(b) of title 23, United States Code, is amended in the last sentence by striking "326" and inserting "506".

SEC. 2015. STUDY OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2013), is amended by adding at the end the following:

"§ 511. Study of future strategic highway research program

"(a) STUDY.—

"(1) IN GENERAL.—Not later than 120 days after the date of enactment of this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, the Transportation Research Board of the National Academy of Sciences (referred to in this section as the 'Board') to conduct a study to determine the goals, purposes, research agenda and projects, administrative structure, and fiscal needs for a new strategic highway research program to replace the program established under section 307(d) (as in effect on the day before the date of enactment of this section), or a similar effort.

"(2) CONSULTATION.—In conducting the study, the Board shall consult with the American Association of State Highway and Transportation Officials and such other entities as the Board determines to be necessary to the conduct of the study.

"(b) REPORT.—Not later than 2 years after making a grant or entering into a cooperative agreement or contract under subsection (a), the Board shall submit a final report on the results of the study to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.".

SEC. 2016. JOINT PARTNERSHIPS FOR ADVANCED VEHICLES, COMPONENTS, AND INFRASTRUCTURE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

"§ 310. Joint partnerships for advanced vehicles, components, and infrastructure program

"(a) PURPOSES.—The Secretary of Transportation, in coordination with other government agencies and private consortia, shall encourage and promote the research, development, and deployment of transportation technologies that will use technological advances in multimodal vehicles, vehicle components, environmental technologies, and related infrastructure to remove impediments to an efficient and cost-effective national transportation system.

"(b) DEFINITION OF ELIGIBLE CONSORTIUM.—In this section, the term 'eligible consortium' means a consortium that receives funding under the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1876), and that comprises 2 or more of the following entities:

"(1) Businesses incorporated in the United States.

"(2) Public or private educational or research organizations located in the United States.

"(3) Entities of State or local governments in the United States.

"(4) Federal laboratories.

"(c) PROGRAM.—The Secretary shall enter into contracts, cooperative agreements, and other transactions as authorized by section 2371 of title 10 with, and make grants to, eligible consortia to promote the development and deployment of innovation in transportation technology services, management, and operational practices.

"(d) ELIGIBILITY CRITERIA.—To be eligible to receive assistance under this section, an eligible consortium shall—

"(1) for a period of not less than the 3 years preceding the date of a contract, cooperative agreement, or other transaction, be organized on a statewide or multistate basis for the purpose of designing, developing, and deploying transportation technologies that address identified technological impediments in the transportation field;

"(2) facilitate the participation in the consortium of small- and medium-sized businesses, utilities, public laboratories and universities, and other relevant entities;

"(3) be actively engaged in transportation technology projects that address compliance in nonattainment areas under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(4) be designed to use Federal and State funding to attract private capital in the form of grants or investments to carry out this section; and

"(5) ensure that at least 50 percent of the funding for the consortium project will be provided by non-Federal sources.

"(e) PROPOSALS.—The Secretary shall prescribe such terms and conditions as the Secretary determines to be appropriate for the content and structure of proposals submitted for assistance under this section.

"(f) REPORTING REQUIREMENTS.—At least once each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the projects undertaken by the eligible consortia and the progress made in advancing the purposes of this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1998 through 2003, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

"310. Joint partnerships for advanced vehicles, components, and infrastructure program.".

SEC. 2017. TRANSPORTATION AND ENVIRONMENT COOPERATIVE RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2015), is amended by adding at the end the following:

"§ 512. Transportation and environment cooperative research program

"(a) IN GENERAL.—The Secretary shall establish and carry out a transportation and environment cooperative research program.

"(b) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—In consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, the Secretary shall establish an advisory board to recommend environmental and energy conservation research, technology, and technology transfer activities related to surface transportation.

"(2) MEMBERSHIP.—The advisory board shall include—

"(A) representatives of State transportation and environmental agencies;

"(B) transportation and environmental scientists and engineers; and

"(C) representatives of metropolitan planning organizations, transit operating agencies, and environmental organizations.

"(3) DEVELOPMENT OF RESEARCH PRIORITIES.—In developing recommendations for priorities for research described in paragraph (1), the advisory board shall consider the research recommendations of the National Research Council report entitled 'Environmental Research Needs in Transportation'.

"(4) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

"(c) NATIONAL ACADEMY OF SCIENCES.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities related

to the research, technology, and technology transfer activities described in subsection (b)(1) as the Secretary determines to be appropriate.

"(2) ECOSYSTEM INTEGRITY STUDY.—

"(A) IN GENERAL.—The Secretary shall give priority to conducting a study of, and preparing a report on, the relationship between highway density and ecosystem integrity, including an analysis of the habitat-level impacts of highway density on the overall health of ecosystems.

"(B) PROPOSAL OF RAPID ASSESSMENT METHODOLOGY.—To aid transportation and regulatory agencies, the report shall propose a rapid assessment methodology for determining the relationship between highway density and ecosystem integrity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1998 through 2003.".

SEC. 2018. CONFORMING AMENDMENTS.

(a) Sections 307, 321, and 326 of title 23, United States Code, are repealed.

(b) The analysis for chapter 3 of title 23, United States Code, is amended by striking the items relating to sections 307, 321, and 326.

(c) Section 115(a)(1)(A)(i) of title 23, United States Code, is amended by striking "or 307" and inserting "or 505".

(d) Section 151(d) of title 23, United States Code, is amended by striking "section 307(a)," and inserting "section 506,".

(e) Section 106 of Public Law 89-564 (23 U.S.C. 403 note) is amended in the third sentence by striking "sections 307 and 403 of title 23, United States Code," and inserting "section 403 and chapter 5 of title 23, United States Code,".

Subtitle B—Intelligent Transportation Systems

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the "Intelligent Transportation Systems Act of 1997".

SEC. 2102. FINDINGS.

Congress finds that—

(1) numerous studies conducted on behalf of the Department of Transportation document that investment in intelligent transportation systems offers substantial benefits in relationship to costs;

(2) as a result of the investment authorized by the Intelligent Transportation Systems Act of 1991 (23 U.S.C. 307 note; 105 Stat. 2189), progress has been made on each of the goals set forth for the national intelligent transportation system program in section 6052(b) of that Act; and

(3) continued investment by the Department of Transportation is needed to complete implementation of those goals.

SEC. 2103. INTELLIGENT TRANSPORTATION SYSTEMS.

Chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

"§ 521. Purposes

"The purposes of this subchapter are—

"(1) to expedite deployment and integration of basic intelligent transportation system services for consumers of passenger and freight transportation across the United States;

"(2) to encourage the use of intelligent transportation systems to enhance international trade and domestic economic productivity;

"(3) to encourage the use of intelligent transportation systems to promote the achievement of national environmental goals;

"(4) to continue research, development, testing, and evaluation activities to continually expand the state-of-the-art in intelligent transportation systems;

"(5) to provide financial and technical assistance to State and local governments and metropolitan planning organizations to ensure the integration of interoperable, intermodal, and cost-effective intelligent transportation systems;

"(6) to foster regional cooperation, standards implementation, and operations planning to maximize the benefits of integrated and coordinated intelligent transportation systems;

"(7) to promote the consideration of intelligent transportation systems in mainstream transportation planning and investment decisionmaking by ensuring that Federal and State transportation officials have adequate, working knowledge of intelligent transportation system technologies and applications and by ensuring comprehensive funding eligibility for the technologies and applications;

"(8) to encourage intelligent transportation system training for, and technology transfer to, State and local agencies;

"(9) to promote the deployment of intelligent transportation system services in rural America so as to achieve safety benefits, promote tourism, and improve quality of life;

"(10) to promote the innovative use of private resources, such as through public-private partnerships or other uses of private sector investment, to support the development and integration of intelligent transportation systems throughout the United States;

"(11) to complete the Federal investment in the Commercial Vehicle Information Systems and Networks by September 30, 2003;

"(12) to facilitate intermodalism through deployment of intelligent transportation systems, including intelligent transportation system technologies for transit systems to improve safety, efficiency, capacity, and utility for the public;

"(13) to enhance the safe operation of motor vehicles, including motorcycles, and nonmotorized vehicles on the surface transportation systems of the United States, with a particular emphasis on decreasing the number and severity of collisions; and

"(14) to accommodate the needs of all users of the surface transportation systems of the United States, including the operators of commercial vehicles, passenger vehicles, and motorcycles.

"§ 522. Definitions

"In this subchapter:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'Commercial Vehicle Information Systems and Networks' means the information systems and communications networks that support commercial vehicle operations.

"(2) COMMERCIAL VEHICLE OPERATIONS.—The term 'commercial vehicle operations'—

"(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

"(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

"(3) COMPLETED STANDARD.—The term 'completed standard' means a standard adopted and published by the appropriate standards-setting organization through a voluntary consensus standardmaking process.

"(4) CORRIDOR.—The term 'corridor' means any major transportation route that includes parallel limited access highways, major arterials, or transit lines.

"(5) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(6) NATIONAL ARCHITECTURE.—The term 'national architecture' means the common framework for interoperability adopted by the Secretary that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(7) PROVISIONAL STANDARD.—The term 'provisional standard' means a provisional standard established by the Secretary under section 529(c).

"(8) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may support the national architecture and promote—

"(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

"§ 523. Cooperation, consultation, and analysis

"(a) COOPERATION.—In carrying out this subchapter, the Secretary shall—

"(1) foster enhanced operation and management of the surface transportation systems of the United States;

"(2) promote the widespread deployment of intelligent transportation systems; and

"(3) advance emerging technologies, in cooperation with State and local governments and the private sector.

"(b) CONSULTATION.—As appropriate, in carrying out this subchapter, the Secretary shall—

"(1) consult with the heads of other interested Federal departments and agencies; and

"(2) maximize the involvement of the United States private sector, colleges and universities, and State and local governments in all aspects of carrying out this subchapter.

"(c) PROCUREMENT METHODS.—To meet the need for effective implementation of intelligent transportation system projects, the Secretary shall develop appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of procurement for intelligent transportation system projects, including innovative and nontraditional methods of procurement.

"§ 524. Research, development, and training

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, operational testing, technical assistance and training, national architecture activities, standards development and implementation, and other similar activities that are necessary to carry out the purposes of this subchapter.

"(b) INTELLIGENT VEHICLE AND INTELLIGENT INFRASTRUCTURE PROGRAMS.—

"(1) IN GENERAL.—

"(A) PROGRAM.—The Secretary shall carry out a program to conduct research, development, and engineering designed to stimulate and advance deployment of an integrated intelligent vehicle program and an integrated intelligent infrastructure program, consisting of—

"(i) projects such as crash avoidance, automated highway systems, advanced vehicle controls, and roadway safety and efficiency systems linked to intelligent vehicles; and

"(ii) projects that improve mobility and the quality of the environment, including projects for traffic management, incident management, transit management, toll collection, traveler information, and traffic control systems.

"(B) CONSIDERATION OF VEHICLE AND INFRASTRUCTURE ELEMENTS.—In carrying out subparagraph (A), the Secretary may consider systems that include both vehicle and infrastructure elements and determine the most appropriate mix of those elements.

"(2) NATIONAL ARCHITECTURE.—The program carried out under paragraph (1) shall be consistent with the national architecture.

"(3) PRIORITIES.—In carrying out paragraph (1), the Secretary shall give higher priority to activities that—

"(A) assist motor vehicle drivers in avoiding motor vehicle crashes;

"(B) assist in the development of an automated highway system; or

"(C) improve the integration of air bag technology with other on-board safety systems and maximize the safety benefits of the simultaneous use of an automatic restraint system and seat belts.

"(4) COST SHARING.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of a research project carried out in cooperation with a non-Federal entity under a program carried out under paragraph (1) shall not exceed 80 percent.

"(B) INNOVATIVE OR HIGH-RISK RESEARCH PROJECTS.—The Federal share of the cost of an innovative or high-risk research project described in subparagraph (A) may, at the discretion of the Secretary, be 100 percent.

"(5) PLAN.—The Secretary shall—

"(A) not later than 1 year after the date of enactment of this subchapter, submit to Congress a 6-year plan specifying the goals, objectives, and milestones to be achieved by each program carried out under paragraph (1); and

"(B) report biennially to Congress on the progress in meeting the goals, objectives, and milestones.

"(c) EVALUATION.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall establish guidelines and requirements for the independent evaluation of field and related operational tests, and, if necessary, deployment projects, carried out under this subchapter.

"(B) REQUIRED PROVISIONS.—The guidelines and requirements established under subparagraph (A) shall include provisions to ensure the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subchapter.

"(2) FUNDING.—

"(A) SMALL PROJECTS.—In the case of a test or project with a cost of less than $5,000,000, the Secretary may allocate not more than 15 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(B) MODERATE PROJECTS.—In the case of a test or project with a cost of $5,000,000 or more, but less than $10,000,000, the Secretary may allocate not more than 10 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(C) LARGE PROJECTS.—In the case of a test or project with a cost of $10,000,000 or more, the Secretary may allocate not more than 5 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(3) INAPPLICABILITY OF PAPERWORK REDUCTION ACT.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

"(d) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

"(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(2) DELEGATION OF AUTHORITY.—

"(A) IN GENERAL.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation.

"(B) FEDERAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal assistance under this section.

"(e) TRAFFIC INCIDENT MANAGEMENT AND RESPONSE.—The Secretary shall carry out a program to advance traffic incident management and response technologies, strategies, and partnerships that are fully integrated with intelligent transportation systems.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $120,000,000 for fiscal year 1998, $125,000,000 for fiscal year 1999, $130,000,000 for fiscal year 2000, $135,000,000 for fiscal year 2001, $140,000,000 for fiscal year 2002, and $150,000,000 for fiscal year 2003, of which, for each fiscal year—

"(A) not less than $25,000,000 shall be available for activities that assist motor vehicle drivers in avoiding motor vehicle crashes, including activities that improve the integration of air bag technology with other on-board safety systems;

"(B) not less than $25,000,000 shall be available for activities that assist in the development of an automated highway system; and

"(C) not less than $3,000,000 shall be available for traffic incident management and response.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.

"§ 525. Intelligent transportation system integration program

"(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to in this section as the 'program') to accelerate the integration and interoperability of intelligent transportation systems.

"(b) SELECTION OF PROJECTS.—

"(1) IN GENERAL.—Under the program, the Secretary shall select for funding, through competitive solicitation, projects that will serve as models to improve transportation efficiency, promote safety, increase traffic flow, reduce emissions of air pollutants, improve traveler information, or enhance alternative transportation modes.

"(2) PRIORITIES.—Under the program, the Secretary shall give higher priority to funding projects that—

"(A) promote and foster integration strategies and written agreements among local governments, States, and other regional entities;

"(B) build on existing (as of the date of project selection) intelligent transportation system projects;

"(C) deploy integrated intelligent transportation system projects throughout metropolitan areas;

"(D) deploy integrated intelligent transportation system projects that enhance safe freight movement or coordinate intermodal travel, including intermodal travel at ports of entry into the United States; and

"(E) advance intelligent transportation system deployment projects that are consistent with the national architecture and, as appropriate, comply with required standards as described in section 529.

"(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

"(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $100,000,000 for fiscal year 1998, $110,000,000 for fiscal year 1999, $115,000,000 for fiscal year 2000, $130,000,000 for fiscal year 2001, $135,000,000 for fiscal year 2002, and $145,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 526. Integration program for rural areas

"(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to

in this section as the 'program') to accelerate the integration or deployment of intelligent transportation systems in rural areas.

"(b) SELECTION OF PROJECTS.—Under the program, the Secretary shall—

"(1) select projects through competitive solicitation; and

"(2) give higher priority to funding projects that—

"(A) promote and foster integration strategies and agreements among local governments, States, and other regional entities;

"(B) deploy integrated intelligent transportation system projects that improve mobility, enhance the safety of the movement of passenger vehicles and freight, or promote tourism; or

"(C) advance intelligent transportation system deployment projects that are consistent with the national architecture and comply with required standards as described in section 529.

"(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

"(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1998, $10,000,000 for fiscal year 1999, $15,000,000 for fiscal year 2000, $15,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $20,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 527. Commercial vehicle intelligent transportation system infrastructure

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program—

"(1) to deploy intelligent transportation systems that will promote the safety and productivity of commercial vehicles and drivers; and

"(2) to reduce costs associated with commercial vehicle operations and State and Federal commercial vehicle regulatory requirements.

"(b) ELEMENTS OF PROGRAM.—

"(1) SAFETY INFORMATION SYSTEMS AND NETWORKS.—

"(A) IN GENERAL.—The program shall advance the technological capability and promote the deployment of commercial vehicle, commercial driver, and carrier-specific safety information systems and networks and other intelligent transportation system technologies used to assist States in identifying high-risk commercial operations and in conducting other innovative safety strategies, including the Commercial Vehicle Information Systems and Networks.

"(B) FOCUS OF PROJECTS.—Projects assisted under the program shall focus on—

"(i) identifying and eliminating unsafe and illegal carriers, vehicles, and drivers in a manner that does not unduly hinder the productivity and efficiency of safe and legal commercial operations;

"(ii) enhancing the safe passage of commercial vehicles across the United States and across international borders;

"(iii) reducing the numbers of violations of out-of-service orders; and

"(iv) complying with directives to address other safety violations.

"(2) MONITORING SYSTEMS.—The program shall advance on-board driver and vehicle safety monitoring systems, including fitness-for-duty, brake, and other operational monitoring technologies, that will facilitate commercial vehicle safety, including inspection by motor carrier safety assistance program officers and employees under chapter 311 of title 49.

"(c) USE OF FEDERAL FUNDS.—

"(1) IN GENERAL.—Federal funds used to carry out the program shall be primarily used to improve—

"(A) commercial vehicle safety and the effectiveness and efficiency of enforcement efforts conducted under the motor carrier safety assistance program under chapter 311 of title 49;

"(B) electronic processing of registration, driver licensing, fuel tax, and other safety information; and

"(C) communication of the information described in subparagraph (B) among the States.

"(2) LEVERAGING.—Federal funds used to carry out the program shall, to the maximum extent practicable—

"(A) be leveraged with non-Federal funds; and

"(B) be used for activities not carried out through the use of private funds.

"(d) FEDERAL SHARE.—The Federal share of the cost of a project assisted under the program shall be not more than 80 percent.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for fiscal year 1998, $25,000,000 for fiscal year 1999, $25,000,000 for fiscal year 2000, $35,000,000 for fiscal year 2001, $35,000,000 for fiscal year 2002, and $40,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 528. Corridor development and coordination

"(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements intended to promote regional cooperation, planning, and shared project implementation for intelligent transportation system projects.

"(b) FUNDING.—There shall be available to carry out this section for each fiscal year not more than—

"(1) $3,000,000 of the amounts made available under section 524(f); and

"(2) $7,000,000 of the amounts made available under section 525(e).

"§ 529. Standards

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—The Secretary shall develop, implement, and maintain a national architecture and supporting standards to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the standards shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the States.

"(3) USE OF STANDARDS-SETTING ORGANIZATIONS.—In carrying out this section, the Secretary may use the services of such standards-setting organizations as the Secretary determines appropriate.

"(b) REPORT.—

"(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report describing the status of all standards.

"(2) CONTENTS.—The report shall—

"(A) identify each standard that is needed for operation of intelligent transportation systems in the United States;

"(B) specify the status of the development of each standard;

"(C) provide a timetable for achieving agreement on each standard as described in this section; and

"(D) determine which standards are critical to ensuring national interoperability or critical to the development of other standards.

"(c) ESTABLISHMENT OF PROVISIONAL STANDARDS.—

"(1) ESTABLISHMENT.—Subject to subsection (d), if a standard determined to be critical under subsection (b)(2)(D) is not adopted and published by the appropriate standards-setting organization by January 1, 2001, the Secretary shall establish a provisional standard after consultation with affected parties.

"(2) PERIOD OF EFFECTIVENESS.—The provisional standard shall—

"(A) be published in the Federal Register;

"(B) take effect not later than May 1, 2001; and

"(C) remain in effect until the appropriate standards-setting organization adopts and publishes a standard.

"(d) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL STANDARDS.—

"(1) NOTICE.—The Secretary may waive the requirement to establish a provisional standard by submitting, not later than January 1, 2001, to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a notice that—

"(A) specifies the provisional standard subject to the waiver;

"(B) describes the history of the development of the standard subject to the waiver;

"(C) specifies the reasons why the requirement for the establishment of the provisional standard is being waived;

"(D) describes the impacts of delaying the establishment of the standard subject to the waiver, especially the impacts on the purposes of this subchapter; and

"(E) provides specific estimates as to when the standard subject to the waiver is expected to be adopted and published by the appropriate standards-setting organization.

"(2) PROGRESS REPORTS.—

"(A) IN GENERAL.—In the case of each standard subject to a waiver by the Secretary under paragraph (1), the Secretary shall submit, in accordance with the schedule specified in subparagraph (B), a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the progress of the adoption of a completed standard.

"(B) SCHEDULE OF REPORTS.—The Secretary shall submit a report under subparagraph (A) with respect to a standard—

"(i) not later than 180 days after the date of submission of the notice under paragraph (1) with respect to the standard; and

"(ii) at the end of each 180-day period thereafter until such time as a standard has been adopted and published by the appropriate standards-setting organization or the waiver is withdrawn under paragraph (3).

"(C) CONSULTATION.—In developing each progress report under subparagraph (A), the Secretary shall consult with the standards-setting organizations involved in the standardmaking process for the standard.

"(3) WITHDRAWAL OF WAIVER.—

"(A) IN GENERAL.—At any time, the Secretary may, through notification to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, withdraw a notice of a waiver of the requirement to establish a provisional standard.

"(B) IMPLEMENTATION.—If the Secretary submits notification under subparagraph (A) with respect to a provisional standard, not less than 30 days, but not more than 90 days, after the date of the notification, the Secretary shall implement the provisional standard, unless, by the end of the 90-day period beginning on the date of the notification, a standard has been adopted and published by the appropriate standards-setting organization.

"(e) REQUIREMENT FOR COMPLIANCE WITH STANDARD.—

"(1) IN GENERAL.—

"(A) STANDARD IN EXISTENCE.—Funds made available from the Highway Trust Fund shall not be used to deploy an intelligent transportation system technology if the technology does not comply with each applicable provisional standard or completed standard.

"(B) NO STANDARD IN EXISTENCE.—In the absence of a provisional standard or completed standard, Federal funds shall not be used to deploy an intelligent transportation system technology if the deployment is not consistent with the interfaces to ensure interoperability that are contained in the national architecture.

"(2) APPLICABILITY.—Paragraph (1) shall not apply to—

"(A) the operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter; or

"(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subchapter if the Secretary determines that the upgrade or expansion—

"(i) does not adversely affect the purposes of this subchapter, especially the goal of national or regional interoperability;

"(ii) is carried out before the end of the useful life of the system; and

"(iii) is cost effective as compared to alternatives that meet the compliance requirement of paragraph (1)(A) or the consistency requirement of paragraph (1)(B).

"(f) SPECTRUM.—

"(1) CONSULTATION.—The Secretary shall consult with the Secretary of Commerce, the Secretary of Defense, and the Chairman of the Federal Communications Commission to determine the best means for securing the necessary spectrum for the near-term establishment of a dedicated short-range vehicle-to-wayside wireless standard and any other spectrum that the Secretary determines to be critical to the implementation of this title.

"(2) PROGRESS REPORT.—After consultation under paragraph (1) and with other affected agencies, but not later than 1 year after the date of enactment of this subchapter, the Secretary shall submit a report to Congress on the progress made in securing the spectrum described in paragraph (1).

"(3) DEADLINE FOR SECURING SPECTRUM.—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this subchapter, the Secretary of Commerce shall release to the Federal Communications Commission, and the Federal Communications Commission shall allocate, the spectrum described in paragraph (1).

"(g) FUNDING.—The Secretary shall use funds made available under section 524 to carry out this section.

"§ 530. Funding limitations

"(a) CONSISTENCY WITH NATIONAL ARCHITECTURE.—The Secretary shall use funds made available under this subchapter to deploy intelligent transportation system technologies that are consistent with the national architecture.

"(b) COMPETITION WITH PRIVATELY FUNDED PROJECTS.—To the maximum extent practicable, the Secretary shall not fund any intelligent transportation system operational test or deployment project that competes with a similar privately funded project.

"(c) INFRASTRUCTURE DEVELOPMENT.—Funds made available under this subchapter for operational tests and deployment projects—

"(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

"(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

"(d) PUBLIC RELATIONS AND TRAINING.—For each fiscal year, not more than $15,000,000 of the funds made available under this subchapter shall be used for intelligent transportation system outreach, public relations, training, mainstreaming, shareholder relations, or related activities.

"§ 531. Use of innovative financing

"(a) IN GENERAL.—The Secretary may use up to 25 percent of the funds made available under this subchapter and section 541 to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this title and that have significant intelligent transportation system elements.

"(b) CONSISTENCY WITH OTHER LAW.—Credit assistance described in subsection (a) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1997.

"§ 532. Advisory committees

"(a) IN GENERAL.—In carrying out this subchapter, the Secretary shall use 1 or more advisory committees.

"(b) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 2104. CONFORMING AMENDMENT.

The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title VI (23 U.S.C. 307 note; 105 Stat. 2189).

Subtitle C—Funding

SEC. 2201. FUNDING.

Chapter 5 of title 23, United States Code (as amended by section 2103), is amended by adding at the end the following:

"SUBCHAPTER III—FUNDING

"§ 541. Funding

"(a) RESEARCH, TECHNOLOGY, AND TRAINING.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out sections 502, 507, 509, and 511 $98,000,000 for fiscal year 1998, $101,000,000 for fiscal year 1999, $104,000,000 for fiscal year 2000, $107,000,000 for fiscal year 2001, $110,000,000 for fiscal year 2002, and $114,000,000 for fiscal year 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(1) any Federal share of the cost of an activity under this chapter shall be determined in accordance with this chapter; and

"(2) the funds shall remain available for obligation for a period of 4 years after the last day of the fiscal year for which the funds are authorized.

"(c) LIMITATIONS ON OBLIGATIONS.—Notwithstanding any other provision of law, the total amount of all obligations under subsection (a) shall not exceed—

"(1) $98,000,000 for fiscal year 1998;

"(2) $101,000,000 for fiscal year 1999;

"(3) $104,000,000 for fiscal year 2000;

"(4) $107,000,000 for fiscal year 2001;

"(5) $110,000,000 for fiscal year 2002; and

"(6) $114,000,000 for fiscal year 2003.".

Mr. CHAFEE. The amendment I am submitting, Madam President, is a substitute for the text of the bill.

REMAINING COMMITTEE AMENDMENTS WITHDRAWN

Mr. CHAFEE. On behalf of the committee, I therefore now withdraw all of the other committee amendments, save the amendment I have just sent to the desk.

The PRESIDING OFFICER. The amendments are withdrawn.

The remaining committee amendments were withdrawn.

Mr. CHAFEE. I explain to the Senate this amendment was made necessary to correct certain provisions that are in technical violation of the Budget Act. The bill reported by the committee stays within the overall spending limitations imposed by the budget resolution, but not every dollar is in the right category. We have made adjustments in this substitute amendment that correct those deficiencies. The adjustments do not affect the allocation of the dollars to any State nor the certainty that those dollars will be delivered by the formula in the bill.

The amendment does not affect the substantive provisions of the bill in any other respect, but puts some of the spending authorized by the bill under

the obligation limitation to ensure that we meet the technical requirements of the Budget Act.

It is my understanding the committee has a right to modify its amendments in this way. I polled the committee yesterday, and a majority of the members agreed to this modification. The substitute amendment now is the only committee amendment and is open to amendment by any Senator and will be the vehicle for conducting debate on this bill.

AMENDMENTS NOS. 1310 AND 1311, EN BLOC

Mr. CHAFEE. Now, Madam President, I ask unanimous consent two amendments that I now send to the desk be considered as read and agreed to and the motion to reconsider be laid upon the table.

I have discussed this with the ranking member.

Mr. BAUCUS. Madam President, reserving the right to object, I ask the Senator if he could temporarily withdraw that request—I don't foresee any problems—until it is, in fact, cleared on this side.

Mr. CHAFEE. I think, perhaps if we went into a brief quorum call.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. CHAFEE. Madam President, it is my understanding that the unanimous-consent request I made is agreeable.

Mr. BAUCUS. Madam President, no objection.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE] proposes en bloc amendments numbered 1310 and 1311.

Mr. CHAFEE. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

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

The amendments (Nos. 1310 and 1311) are as follows:

AMENDMENT NO. 1310

(Purpose: To prohibit the use of proceeds from the issuance by any State or local government of tax-exempt bonds for any project financing, prepayments, or repayments under the Transportation Infrastructure Finance and Innovation Act of 1997)

On page 195, line 1, strike "The" and insert "Other than for purposes of section 149 of the Internal Revenue Code of 1986, the".

On page 202, strike lines 13 through 15 and insert the following:

(4) DEDICATED REVENUE SOURCES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(B) USE OF PROCEEDS FROM TAX-EXEMPT FINANCING PROHIBITED.—For the purposes of this section and sections 1315 and 1316, the direct or indirect use of proceeds from the issuance by any State or local government of tax-exempt bonds for any portion of any project financing, prepayments, or repayments is prohibited.

On page 210, line 5, insert "taxable" before "project obligations".

AMENDMENT NO. 1311

(Purpose: To modify the exclusion from the general obligation limitations for the minimum guarantee program)

On page 39, line 15, after "budget" insert the following "(as specified in the letter from the Director of the Congressional Budget Office to the Chairman of the Senate Committee on Environment and Public Works, dated October 6, 1997".

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments (Nos. 1310 and 1311) are agreed to en bloc.

AMENDMENT NO. 1312

Mr. CHAFEE. I send an amendment to the desk with a new amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. WARNER, proposes an amendment numbered 1312.

The amendment is as follows:

On page 250, between lines 18 and 19, insert the following:

"(6) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (2).

AMENDMENT NO. 1313

Mr. CHAFEE. I send to the desk an amendment to the text to be stricken.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr WARNER, proposes an amendment numbered 1313.

The PRESIDING OFFICER. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 9, line 21, after "139(a)", insert the following: "(as in effect on the day before the date of enactment)".

Mr. CHAFEE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1314 TO AMENDMENT NO. 1313

Mr. CHAFEE. Madam President, I send an amendment to the desk to my amendment to the stricken text and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. WARNER, proposes an amendment numbered 1314 to amendment No. 1313.

Mr. CHAFEE. I now move to recommit the bill to the——

Mr. BYRD. I ask that the amendment be read.

The PRESIDING OFFICER. The clerk will continue reading.

The assistant legislative clerk read as follows:

At the end of the amendment add the following: "of the Intermodal Surface Transportation Efficiency Act of 1997)".

Mr. BYRD addressed the Chair.

Mr. CHAFEE. I believe I have the floor.

The PRESIDING OFFICER. The Senator has lost the floor by offering an amendment.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

Mr. DORGAN. Madam President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names.

[Quorum No. 4 Leg.]

Chafee	Dorgan	Warner
Collins	Faircloth	
Daschle	Lott	

The PRESIDING OFFICER (Mr. FAIRCLOTH). A quorum is not present. The clerk will call the names of the absent Senators.

The legislative clerk resumed the call of the roll

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I move to instruct the Sergeant at Arms to request the presence of absent Senators.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to instruct. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] is necessarily absent.

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—94

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

NAYS—4

Bennett	Gramm
D'Amato	McCain

NOT VOTING—2

Biden	Mack

The motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished majority leader, the Senator from Mississippi.

MOTION TO RECOMMIT WITH INSTRUCTIONS

Mr. LOTT. Mr. President, a quorum being established, I now move to recommit the bill to the Environment and Public Works Committee with instructions to report back forthwith.

The PRESIDING OFFICER. Can we have order in the Chamber?

Mr. LOTT. I will repeat. I now move to recommit the bill, S. 1173, to the Environment and Public Works Committee with instructions to report back forthwith. And I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1317

(Purpose: To provide a complete substitute)

Mr. LOTT. Mr. President, I send an amendment to the desk to the instructions.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 1317 to the instructions of the motion to recommit.

Mr. LOTT. I ask unanimous consent that further reading of the amendment be dispensed with. And I ask for the yeas and nays.

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

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1318 TO AMENDMENT NO. 1317

Mr. LOTT. I send an amendment to my amendment to the desk.

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for himself, Mr. CHAFEE and Mr. WARNER, proposes an amendment numbered 1318 to amendment No. 1317.

Mr. LOTT. I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 44, strike line 6 and insert the following:

(e) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $301,905,000 for fiscal year 1998;

(2) $301,725,000 for fiscal year 1999;

(3) $302,055,000 for fiscal year 2000;

(4) $303,480,000 for fiscal year 2001;

(5) $310,470,000 for fiscal year 2002; and

(6) $320,595,000 for fiscal year 2003.

(f) APPLICABILITY OF OBLIGATION LIMITATIONS.—

Mr. LOTT. For the information of all Senators, this exercise, unfortunately, is necessary to keep the Senate's focus on the vital legislation to reauthorize our Nation's surface transportation programs for the next 6 years.

Really good work has been done by the Environment and Public Works Committee. In fact, I believe it was reported by a vote of 18 to 0—unanimous. While there are obviously some concerns—at any time you have concerns on a major transportation bill of this magnitude, there will be Senators on both sides of the aisle who will have amendments that will need to be offered and debated and voted on. And I am sure they will have support on both sides of the aisle.

In accordance with all Senate rules, I have now completed the amendment process with relevant and needed changes to the bill. It is the intention of the manager to eventually have these necessary amendments agreed to by the Senate. However, in the meantime, these amendments will remain pending and the manager will agree to a consent that will lay aside amendment No. 1312 at any time any Member desires to offer a relevant transportation amendment.

We have been in touch with Members who have relevant amendments they would like to offer. We will have Senators prepared to begin offering amendments this afternoon, and we will continue on that tomorrow.

I look forward to making progress on this bill prior to our recess at the end of the week. I thank all colleagues for their cooperation. We do have cooperation from Senator BAUCUS, who has been working on this with Senator CHAFEE from the committee and Senator WARNER and others on both sides.

I know that there has been an agreement reached on some amendments coming up later on after we come back from the religious holiday and the Columbus Day recess, but we will have full time for debate.

I think this is perhaps the most important bill left that we need to get done before we go out for the year sometime later on this month or early in November. So my intent would be to stay on it and try to make progress.

I do not intend for this to become a campaign finance reform forum. There will be votes on that issue tomorrow. They are already scheduled. There will be other opportunities to debate this issue. But I think that the transportation bill is a very important bill, and we have a limited amount of time. The Senate is leading the way on this legislation, so we need to go ahead and get the process underway. I am prepared to give as much time as it takes to try to get it completed.

Now, I might say for the information of all Senators, there is the possibility of at least one more vote. I had hoped we could clear the HUD-VA appropriations conference report. The chairman and the ranking member are ready to go but don't have the papers yet, so apparently we are not going to be able to do that tonight. We hope to do that tomorrow. Then, if we cannot work it out, we may even have to have a recorded vote to go out for the night.

Now, we do not know exactly what time that would come. But I presume around 6 or 6:30. Perhaps it will not be necessary. But the Members should be on notice there is at this point the likelihood of one more vote tonight.

Several Senators addressed the Chair.

Mr. BYRD. I do not want to go ahead of my own leader here. I prefer he go ahead of me.

Mr. LOTT. I will be glad to yield the floor or respond to questions.

Mr. BYRD. I want my own leader first. And then I would like to——

Mr. DASCHLE. Mr. President, if I could just respond, I appreciate very

much the consideration of the distinguished senior Senator from West Virginia.

Let me just say, I regret that we are back into a situation very similar to that which we were in during the debate on campaign finance reform. The leader, as is his right, has chosen to now fill the tree once more. In so doing, it will now require his consent before anybody has the opportunity to offer an amendment. He has the right. That is the prerogative of the majority leader. But he will determine the relevancy of any amendment.

I will say that it is our right to provide the unanimous consent required to move off this legislation for any other purpose. We will certainly invoke that right as the situation warrants. I regret that this is necessary.

I regret that we could not take these issues up one by one and resolve them, as I know many colleagues on both sides of the aisle would like to do. We are precluded from that. So we are now faced with a very difficult set of circumstances. I am hopeful that we can find a way to address it.

The majority leader has indicated this is an important bill. And certainly it is. I give great credit to the chairman and the ranking member for their work in committee to bring us to this point. There is a lot of work that needs to be done, and I hope we can get it done.

But it isn't the only important bill. There is another very important bill that we have been precluded from having a good debate on, and that is campaign finance. At least for the moment we are precluded under these circumstances. But, again, I repeat what I have said before. This is a temporary set of circumstances that will be addressed successfully before we move on conclusively.

I yield the floor. Again, I thank the senior Senator from West Virginia for his willingness to allow me to make my comments.

Mr. LOTT. Mr. President, if I could just respond. I am glad to hear the minority leader's comments. As the leader of the Democrats, certainly he has an obligation to represent their views.

I agree this is certainly important legislation, and we should continue to look for ways that we can have it freely debated and amended and move forward. We will keep talking, and maybe we will find a way to do that. It is my preference to have every Senator have a chance to make his case.

I would like to get out of the process we are in, but I want us to stay on the transportation bill and not have this become another debate on campaign finance reform. There are other ways that will be done. There are other opportunities that I am sure will come along, but we are trying to keep the focus on the highway bill.

I have discussed with other Senators amendments they have in mind. I am going to do everything I can to assure every Senator, he or she, who has an amendment will be able to offer it. I would prefer it not be done in this process, if we can work out some kind of arrangement whereby we would not go with this, where any Senator, as is usually the case, can get up and offer an amendment.

I know Senator BYRD, Senator GRAMM, and others are working on an amendment that there will be a lot of interest in. I want to make sure that amendment has a freestanding opportunity to be fully debated and voted upon. I do not think we can ever complete this legislation without that occurring. I would like for a lot of other amendments that you have—this is important to every Senator. Every State will be affected by this, by the formula and by various parts of this bill—urban mass transportation. It is not something that is partisan. It is not something that is regional. It cuts all kinds of different ways.

So if we can come up with a way over a period of time—I am not rushing to judgment, but I do want us to get on—I promised the chairman and the ranking member a week ago or more—and we had met earlier—that we would begin this bill today, the 8th of October. So I am trying to fulfill that commitment. I think we will find a way to get it done in a way that will allow us to complete our work, and then hopefully the House will follow our leadership on this.

I would be glad to yield to the Senator from West Virginia.

Mr. BYRD. Are you finished?

Mr. LOTT. As a matter of fact, I will yield the floor.

Mr. BYRD. No, I do not suggest you yield the floor.

I just wanted the recognition to state for the record that I do have a measure to the bill, to the ISTEA bill. I wanted all Senators to be aware of that. I would like them to take a look at my amendment when it is ready. Before they make any judgment to go with anybody else's amendment, I have an amendment that I think will appeal to them, to every State. But the leader has already stated that I have an amendment, so that takes care of that situation.

Secondly, I just want to say that whenever we can do our conference reports on appropriations, I would like to do them. They are privileged. I would like to get as many of those bills down as we can get down so we do not have to include them in a continuing resolution.

If the President is going to item veto any of them, I want him to do that in ample time for us to offer a resolution to put those items right back on his desk. If he wants to veto that, OK. He has that right under the Constitution. We, likewise, have the right to either override or sustain. But I would like for him to have time to veto those.

I hate that item veto with a passion. But it is there, until the Supreme Court knocks it down. I cannot see how the Supreme Court can avoid knocking that—killing that bill which most Senators voted for, which most Members voted for, but it is coming home to roost now.

Mr. LOTT. If the Senator will yield for a comment, I think there are probably more Senators and House Members that would agree with you this week than last week, I say to the Senator.

Mr. BYRD. Well, I am heartened by that. I thank the leader.

Mr. LOTT. I yield the floor, Mr. President.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I will be very brief. In my discussions with the majority leader over a period of discussions of the campaign finance reform bill, I told him that I would come back with an amendment that I wanted an up-or-down vote on. I want to repeat again my intentions to have that. I do not desire to tie up the Senate. I do not desire to cause problems with ISTEA or other pieces of legislation between now and when we go out, but I will have an amendment that I believe is important and one that I think should be considered by the Senate. This issue should be resolved, I hope, before we go to recess.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Vermont.

Mr. LEAHY. I thank the Chair.

Mr. President, I just want to make reference to the comments just made by the distinguished senior Senator from West Virginia, my friend and colleague of 23 years. He has served here much longer than that. I have had the opportunity to serve with him for now almost 23 years.

Mr. President, I have made it very clear in speeches on the floor and comments to the public and people back in my home State of Vermont that I completely agree with the distinguished Senator from West Virginia on the question of the line-item veto.

I was one of those, as he knows, who voted against the line-item veto. I recall when he first came trying to say something to me about it. He may well recall this: I said, "You don't even have to lay out the arguments. I can't imagine why anybody in any legislative body would want to give up the power of the purse strings to the Executive."

Again, I do not blame the Executive for asking for it. If any Executive thought that the legislative body would be foolish enough to just hand over the most significant part of their power to them, well, few Executives could resist the temptation.

Mr. BYRD. George Washington took the viewpoint that he had to veto the entire bill or sign it or let it become law without his signature. He could not do it piecemeal. Now the Senate and House have made it possible for any President to do just that. I do not think George Washington would have done that.

Mr. LEAHY. I say to my good friend from West Virginia, who has as strong and abiding history as any person I have had the privilege of serving with, that it goes back to George Washington, that more of us should say we want to go back to George Washington.

Unfortunately, we have a lot of people who give discussions about what were the Founders' intention, what was in the Constitution. I sometimes wonder if they have read either the Constitution, the Federalist Papers, or any history less recent than their latest poll.

I say this because I heard some Members say in the last couple days that they wonder whether they made the right decision in voting for that line-item veto but did not go on to say, "But it was so popular in the polls"—so popular in the polls.

My good friend from West Virginia has read much on decisions made by those who were at the drafting and introduction of the Magna Carta, has certainly read The Federalist Papers more than anybody else here. He has read the decisions that have been made at very difficult times in our history. And I suspect at most of those nobody was doing any polling.

I do not think that the Founders in Philadelphia—I do not think there were many polls being taken. There were certainly discussions among people who had a great sense of not only history but the history they were creating and the country they were putting together.

I suspect also, and my friend from West Virginia would probably agree with this, I suspect also there were many, many there who read, as the distinguished Senator from West Virginia knows, what happened to the Roman Senate. Caesar was given the power of the purse.

I think it is an interesting thing because shortly after the breakup of the Soviet Union, we had many visits here from parliamentarians coming to see how to set up a democracy. I am still struck by one group from Russia who sat in my office asking, how do you do some of these things? Suppose your President said, "No, we will build this weapon and we will do that," and you said, "No," how could you stop him? I said we would not give him the money, and they said, "You mean you can do that?" That is why, after 200 years of being the most powerful nation on Earth, we are still a democracy. We are not a dictatorship because there is that check and balance.

I hope some who feel set upon because their own projects may have been vetoed, if they would go back and read history and think not just to be concerned because they are discomfited for the moment, but be more concerned that they put an enormous hole in the walls that set up the checks and balances in our Nation.

Does a Congress always use the power of the purse wisely? Of course not. I can point to times I have been on the losing end in battles on appropriations and spending bills. The distinguished Senator from West Virginia rarely loses, but can still think, I am sure, of times he may have. But it was the Senate working its will. It was the other House working its will. And then, if the President doesn't like it, veto it, veto the bill.

I might say, and my friend from West Virginia will remember, we have had a number of times in appropriations bills that we pass where the President really was against one particular point, and we sent it down, and he vetoed it. Then we entered into a process of negotiation and the bill gets passed again, and maybe that item, that one item he wanted out, was taken out. But he had to make that whole decision of thinking they lost the whole bill in doing it, and we had to, too. It is a two-way street up and down Pennsylvania Avenue. Now we just send it to the other end of Pennsylvania Avenue.

I say to my friends here in the Senate, don't always jump to what is popular in the polls, especially if it hurts the country. The most popular part of the Contract With America, the most popular part, was term limits. Now, that struck so close to the bone that those who would sign the Contract With America made darn sure no term-length-limit bills went through.

There were five or six different versions, so everybody could vote for something, but no one version would pass. That struck close to home so that went through. Things that strike close to home like that are pay raises and what not.

What I say is, think about the country itself. The line-item veto is not a way in any democracy for a parliamentary party to give up its powers.

I thank my friend from West Virginia for raising the point. I yield the floor.

MORNING BUSINESS

(During today's session of the Senate, the following morning business was transacted.)

EXPLANATION OF ABSENCE

Mr. BIDEN. Mr. President, I rise very briefly to explain my absence on roll-call vote No. 271. This was a procedural vote to instruct the Sergeant at Arms. I was attending a conference with Ambassador Richard Holbrooke and was involved in a discussion of Bosnia and the enforcement of the Dayton Peace accords. I was unable to return to the Senate for the vote.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 7, 1997, the Federal debt stood at $5,415,085,048,979.17. (Five trillion, four hundred fifteen billion, eighty-five million, forty-eight thousand, nine hundred seventy-nine dollars and seventeen cents)

One year ago, October 7, 1996, the Federal debt stood at $5,221,842,000,000. (Five trillion, two hundred twenty-one billion, eight hundred forty-two million)

Five years ago, October 7, 1992, the Federal debt stood at $4,061,155,000,000. (Four trillion, sixty-one billion, one hundred fifty-five million)

Ten years ago, October 7, 1987, the Federal debt stood at $2,377,991,000,000. (Two trillion, three hundred seventy-seven billion, nine hundred ninety-one million)

Fifteen years ago, October 7, 1982, the Federal debt stood at $1,131,630,000,000 (One trillion, one hundred thirty-one billion, six hundred thirty million) which reflects a debt increase of more than $4 trillion—$4,283,455,048,979.17 (Four trillion, two hundred eighty-three billion, four hundred fifty-five million, forty-eight thousand, nine hundred seventy-nine dollars and seventeen cents) during the past 15 years.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING OCTOBER 3

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending October 3, the United States imported 9,492,000 barrels of oil each day, 1,607,000 barrels more than the 7,885,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 59.9 percent of their needs last week, and there are no signs that the upward spiral will abate. Before the Persian Gulf war, the United States obtained approximately 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970's, foreign oil accounted for only 35 percent of America's oil supply.

Anybody else interested in restoring domestic production of oil by U.S. producers using American workers?

Politicians had better ponder the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the United States—now 9,492,000 barrels a day.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to

the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:01 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 629. An act to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

H.R. 998. An act for the relief of Lloyd B. Gamble.

H.R. 1127. An act to amend the Antiquities Act regarding the establishment by the President of certain national monuments.

H.R. 1211. An act for the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical Corporation.

H.R. 1313. An act for the relief of Nancy B. Wilson.

At 2:13 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendments of the Senate to the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 2:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following bills and joint resolution:

S. 1000. An act to designate the United States courthouse at 500 State Avenue in Kansas City, Kansas, as the "Robert J. Dole United States Courthouse."

H.R. 1122. An act to amend title 18, United States Code, to ban partial-birth abortions.

H.J. Res. 75. Joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore [Mr. THURMOND].

At 4:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes.

At 5:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 169. Concurrent resolution providing for an adjournment of the two Houses.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent and referred as indicated:

H.R. 998. An act for the relief of Lloyd B. Gamble; to the Committee on the Judiciary.

H.R. 1127. An act to amend the Antiquities Act regarding the establishment by the President of certain national monuments; to the Committee on Energy and Natural Resources.

H.R. 1211. An act for the relief of Global Exploration and Development Corporation, Kerr-McGee Corporation, and Kerr-McGee Chemical Corporation; to the Committee on the Judiciary.

H.R. 1313. An act for the relief of Nancy B. Wilson; to the Committee on the Judiciary.

MEASURE PLACED ON THE CALENDAR

The following measure was read the first and second times by unanimous consent and placed on the calendar:

H.R. 629. An act to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH, from the Committee on Finance, without amendment:

S. 1269. An original bill to establish objectives for negotiating and procedures for implementing certain trade agreements (Rept. No. 105–102).

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 1271. An original bill to reauthorize the mass transit programs of the Federal Government, and for other purposes (Rept. No. 105–103).

By Mr. HELMS, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Res. 112. A resolution condemning the most recent outbreak of violence in the Republic of Congo and recognizing the threat such violence poses to the prospects for a stable democratic form of government in that country.

By Mr. HELMS, from the Committee on Foreign Relations, with an amendment in the nature of a substitute and an amendment to the title and with a preamble:

S. Con. Res. 37. A concurrent resolution expressing the sense of the Congress that Little League Baseball Incorporated was established to support and develop Little League baseball worldwide and should be entitled to all of the benefits and privils available to nongovernmental international organizations.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Ellen Seidman, of the District of Columbia, to be Director of the Office of Thrift Supervision for a term of five years.

Edward M. Gramlich, of Virginia, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1994.

Roger Walton Ferguson, of Massachusetts, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of fourteen years from February 1, 1986.

Dennis Dollar, of Mississippi, to be a Member of the National Credit Union Administration Board for a term expiring April 10, 2003.

Paul R. Carey, of New York, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2002.

Laura S. Unger, of New York, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2001.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. McCAIN, from the Committee on Commerce, Science, and Transportation:

George W. Black, Jr., of Georgia, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2001. (Reappointment)

Harold W. Furchtgott-Roth, of the District of Columbia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1995.

William E. Kennard, of California, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1996.

Michael K. Powell, of Virginia, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1997.

John Arthur Hammerschmidt, of Arkansas, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2000. (Reappointment)

Gloria Tristani, of New Mexico, to be a Member of the Federal Communications Commission for the remainder of the term expiring June 30, 1998.

Gloria Tristani, of New Mexico, to be a Member of the Federal Communications Commission for a term of five years from July 1, 1998. (Reappointment)

James E. Hall, of Tennessee, to be a Member of the National Transportation Safety Board for a term expiring December 31, 2002. (Reappointment)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HELMS, from the Committee on Foreign Relations:

Martin S. Indyk, of the District of Columbia, to be an Assistant Secretary of State.

Alphonse F. La Porta of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Mongolia.

Nominee: Alphonse F. La Porta.

Post: Ulaan Baatar.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions: Amount, date, and donee

1. Self: none.
2. Spouse: Katherine A. Winget La Porta, none.
3. Children: Katherine Grace and Andrew Francis, none.
4. Parents: deceased.
5. Grandparents: deceased.
6. Brothers: none.
7. Sisters: Grace (deceased 1978); Sandra La Porta, none.

Stephen W. Bosworth, of Connecticut, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Korea.

Nominee: Stephen W. Bosworth.

Post: Republic of Korea.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions: Amount, date, and donee

1. Self: none.
2. Spouse: $1,000, 11/95, Clinton-Gore.
3. Children and Spouses: Andrew, Allison/Andre Spinard, none.
4. Parents: Mina Bosworth, none.
5. Grandparents: deceased.
6. Brothers and Spouses:

Barry/Nancy Bosworth: $100, 10/95, Maryland Democratic Party.

Brian Bosworth/Hilary Pennington: Less than $250, 1996, Clinton-Gore; Less than $250, 1996, Kerry; Less than $250, 1996, Edward Kennedy; Less than $250, 1996, Scott Harsberger.

Wyche Fowler, Jr., of Georgia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Saudi Arabia.

Nominee: William Wyche Fowler, Jr.

Post: Ambassador to Saudi Arabia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions: Amount, date, and donee

1. Self:

$200, 02/25/93, Fowler for Senate;
$250, 01/12/94, George Mitchell for Senate;
$500, 07/14/94, Alex Crumbley;
$250, 09/13/94, Ben Jones for Congress;
$1,000, 11/01/94, Friends of Jim Sasser;
$1,000, 05/22/95, Clinton-Gore Primary Committee;
$1,000, 04/04/96, Democratic Senatorial Campaign Committee, Tribute to Clairborne Pell.

2. Spouse: Donna Fowler, none.
3. Children: Katherine Fowler, none.
4. Parents: deceased.
5. Grandparents: deceased.
6. Brothers: none.
7. Sisters and spouses: (Divorced) Gerald Fowler Skwira and Francis Skwira (Ex-brother in law), none.

Thomas S. Foley, of Washington, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Japan.

Nominee: Thomas S. Foley.

Post: Ambassador to Japan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions: Amount, date, and donee

1. Self and spouse: Thomas S. Foley and Heather S. Foley:

1997:

$2,247.00—Akin, Gump, Strauss, Hauer and Feld Political Action Committee

1996:

$1,000.00—Thomas Foley to President Clinton's Campaign
$1,000.00—Heather Foley to President Clinton's Campaign
$500.00—Akin, Gump, Strauss, Hauer and Feld Political Action Committee to Eleanor Holmes Norton
$2,541.00—Akin, Gump, Strauss, Hauer and Feld Political Action Committee

1995:

$2,307.00—Akin, Gump, Strauss, Hauer and Feld Political Action Committee

2. Children and spouses: none.
3. Parents: Ralph & Helen, deceased.
4. Grandparents: deceased.
5. Brothers and spouses: none.
6. Sisters: Maureen Ann, none.

For information on the Foley Political Action Committee see attached.

FOLEY POLITICAL ACTION COMMITTEE

ITEMIZED DISBURSEMENTS OF THE HOUSE LEADERSHIP FUND

The following information includes, Full Name, Address & Zip Code, Purpose of Disbursement, Date, and Amount.

Rosa DeLauro for Congress Committee, 1 Trumell Street, New Haven, CT 06511; Member of Congress, 3rd, Connecticut; 1/17/92; $2,500.00 (Election: primary).

Byron for Congress Committee, P.O. Box 1188, Frederick, MD 21702; Member of Congress, 6th, Maryland; 2/28/92; $1,000.00 (Election: primary).

Lipinski for Congress, 5838 S. Archer Avenue, Chicago, IL 60638; Member of Congress, 5th, Illinois; 2/12/92; $5,000.00 (Election: primary).

Citibank Visa, P.O. Box 8501, Hagerstown, MD 21741; In-Kind Contribution of Travel to Rosa DeLauro, Member of Congress 3rd, Connecticut; 3/5/92; $524.00 (Election: primary).

Citibank Visa, P.O. Box 8501, Hagerstown, MD 21741; In-Kind Contribution of Travel to David Price, Member of Congress, 4th, North Carolina; 3/5/92; $696.00 (Election: primary).

Committee to Re-Elect Tom Foley, 406 E. 75th Street, Chicago, IL 60619; Member of Congress 1st, Illinois; 3/20/92; $2,500.00 (Election: primary).

Pat Williams Campaign Committee, P.O. Box 1992, Helena, Montana 59601; Member of Congress, 1st, Montana; 3/17/92; $2,500.00 (Election: primary).

Coleman for Congress Committee, P.O. Box 70047, Washington, D.C. 20024; Member of Congress, 16th, Texas; 3/5/92; $5,000.00 (Election: primary).

Albert Wynn for Congress, 8700 Central Avenue, Landover, MD 20785; Member of Congress, 4th, Maryland; 4/24/92; $2,000.00 (Election: primary).

Committee to Re-Elect Joe Kolter, P.O. Box 2, Beaver Falls, PA 15010; Member of Congress, 4th, Pennsylvania; 4/25/92; $1,000.00 (Election: primary).

Friends of Congressman Sikorski, 410 New Jersey Avenue, S.E., Washington D.C. 20003; Member of Congress, 6th, Minnesota; 4/24/92; $2,000.00 (Election: primary).

Hattery for Congress, P.O. Box 88, Mt. Airy, Maryland 21771; Member of Congress, 3rd, Maryland; 4/8/92; $2,500.00 (Election: primary).

McGowan for Congress '92, 4 Union Street, Bangor, Maine 04401; Member of Congress, 2nd, Maine; 4/16/92; $2,000.00 (Election: primary).

Nagle Campaign Committee, P.O. Box 792, Waterloo, Iowa 50704; Member of Congress, 3rd, Iowa; 4/25/92; $1,000.00 (Election: primary).

Pallone for Congress, P.O. Box 3176, Long Beach, NJ 07740; Member of Congress, 3rd, New Jersey; 4/16/92; $2,000.00 (Election: primary).

Reynolds for Congress, 525 103rd Street, Chicago, IL 60628; Member of Congress, 2nd, Illinois; 4/8/92; $2,500.00 (Election: primary).

Anthony for Congress Campaign Committee, P.O. Box 1871, El Dorado, Arkansas 71730; Member of Congress, 4th, Arkansas; 5/27/92; $5,000.00 (Election: primary).

Gutierriz for Congress, 730 N. Franklin, Chicago, IL 60610; Member of Congress, 4th, Illinois; 5/13/92; $1,000.00 (Election: primary).

Johnson for Congress, 1005 W. Jefferson Street, Dallas, TX 75208; Member of Congress, 30th, Texas; 5/13/92; $1,000.00 (Election: primary).

Kika De La Garza for Congress, P.O. Box 636, Hildalgo, TX 78557; Member of Congress, 15th, Texas; 5/26/92; $1,000.00 (Election: primary).

Margery Margolies Mezvinsky for Congress, 1 Presidential Boulevard, Bala Cynwyd, PA 19004; Member of Congress, 13th, Pennsylvania; 5/4/92; $1,000.00 (Election: primary).

Mary Rose Oakar for Congress Committee, P.O. Box 458, Cleveland, OH 44107; Member of Congress, 20th, Ohio; 5/4/92; $5,000.00 (Election: primary).

Pallone for Congress, P.O. Box 3176, Long Branch, New Jersey 07740; Member of Congress, 3rd, New Jersey, 5/26/92; $1,000.00 (Election: primary).

Ron Klink for Congress Committee, 107 S. 2nd Street, Jeannette, PA 15644; Member of Congress, 4th, Pennsylvania; 5/4/92; $1,000.00 (Election: primary).

Rush for Congress, 1507 E. 53rd Street, Chicago, IL 60615; Member of Congress, 1st, Illinois; 5/13/92; $1,000.00 (Election: primary).

Watt for Congress, 700 E. Stonewall, Charlotte, N.C. 28202; Member of Congress, 12th, North Carolina; 5/13/92; $1,000.00 (Election: primary).

American Express Company, P.O. Box 1270, Newark, N.J. 07101; In-Kind Contribution of Travel to DCCC; 6/8/92; $285.47 (Election: primary).

Anderson-Braude for Congress, 109 East Eighth Street, Long Beach, CA 90802; Member of Congress, 37th, California; 6/8/92; $1,000.00 (Election: primary).

Anita for Congress, P.O. Box 22046, Santa Barbara, CA 93121; Member of Congress, 23rd, California; 6/8/92; $1,000.00 (Election: primary).

Harlow for Congress, 814 River Oaks, Paducah, KY 42001; Member of Congress, 1st, Kentucky, 6/8/92; $1,000.00 (Election: primary).

Brown for Congress, 1626 W. 38th Street, Lorain, OH 44053; Member of Congress, 13th, Ohio; 6/22/92; $1,000.00 (Election: primary).

Clayton for Congress, P.O. Box 479, Warrenton, N.C. 27589; Member of Congress, 1st, North Carolina; 6/8/92; $1,000.00 (Election: primary).

Cordray for Congress, 4178 Croadway, Grove City, OH 43123; Member of Congress, 15th, Ohio; 6/8/92; $1,000.00 (Election: primary).

Eshoo for Congress, 525 Alma Street, Palo Alto, CA 94301; Member of Congress, 14th, California; 6/8/92; $1,000.00 (Election: primary).

Filner for Congress, P.O. Box 12786, San Diego, CA 92101; Member of Congress, 50th, California; 6/22/92; $1,000.00 (Election: primary).

Fingerhut for Congress, 200 National City, E. 6th Bldg., Cleveland, OH 44144; Member of Congress, 19th, Ohio; 6/8/92; $1,000.00 (Election: primary).

Friends of Jane Harmon, San Vincente Boulevard, Los Angeles, CA 90040; Member of Congress, 36th, California; 6/8/92; $1,000.00 (Election: primary).

Friends of Patti Garamendi, P.O. Box 690456, Stockton, CA 95269; Member of Congress, 11th, California; 6/9/92; $1,000.00 (Election: primary).

Furse for Congress, P.O. Box 399, Hillsboro, OR 97123; Member of Congress, 1st, Oregon; 6/8/92; $1,000.00 (Election: primary).

Lembert for Congress, 44 Waverly Wood, Helena, AR 72342; Member of Congress, 1st, Arkansas; 6/8/92; $1,000.00 (Election: primary).

Lucille Roybal-Allard for Congress, P.O. Box 2187, Bell Gardens, CA 90201; Member of Congress, 33rd, California; 6/8/92; $1,000.00 (Election: primary).

McCuen for Congress, P.O. Box 6251, Hot Springs, AR 72901; Member of Congress, 4th, Arkansas; 6/22/92; $1,000.00 (Election: primary).

Menendez for Congress, P.O. Box 848, Union City, N.J. 07087; Member of Congress, 13th, New Jersey; 6/8/92; $1,000.00 (Election: primary).

Ochoa for Congress, 815 De La Vina, Santa Barbara, CA 93101; Member of Congress, 22nd, California; 6/8/92; $1,000.00 (Election: primary).

Schenk for Congress, 8340 Clairemont Mesa Boulevard, San Diego, CA 92111; Member of Congress, 49th, California; 6/8/92; $1,000.00 (Election: primary).

Scott for Congress, P.O. Box 251, Newport News, VA 23607; Member of Congress, 3rd, Virginia; 6/24/92; $1,000.00 (Election: primary).

Williams for Congress, 520 Lennor Lance, Walnut Creek, CA 94958; Member of Congress, 10th, California; 6/8/92; $1,000.00 (Election: primary).

Wolsey for Congress, 1301 Redwood Way, Petaluma, CA 94954; Member of Congress, 6th, California; 6/8/92; $1,000.00 (Election: primary).

Andy Fox for Congress, 120 E. Sewell Drive, Hampton, VA 23666; Member of Congress, 1st, Virginia; 7/20/92; $1,000.00 (Election: general).

Friends of Congresswoman Barbara Rose Collins, P.O. Box 07167, Detroit, Michigan 48207; Member of Congress, 13th, Michigan; 7/22/92; $5,000.00 (Election: primary).

Mike Kreidler for Congress, P.O. Box 4839, Federal Way, WA 98063; Member of Congress, 9th, Washington; 7/20/92; $1,000.00 (Election: primary).

U.S. Bank Visa, P.O. Box 4342, Portland, OR 97208; In-Kind Contribution of travel to Donald Payne, Member of Congress, 10th, New Jersey; 7/7/92; $786.00 (Election: general).

Williams for Congress, P.O. Box 114, Boise, Idaho 83701; Member of Congress, 2nd, Idaho; 7/9/92; $1,000.00 (Election: general).

Bonior For Congress, 237 S. Grotiot, Mt. Clemens, MI 48043; Member of Congress, 12th, Michigan; 8/10/92; $2,500.00 (Election: general).

Citizens for Bacchus, P.O. Box 531146, Orlando, FL 32853; Member of Congress, 11th, Florida; 8/10/92; $2,000.00 (Election: primary).

Congressman Bob Clement Committee, P.O. Box 150608, Nashville, TN 37215; Member of Congress, 5th, Tennessee; 8/3/92; $2,000.00 (Election: primary).

Cox for Congress, 331 E. State Street; Rockford, IL 61104; Member of Congress, 16th, Illinois; 8/10/92; $2,000.00 (Election: general).

Don Johnson for Congress, 290 North Milledge, Athens, GA 30603; Member of Congress, 10th, Georgia; 8/10/92; $1,000.00 (Election: general).

Elaine Baxter for Congress Committee, 210 East Salem, P.O. Box 783, Indianola, IA 50125; Member of Congress, 3rd, Iowa; 8/3/92; $1,000.00 (Election: general).

Friends of Tom Andrews, P.O. Box 4400, Station A, Portland, MA 04101; Member of Congress, 1st, Maine; 8/10/92; $2,000.00 (Election: general).

Kilker for Congress, 3715 Springetts Drive, York, PA 17402; Member of Congress, 19th, Pennsylvania; 8/3/92; $1,000.00 (Election: general).

Margolins for Congress, 13899 Biscayne Boulevard, North Miami, FL 33181; Member of Congress, 22nd, Florida; 8/10/92; $1,000.00 (Election: primary).

Maria Cantwell for Congress Committee, P.O. Box 144, Mountainlake Terrace, WA 98043; Member of Congress, 1st, Washington; 8/3/92; $1,000.00 (Election: primary).

Pomeroy for Congress, P.O. Box 1482, Bismark, ND 58502; Member of Congress, North Dakota; 8/10/92; $1000.00 (Election: general).

Richard Ray for Congress, P.O. Box 1649, Byron, GA 31008; Member of Congress, 3rd, Georgia; 8/3/92; $2000.00 (Election: general).

Sarpalius for Congress, P.O. Box 7926, Amarillo, TX 79114; Member of Congress, 13th, Texas; 8/10/92; $2000.00 (Election: general).

Shepherd for Congress, 1261 2nd Avenue, Salt Lake City, UT 84103; Member of Congress, 2nd, Utah; 8/3/92; $1000.00 (Election: primary).

Takano for Congress, 3910 Market Street, Riverside, CA 92501; Member of Congress, 43rd, California; 8/10/92; $1000.00 (Election: general).

Thurman for Congress Committee, P.O. Box 2816, Gainsville, FL 32602; Member of Congress, 5th, Florida; 8/3/92; $1000.00 (Election: primary).

Tucker for Congress, 322 West Compton Boulevard, Compton, CA 90220; Member of Congress, 37th, California; 8/3/92; $1000.00 (Election: general).

VanWinkle for Congress Committee, P.O. Box 11541, Fort Smith, AR 72917; Member of Congress, 3rd, Arkansas; 8/3/92; $1000.00 (Election: general).

Wallace for Congress, P.O. Box 988, Montgomery, AL 36101; Member of Congress, 2nd, Alabama; 8/3/92; $1000.00 (Election: general).

Alaskans for John Devens, 1317 W. Northern Lights Blvd., Anchorage, Alaska 99503; Member of Congress, Al, Arkansas; 9/21/92; $1000.00 (Election: general).

American Express Company, P.O. Box 1270, Newark, New Jersey 07101; In-Kind Contribution of Travel to Ron Coleman, Member of Congress, 16th, Texas; 9/21/92; $3132.00 (Election: general).

Aucoin for Senate Committee, 809 N.E. 6th Street, Portland, Oregon 97232; U.S. Senator, 1st, Oregon; 9/29/92; $2000.00 (Election: general).

Bart Stupak for Congress, 4101 Michigan Shore Drive, Menominee, MI 49858; Member of Congress, 11th, Michigan; 9/11/92; $1000.00 (Election: general).

Becerra for Congress, P.O. Box 3096, Montbello, California 90640; Member of Congress, 30th, California; 9/21/92; $1000.00 (Election: general).

Bonior for Congress, 237 S. Grotiot, Mt. Clemens, Michigan 48043; Member of Congress, 12th, Michigan; 9/29/92; $1000.00 (Election: general).

Byrne for Congress, P.O. Box 2612, Falls Church, VA 22042; Member of Congress, 11th, Virginia; 9/11/92; $1000.00 (Election: general).

Callahan for Congress, P.O. Box 54, Gunison, Colorado 81230; Member of Congress, 3rd, Colorado; 9/21/92; $1000.00 (Election: general).

Cathey Steinberg for Congress, 1236 Wildcliff Circle, NE, Atlanta, Georgia 30329; Member of Congress, 4th, Georgia; 9/11/92; $1000.00 (Election: general).

Center for Congress, P.O. Box 88129, Dunwoody, Georgia 30356; Member of Congress, 6th, Georgia; 9/29/92; $1000.00 (Election: general).

Citizens for Deaton, 424 S. National, Springfield, Missouri 65802; Member of Congress, 7th, Missouri; 9/11/92; $1000.00 (Election: general).

Clyburn for Congress, P.O. Box 4490, Columbia, South Carolina 29240; Member of Congress, 6th, South Carolina; 9/29/92; $1000.00 (Election: general).

Committee for Nydia Velasquez in Congress, 92 Siegel Street, Brooklyn, New York 11206; Member of Congress, 12th, New York; 9/29/92; $1000.00 (Election: general).

Cynthia McKinney for Congress, P.O. Box 27115, Decatur, GA 30037; Member of Congress, 2nd, Georgia; 9/11/92; $1000.00 (Election: general).

David Mann for Congress, 568 Evanswood Place, Cincinnati, Ohio 45220; Member of Congress, 1st, Ohio; 9/11/92; $1000.00 (Election: general).

Eliot Engel for Congress, P.O. Box 546, Bronx, New York 10461; Member of Congress, 19th, New York; 9/11/92; $2000.00 (Election: primary).

Erdreich for Congress, P.O. Box 751, Birmingham, Alabama 35201; Member of Congress, 6th, Alabama; 9/29/92; $1000.00 (Election: general).

Friends of Cong. Gerry Sikorski, P.O. Box 32373, Fridley, MN 55432; Member of Congress, 6th, Minnesota; 9/11/92; $2000.00 (Election: general).

Friends of Tom Redder, Inc., P.O. Box 9626, Fort Collins, Colorado 80525; Member of Congress, 4th, Colorado; 9/21/92; $1000.00 (Election: general).

Gejdenson Re-Election Committee, P.O. Box 1818, Bozrah, Connecticut 06334; Member of Congress, 2nd, Connecticut; 9/29/92; $1000.00 (Election: general).

Glickman for Congress Committee, P.O. Box 3172, Wichita, Kansas 67201; Member of Congress, 4th, Kansas; 9/29/92; $1000.00 (Election: general).

Green for Congress, P.O. Box 16128, Houston, Texas 77222; Member of Congress, 29th, Texas; 9/21/92; $1000.00 (Election: general).

Hair for Congress, P.O. Box 447, Jacksonville, FL 32201; Member of Congress, 4th, Florida; 9/11/92; $1000.00 (Election: general).

Herschler for Congress, P.O. Box 368, Big Horn, Wyoming 82833; Member of Congress, AL, Wyoming; 9/21/92; $1000.00 (Election: general).

Hilliard for Congress, 1612 Third Avenue North, Birmingham, Alabama 35203; Member of Congress, 7th, Alabama; 9/21/92; $1000.00 (Election: general).

Hinchey for Congress, 20 Carriage Hill, Latham, New York 12110; Member of Congress, 26th, New York; 9/29/92; $1000.00 (Election: general).

Holden for Congress, 424 South 2nd Street, St. Clair, Pennsylvania 17970; Member of Congress, 6th, Pennsylvania; 9/29/92; $1000.00 (Election: general).

Jimmy Hayes for Congress, P.O. Box 30476, Lafayette, Louisiana 79593; Member of Congress, 7th, Louisiana; 9/11/92; $2500.00 (Election: general).

Mary Rose Oakar for Congress, P.O. Box 458, Cleveland, Ohio 44107; Member of Congress, 29th, Ohio; 9/11/92; $1000.00 (Election: general).

McMillen for Congress, P.O. Box 447, Millersville, Maryland 21108; Member of Congress, 1st, Maryland; 9/29/92; $1000.00 (Election: general).

Meek for Congress, 149 West Plaza, Miami, Florida 33147; Member of Congress, 17th, Florida; 9/21/92; $1000.00 (Election: general).

Nathan Dean for Congress, 311 Green Street, N.E., Gainesville, Georgia 30503; Member of Congress, 9th, Georgia; 9/21/92; $1000.00 (Election: general).

Patricia Danner for Congress, P.O. Box 143, Smithville, Missouri 64098; Member of Congress, 6th, Missouri; 9/11/92; $1000.00 (Election: general).

Peter Deutsch for Congress, P.O. Box 26778, Tampa, Florida 33320; Member of Congress, 20th, Florida; 9/29/92; $1000.00 (Election: general).

Ron Holt for U.S. Congress, P.O. Box 1647, Ogden, Utah 84402; Member of Congress, 1st, Utah; 9/11/92; $1500.00 (Election: general).

Sanford Bishop for Congress, P.O. Box 709; Columbus, Georgia 31902; Member of Congress, 3rd, Georgia; 9/11/92; $1000.00 (Election: general).

Schiliro for Congress Campaign Committee, 1002 Wood Park Drive, Baldwin, New York 11510; Member of Congress, 4th, New York; 9/29/92; $2000.00 (Election: general).

Sendelsky for Congress Committee, 3 Stephenville Parkway, Edison, New Jersey 08820; Member of Congress, 7th, New Jersey; 9/21/92; $1000.000 (Election: general).

Shepherd for Congress, 1261 2nd Avenue, Salt Lake City, Utah 84103; Member of Congress, 2nd, Utah; 9/11/92; $1000.00 (Election: general).

Smith for Congress, 6306 N. Cicero, Chicago, IL 60646; Member of Congress, 8th, Illinois; 9/11/92; $1000.00 (Election: general).

Strickland for Congress, P.O. Box 580, Lucasville, Ohio 45648; Member of Congress, 6th, Ohio; 9/21/92; $1000.00 (Election: general).

Walter Briggs for Congress, P.O. Box 1475, Birmingham, Michigan 48012; Member of Congress, 18th, Michigan 9/11/92; $1000.00 (Election: general).

Williams for Congress, 211 Riveria Drive, Oklahoma City, Oklahoma 73112; Member of Congress, 5th, Oklahoma 9/21/92; $1000.00 (Election: general).

Al Swift for Congress Committee, P.O. Box 941, Everett, WA 98296; Member of Congress, 2nd, WA; 10/13/92; $2000.00 (Election: general).

Barcia for Congress, 915 Harbor View, Bay City, MI 48706; Member of Congress 5th, MI; 10/13/92; $1000.00 (Election: general).

Brown for Congress, 1626 W. 38th Street, Lorain, OH 44053; Member of Congress, 13th, OH; 10/13/92; $1000.00 (Election: general).

Congressman Kildee Committee, P.O. Box 990, Washington, D.C. 20044; Member of Congress, 9th, MI; 10/13/92; $1000.00 (Election: general).

Friends of Jane Harman, 2250 East Imperial Highway, El Segundo, CA 90245; Member of Congress, 36th, CA; 10/13/92; $1000.00 (Election: general).

Friends of Rosa DeLauro, 49 Huntington Street, New Haven, CT 06511; Member of Congress, 3rd, CT; 10/13/92; $1000.00 (Election: general).

Gejdenson Re-Election Committee, P.O. Box 1818, Bozrah, CT 06334; Member of Congress, 2nd, CT; 10/13/92; $2,000.00 (Election: general).

Inslee for Congress, P.O. Box 160, Selah, WA 98942; Member of Congress, 4th, WA; 10/13/92; $1,000.00 (Election: general).

Lawlor for Congress, 193 Grand Street, Waterbury, CT 06702; Member of Congress, 5th CT; 10/13/92; $1,000.00 (Election: general).

Manburg for Congress, 1330 Booneville Road, Ikiah, CA 95482; Member of Congress, 1st, CA; 10/13/92; $1,000.00 (Election: general).

Mavroules for Congress Committee, P.O. Box 91283, Washington, D.C. 20090; Member of Congress, 6th, MA; 10/13/92; $1,000.00 (Election: general).

McCloskey for Congress, P.O. Box 70, Bloomington, IN 47402; Member of Congress, 8th, IN; 10/13/92; $2,000.00 (Election: general).

Minge for Congress, P.O. Box 364, Montevideo, MN 56265; Member of Congress, 2nd, MN; 10/13/92; $1,000.00 (Election: general).

Nagle Campaign Committee, P.O. Box 792, Waterloo, IA 50704; Member of Congress, 2nd, IA; 10/13/92; $2,000.00 (Election: general).

Pat Williams for Congress, P.O. Box 1992, Helena, MT 59601; Member of Congress, 1st, MT; 10/13/92; $2,000.00 (Election: general).

The Wilson Committee, 4604 Demming, Alexandria, VA 22312; Member of Congress, 2nd, TX; 10/5/92; $5,000.00 (Election: general).

Center for Congress, P.O. Box 88129, Dunwoody, GA 30356; Member of Congress, 6th Georgia; 10/20/92; $1,500.00 (Election: general).

Comerford for Congress, 4400 P.G.A. Boulevard, #304, Palm Beach Gardens, FL 33480; Member of Congress, 16th Florida; 10/29/92; $1,000.00 (Election: general).

Committee to Elect Gary L. Ackerman, 7424 Miller Fall Road, Derwood, MD 20855; Member of Congress, 5th New York; 10/20/92; $1,000.00 (Election: general).

Friends of Congressman Hochbrueckner, P.O. Box 426, Corman, NY 11727; Member of Congress, 1st New York; 10/20/92; $2,000.00 (Election: general).

Gejdenson Re-Election Committee, P.O. Box 1818, Bozrah, CT 06334; Member of Congress, 2nd, Connecticut; 10/23/92; $2,000.00 (Election: general).

Hefner for Congress Committee, P.O. Box 3016, Concord, N.C. 28025; Member of Congress, 8th North Carolina; 10/20/92; $3,000.00 (Election: general).

Kostmayer '92 Campaign Committee, P.O. Box 85 Old Dublin Pike, Doylestown, PA 18901; Member of Congress, 8th Pennsylvania; 10/20/92; $3,000.00 (Election: general).

Kreidler for Congress, P.O. Box 4839, Federal Way, WA 98063; Member of Congress, 9th Washington; 10/30/92; $1,000.00 (Election: general).

Maloney for Congress, 77 Seventh Avenue, New York, NY 10001; Member of Congress, 14th New York; 10/23/92; $1,000.00 (Election: general).

Mims for Congress, P.O. Box 2802, Lakeland, FL 33806; Member of Congress, 12th Florida; 10/29/92; $1,000.00 (Election: general).

Preston for Congress, Box 1991, Hampton, N.H. 03842; Member of Congress, 1st New Hampshire; 10/30/92; $1,000.00 (Election: general).

Victory '92, Suite 1120 Statler Office Bldg., Boston, MA 02116; contribution; 10/23/92; $1,000.00 (Election: general).

Barca for Congress, 2500 Washington Road, Kenosha, WI 53140; Member of Congress, 1st, Wisconsin; 4/8/93; $5,000.00 (Election: special).

Farr for Congress, 1010 S Street, Sacremento, CA 95814; Member of Congress, 17th, California; 4/20/93; $2,000.00 (Election: special).

Friends of Bennie Thompson, 107 W. Madison Street, Bolton, Miss. 39041; Member of Congress, 2nd, Mississippi; 4/8/93; $5,000.00 (Election: special).

1993 Democratic Special Election Fund, 430 S. Capitol Street, Washington, D.C. 20003; Farr for Congress, Member of Congress, 17th, California; 4/5/93; $3,000.00 (Election: special).

Citibank Visa, P.O. Box 8502, Hagerstown, MD 21748; In-Kind Contribution of Travel to Cleo Fields, Member of Congress, 4th, Louisiana; 5/17/93; $2083.00 (Election: primary).

Citibank Visa, P.O. Box 8502, Hagerstown, MD 21748; In-Kind Contribution of Travel to Eddie Bernice Johnson, Member of Congress, 30th, Texas; 5/17/93; $1440.02 (Election: primary).

Citibank Visa, P.O. Box 8502, Hagerstown, MD 21748; In-Kind Contribution of Travel to Peter A. DeFazio, Member of Congress, 4th, Oregon; 5/17/93; $1977.28 (Election: primary).

Farr for Congress, 1010 S Street, Sacramento, CA 95814; Member of Congress, 17th, California; 5/25/93; $5000.00 (Election: run-off).

Recount Fund, 430 South Capitol Street, S.E., Washington, D.C. 20003; contribution; 5/11/93; $5000.00 (Election: primary).

Minge for Congress, 360 10th Avenue, Granett Falls, MN 56214; Member of Congress, 2nd, Minnesota; 1/11/94; $1000.00 (Election: primary).

Peterson for Congress, 6 E Street, S.E., Washington, D.C. 20003; Member of Congress, 7th, Minnesota; 1/11/94; $1000.00 (Election: primary).

Craig A. Washington for Congress Committee, P.O. Box 2588, Houston, TX 77252; Member of Congress, 18th, Texas; 3/3/94; $1000.00 (Election: primary).

Dan Webber for Congress Committee, P.O. Box 890566, Oklahoma City, OK 73189; Member of Congress, 6th, Oklahoma; 3/24/94; $1000.00 (Election: primary).

Friends of Corrine Brown Committee, 11607 Longwood Drive, West Jacksonville, FL 32218; Member of Congress, 3rd, Florida; 3/24/94; $1000.00 (Election: primary).

Friends of Farr Committee, P.O. Box 2884, Washington, D.C. 20013; Member of Congress, 17th, California; 3/24/94; $1000.00 (Election: primary).

Friends of Farr Committee, P.O. Box 28814, Washington, D.C. 20013; Member of Congress, 17th, California; 3/3/94; $1000.00 (Election: primary).

Gene Green for Congress, 3130 N. Freeway, Houston, TX 77009; Member of Congress, 29th, Texas; 3/3/94; $1000.00 (Election: primary).

Kika de la Garza for Congress Committee, P.O. Box 636, Hidalgo, TX 78557; Member of Congress, 15th, Texas; 3/3/94; $1000.00 (Election: primary).

Mel Reynolds for Congress Committee, 7626 S. Racine, Chicago, IL 60620; Member of Congress, 2nd, Illinois; 3/3/94; $1000.00 (Election: primary).

Ron Coleman for Congress, P.O. Box 1045, El Paso, TX 79946; Member of Congress, 16th, Texas; 3/3/94; $1000.00 (Election: primary).

Rostenkowski for Congress Committee, 1349 N. Nobel, Chicago, Illinois 60622; Member of Congress, 5th, Illinois; 3/1/94; $1000.00 (Election: primary).

Blackwell for Congress, P.O. Box 42507, Philadelphia, PA 19101; Member of Congress, 2nd, Pennsylvania; 4/29/94; $1000.00 (Election: primary).

Citizens for David Mann, 2250 Kroger Bld., 1014 Vine St, Cincinnati, Ohio 45202; Member of Congress, 1st, Ohio; 4/29/94; $1000.00 (Election: primary).

Foglietta for Congress, P.O. Box 15052, Washington, D.C. 20003; Member of Congress, 1st, Pennsylvania; 4/29/94; $1000.00 (Election: primary).

Friends of Mike Parker, P.O. Box 229, Brookhaven, Mississippi 39601; Member of Congress, 4th, Mississippi; 4/29/94; $1000.00 (Election: primary).

Weber for Congress Committee, P.O. Box 890566, Oklahoma City, OK 73189; Member of Congress, 6th, Oklahoma; 4/29/94; $4000.00 (Election: primary).

Barlow for Congress '94, P.O. Box 1422, Paducah, KY 42002; Member of Congress, 1st, Kentucky; 5/17/94; $2000.00 (Election: primary).

Barlow for Congress '94, P.O. Box 1422, Paducah, KY 42002; Member of Congress, 1st, Kentucky; 5/20/94; $1000.00 (Election: primary).

Doggett for U.S. Congress Committee, P.O. Box 5843, Austin, TX 78763; Member of Congress, 10th, Texas; 5/18/94; $2000.00 (Election: primary).

Elizabeth Furse for Congress, 6200 S.W. Virginia, Portland, OR 97201; Member of Congress, 1st, Oregon; 5/17/94; $1000.00 (Election: primary).

Adkission for Congress, 4th & Allen, Owensboro, KY 42302; Member of Congress, 2nd, Kentucky; 6/30/94; $1,000.00 (Election: primary).

Aflac, Inc., 1932 Wynnton Road, Columbus, GA 31999; In-Kind Contribution of travel to Corrine Brown for Congress Comm., 2nd, Florida; 6/24/94; $1,644.00 (Election: primary).

Bob Filner for Congress, Box 127868, San Diego, CA 92112; Member of Congress, 50th, California; 6/27/94; $2,000.00 (Election: primary).

Citibank Visa, P.O. Box 8501, Hagerstown, MD 21748; In-Kind Contribution of travel to Earl F. Hiliard for Congress Comm., 7th, Alabama; 6/6/94; $1,874.00 (Election: primary).

Clute for Congress, 24318 Hemlock, Moreno Valley, CA 92557; Member of Congress, 44th, California; 6/29/94; $1,000.00 (Election: primary).

Committee to Elect Dan Hamburg, P.O. Box 155, Napa, CA 94559; Member of Congress, 1st, California; 6/2/94; $1,060.00 (Election: primary).

Cynthia Ruccia for Congress, 1936 Grandor Avenue, Columbus, OH 43209; Member of Congress, 12th, Ohio; 6/2/94; $1,000.00 (Election: primary).

Doyle for Congress, P.O. Box 17426, Pittsburgh, PA 15235; Member of Congress, 18th, Pennsylvania; 6/30/94; $1,000.00 (Election: primary).

Dutremble for Congress, P.O. Box 1133, Portland, Maine 04104; Member of Congress, 1st, Maine; 6/27/94; $1,000.00 (Election: primary).

Engel for Congress, 115 D Street, S.E., Washington, D.C. 20003; Member of Congress, 17th, New York; 6/29/94; $1,000.00 (Election: primary).

Friends for McGuire, P.O. Box 710, Boone, Iowa 50036; Member of Congress, 5th, Iowa; 6/30/94; $1,000.00 (Election: primary).

Friends of Major Owens, P.O. Box 2884, Washington, D.C. 20013; Member of Congress, 11th, New York; 6/27/94; $1,000.00 (Election: primary).

Gaul for Congress, 21717 Loraine Road, Fairview Park, Ohio 44126; Member of Congress, 10th, Ohio; 6/27/94; $1,000.00 (Election: primary).

Greg Didonato for U.S. Congress, 1260 Monroe Avenue, New Philadelphia, OH 44663; Member of Congress, 18th, Ohio; 6/27/94; $1,000.00 (Election: primary).

Hirning for Congress, P.O. Box 1201, Roseville, CA 95678; Member of Congress, 4th, California; 6/27/94; $1,000.00 (Election: primary).

Hogsett for Congress Committee, P.O. Box 535, Rushville, IN 46173; Member of Congress, 2nd, Indiana; 6/9/94; $1,000.00 (Election: primary).

Hottinger for Congress Committee, P.O. Box 3183, Monkato, MN 56002; Member of Congress, 1st, Minnesota; 6/9/94; $1,000.00 (Election: primary).

John Baldacci for Congress, 79 Palm Street, Bangor, Maine 04401; Member of Congress, 2nd, Maine; 6/30/94; $1,000.00 (Election: primary).

Ken Bentsen, Jr. for Congress Committee, 3260 S. Loop West, Houston, TX 77025; Member of Congress, 25th, Texas; 6/9/94; $1000.00 (Election: primary).

Levin for Congress Committee, 2107 East 17 Mile Road, Sterling Heights, MI 48310; Member of Congress, 12th, Michigan; 6/30/94; $1000.00 (Election: primary).

Luther for Congress Voluntary Committee, 1399 Geneva Avenue, Oakdale, MN 55128; Member of Congress, 6th, Minnesota; 6/9/94; $1000.00 (Election: primary).

Maggie Lauterer for Congress, P.O. Box 778, Asheville, NC 28802; Member of Congress, 11th, North Carolina; 6/27/94; $1000.00 (Election: primary).

Mark Takano for Congress, 3842 B Tyler Street, Riverside, CA 92503; Member of Congress, 43rd, California; 6/27/94; $1000.00 (Election: primary).

Nagle for Congress, P.O. Box 792, Waterloo, Iowa 50704; Member of Congress, 2nd, Iowa; 6/9/94; $1000.00 (Election: primary).

Peter Hoagland for Congress '94, 8441 West Center Road, Omaha, Nebraska 68124; Member of Congress, 2nd, Nebraska; 6/27/94; $2000.00 (Election: primary).

Pomeroy for Congress, P.O. Box 746, Bismark, ND 58502; Member of Congress, North Dakota; 6/9/94; $1000.00 (Election: primary).

Randy Perry for Congress, P.O Box 548, Stockton, CA 95201; Member of Congress, 11th, California; 6/30/94; $1000.00 (Election: primary).

Richard Moore for Congress, P.O. Box 40, Oxford, North Carolina 27565; Member of Congress, 2nd, North Carolina; 6/9/94; $1000.00 (Election: primary).

Sands for Congress, P.O. Box 1796, Reidsville, N.C. 27323; Member of Congress, 5th, North Carolina; 6/27/94; $1,000.00 (Election: primary).

Sarpalius for Congress, P.O. Box 8105, Wichita Falls, TX 76307; Member of Congress, 10th, Texas; 6/27/94; $1000.00 (Election: primary).

Sue Kupillas for Congress, P.O. Box 685, Medford, OR 97501; Member of Congress, 2nd, Oregon; 6/27/94; $1000.00 (Election: primary).

Walter Capps for Congress, 1724 Santa Barbara Street, Santa Barbara, CA 93101; Member of Congress, 22nd, California; 6/27/94; $1000.00 (Election: primary).

Ward for Congress, 1250 Bardstown Road, Louisville, KY 40204; Member of Congress, 3rd, Kentucky; 6/27/94; $1000.00 (Election: primary).

Webber for Congress, P.O. Box 2007, Salem, OR 97398; Member of Congress, 5th, Oregon; 6/27/94; $1000.00 (Election: primary).

Bill Leavens for Congress, P.O. Box 400, Sharon Pennsylvania; Member of Congress, 21st, Pennsylvania; 7/12/94; $1000.00 (Election: primary).

Citibank Visa, P.O. Box 1747, Hagerstown, MD 21748; In-Kind Contribution of travel to Alcee L. Hastings, Member of Congress, 23rd, Florida; 7/18/94; $976.00 (Election: primary).

Conyers for Congress, 18985 Livernois, Detroit, MI 48221; Member of Congress, 14th, Michigan; 7/18/94; $2000.00 (Election: primary).

Don Johnson for Congress, P.O. Box 390, Royston, GA 30622; Member of Congress, 10th, Georgia; 7/18/94; $1000.00 (Election: primary).

Friends of Jane Harman, P.O. Box 523024, Springfield, VA 22152; Member of Congress, 36th, California; 7/18/94; $1000.00 (Election: primary).

Congressman Kildee Committee, P.O. Box 317, Flint, MI 48501; Member of Congress, 9th, Michigan; 8/2/94; $1000.00 (Election: primary).

Nadler for Congress, 175 West 90th Street, New York, NY 10024; Member of Congress, 8th, New York; 8/2/94; $1000.00 (Election: primary).

Unsoeld Campaign, 609 Main Street, Vancouver, WA 98660; Member of Congress, 3rd, WA; 9/16/94; $2000.00 (Election: primary).

Bilbray for Congress, P.O. Box 1406, Las Vegas, NV 89125; Member of Congress; 11/2/94; $1,000.00 (Election: general).

Bryan for Congress; Member of Congress; 11/3/94; $500.00 (Election: general).

Button for Congress Committee; Member of Congress; 11/3/94; $500.00 (Election: general).

Citizens for Brewster; Member of Congress; 11/3/94; $500.00 (Election: general).

Committee to Elect Chuck Blanchard; Member of Congress; 11/3/94; $500.00 (Election: general).

Congressman Bart Gordon Committee, P.O. Box 2008, Murfreesboro, TN 37133; Member of Congress; 11/2/94; $2,000.00 (Election: general).

Congressman Bart Gordon Committee; Member of Congress; 11/4/94; $1,000.00 (Election: general).

Don Johnson for Congress, P.O. Box 28, Athens, GA 30603; Member of Congress; 11/2/94; $1,000.00 (Election: general).

Friends of M.M.M.; Member of Congress; 11/2/94; $1,000.00 (Election: general).

Jay Bradford Congressional Committee; Member of Congress; 11/3/94; $500.00 (Election: general).

Jeff Worley for Congress Committee; Member of Congress; 11/3/94; $500.00 (Election: general).

Martin Frost Campaign Committee; Member of Congress; 11/2/94; $1,000.00 (Election: general).

Mascara for Congress Committee; Member of Congress; 11/3/94; $500.00 (Election: general).

McCloskey for Congress; Member of Congress; 11/2/94; $1,000.00 (Election: general).

Woolsey for Congress; Member of Congress; 11/2/94; $1,000.00 (Election: general).

Brian Baird for Congress, P.O. Box 11189, Olympia, WA 98508–1189; election campaign; 9/26/96; $1,000.00 (Election: general).

Committee to Elect Judy Olsen, P.O. Box 2146, Spokane, WA 99210–2146; election campaign; 9/26/96; $2,000.00 (Election: general).

Gedjeson Reelection Committee, P.O. Box 1818, Bozrah, CT 06334; Election campaign; 12/10/96; $510.14 (Election: primary).

ITEMIZED DISBURSEMENTS—COMMITTEE TO REELECT TOM FOLEY

Democratic Congressional Campaign Committee, 430 South Capitol Street, Washington, D.C. 20003; Contribution; 2/26/92; $5,000.00 (Election: primary).

People for Mrazek, 117 E. 29th Street, New York, New York 10016; Contribution; 1/29/92; $1,000.00 (Election: primary).

Bonker for Senate Committee, 4601 Yuma Street, N.W., Washington, D.C. 20016; Contribution; 12/16/92; $1,000.00 (Election: primary).

Democratic Congressional Campaign Committee, 430 South Capitol Street, Washington, D.C. 20003; Contribution; 12/16/92; $1,000.00 (Election: Primary).

Barca for Congress, 2500 Washington Road, Kenosha, WI 53140; Contribution; 5/3/93; $1,000.00 (Election: primary).

Bob Mitchell for Congress, 3401 East Saginaw, Lansing, MI 48912; Contribution; 11/3/94; $500.00 (Election: general).

Friends of George Brown, P.O. Box 1867, Colton, CA 92324; Contribution; 11/3/94; $500.00 (Election: general).

Ham Fish, Jr. for Congress, 666 Lexington Avenue, Mt. Kisco, NY 10549; Contribution; 11/3/94; $500.00 (Election: general).

Inslee for Congress, P.O. Box 686, Selah, WA 98942; Contribution; 11/3/94; $750.00 (Election: general).

John Bryant for Congress, 8035 East R.L. Thornton, Dallas, TX 75228; Contribution; 11/3/94; $500.00 (Election: general).

Lehman for Congress Committee, 2350 West Shaw, Fresno, CA 93711; Contribution; 11/3/94; $500.00 (Election: general).

Maloney for Congress, 185 Main Street, Danbury, CT 06810; Contribution; 11/3/94; $500.00 (Election: general).

Maria Cantwell for Congress, P.O. Box 144, Mountlake Terrace, WA 98043; Contribution; 11/3/94; $750.00 (Election: general).

Mike Kriedler for Congress Committee, P.O. Box 4839, Federal Way, WA 98063; Contribution; 11/3/94; $750.00 (Election: general).

Robert Connors for Congress Committee, P.O. Box 89, Lake Wales, FL 33859; Contribution; 11/3/94; $500.00 (Election: general).

Spanel for Congress, 3506 Broadway, Everett, WA 98206; Contribution; 11/3/94; $1,000.00 (Election: general).

Stupak for Congress, P.O. Box 143, Monominee, MI 49858; Contribution; 11/3/94; $500.00 (Election: general).

The Unsoeld Campaign, P.O. Box 10231, Olympia, WA 98502; Contribution; 11/3/94; $750.00 (Election: general).

Tierney for Congress, 76 Lafayette Street, Salem, MA 01970; Contribution; 11/3/94; $500.00 (Election: general).

Tom Sawyer Committee, 1540 W. Market Street, Akron, OH 44313; Contribution; 11/3/94; $500.00 (Election: general).

Vince Whibbs Jr. for U.S. Congress, 1602 North 9th Avenue, Pensacola, FL 32503; Contribution; 11/3/94; $500.00 (Election: general).

Volkmer for Congress Committee, 209 Broadway, Hannibal, MO 63401; Contribution; 11/3/94; $500.00 (Election: general).

Adam Smith for Congress, 28210 Redondo Beach Dr. South Redondo, WA 98054; Political contribution; 9/26/96; $1,000.00 (Election; general).

Coopersmith for Congress, P.O. Box 356, Lynnwood, WA 98046; Political contribution; 9/26/96; $1,000.00 (Election; general).

Rick Locke, Ind. Leadership for Cong., P.O. Box 900, Richland, WA 99352-0900; Political contribution; 9/26/96; $1,000.00 (Election; general).

Committee to Elect Judy Olsen, P.O.Box 2146, Spokane, WA 99210-2146; Political contribution; 9/26/96; $1,000.00 (Election; general).

Kevin Quigley for U.S. Cong. 2nd Dist. 1029 Springbrook Rd., Lake Stevens, WA 98258; Political contribution; 9/26/96; $1,000.00 (Election; general).

Tim Johnson for South Dakota, P.O. Box 88113, Sioux Falls, SD 57105; Political contribution; 9/26/96; $500.00 (Election; general).

Abercrombie for Congress; Political contribution; 9/26/96; $500.00 (Election; general).

Citizens for Harkin, P.O. Box 811, DesMoines, Iowa 50304; Political contribution; 11/1/96; $1,000.00 (Election; general).

Friends of Jane Harman, 1231 Cabrillo Ave., #105, Torrance, CA 90501; Political contribution; 11/1/96; $1,000.00 (Election; general).

Fazio for Congress Committee, 555 Capitol Mall, Suite #1425, Sacramento, CA 95814; Political contribution; 11/1/96; $1,000.00 (Election; general).

Louise Slaughter Reelection Committee, P.O. Box 14117, Rochester, NY 14614; Political contribution; 10/27/96; $500.00 (Election; general).

Susan Kaun for Congress Committee, P.O. Box 2183, Deer Park, WA 99006; Political contribution; 10/27/96; $1,000.00 (Election; primary).

Evan Bayh for Senate Committee, 10 W. Market St., #2100, Indianapolis, Ind 46284; Political contribution; 12/9/96; $500.00 (Election; primary).

COMMITTEE ON FOREIGN RELATIONS

Name: Thomas S. Foley. Nominated for: Ambassador to Japan. Date completed: June 9, 1997.

The attached is designed to assist the Committee on Foreign Relations in evaluating Presidential nominations. All questions must be answered in full.

Biographical information requested in Part A will be made public; answers supplied to questions in Parts B through E will be treated as confidential.

PART A—BIOGRAPHICAL INFORMATION

1. Name: Thomas S. Foley.

2. Address: 1253 C Street, SE, Washington, D.C. 20003.

3. Date and Place of Birth: 3-26-29, Spokane, Washington.

4. Marital Status: Married.

5. Spouse's Name: Heather Stachan Foley.

6. Names and ages of children: None.

7. Education—List each institution attended since high school and include the dates attended and any degree(s) awarded.

Gonzaga Prep, 1942-1946; Gonzaga University, 1947-1950; University of Washington, 1950-1951 BA; University of Washington Law School, 1957.

8. Employment Record—List all jobs held since college and include the title or description of job, the name of employer, the location and the dates of employment.

1995 to Present—Partner, Akin, Gump, Strauss, Hauer & Feld, Washington, D.C.; 1965-1994—United States Representative for the Fifth District of Washington, United States House of Representatives; 1961-1964—Special Counsel, Committee on Interior and Insular Affairs, United States Senate; 1960—Assistant Attorney General, State of Washington; 1958-1960—Deputy Prosecuting Attorney, Spokane County, Washington; 1957—Attorney, Higgins & Foley, Spokane, Washington.

9. Government Experience—List any experience in, or association with, Federal, state or local governments, including any advisory, consultative, honorary or other part-time service or positions not shown in question 8.

All shown in question 8.

10. Honors and Awards—List all scholarships, fellowships, honorary degrees, honorary society memberships, and any other special recognitions for outstanding service or achievements.

Honorary Degrees: University of Ulster, Ireland, Michigan State University, Washington State University, Gonzaga University, Whitman College. President's Medal from the University of Washington.

11. List all foreign languages spoken and include a self-assessment of your ability to speak, write and understand the language.

Limited French.

12. Published Writings—List the titles, publishers and dates of books, articles, reports and other published materials you have written.

Foreword—Speakers of the House by Judith Bentley.

13. Speeches—List the title of any speech you have delivered during the last two years which you have reduced to writing or which has been transcribed and which is on a topic related to the position for which you have been nominated, and include the date of delivery and the audience. Please provide a copy of each.

N/A.

14. Organizational Affiliations—List all civic, cultural, educational or philanthropic organizations you have been associated with in the past 10 years. Include any position held in the organization and the dates of service.

Council on Foreign Relations; Former Members of Congress Assoc.; Institute of Foreign Affairs; American Council on Germany; Bicycle Federation; Japan American Society of Washington; US/China Society; Fund for Democracy and Development.

15. Are there any factors, other than the information provided above, which particularly qualify you for the position to which you have been nominated?

Twenty-five years Chair of US/Japan Parliamentary of U.S. House of Representatives; visited Japan may times; broad knowledge of Japanese politics, economy and cultural affairs.

16. Have you ever been nominated or served in a position requiring Senate confirmation?

No.

PART B—FINANCIAL INFORMATION

1. Are you or your spouse now in default on any loan, debt or other financial obligation? Have you or your spouse been in default on any loan, debt or other financial obligation in the past five years? If the answer to either question is yes, please provide details.

No.

2. Are you or your spouse now serving as a trustee of any trust or the administrator of any estate? If so, please provide details.

Mother's estate, Helen Higgins Foley.

3. Do you or your spouse have power of attorney for any individual? If so, please provide details.

No.

4. Have you, your spouse or your dependents received gift(s) exceeding $1,000 per annum from anyone besides members of the family within the last three years? If so, list the gift, its value and the donor.

No.

5. Political Affiliations—List all positions you or your spouse have held with a political party or other multi-candidate committee, whether paid or as a volunteer, in the last five years.

None.

6. Political Contributions—List all financial contributions of $1,000 or more per annum made by you, your spouse or other members of your immediate family to any local, state or national party committee, to any individual candidate or to any multi-candidate committee within the last five years.

Heather S. Foley—$1,000 to Clinton campaign last year; Thomas S. Foley—$1,000 to Clinton campaign last year.

7. If asked, would you provide the Committee with copies of your and your spouse's Federal income tax returns for the past three years? (If returns are provided, they will be reviewed either by Senators or by a

staff member designated by the Chairman and Ranking Member. They will be treated as confidential.)

Yes.

8. Have your Federal or State tax returns been the subject of any audit, investigation or inquiry at any time? If so, please provide details, including the result of the investigation.

No.

9. As a condition of receiving the advice and consent of the Senate, do you agree to appear and testify upon request before any duly constituted committee of the Senate?

Yes.

PART C—FUTURE EMPLOYMENT PLANS

1. Do you intend to sever all connections with your present employers, business firms, business associations or business organizations in the event you are confirmed by the Senate? if not, please explain.

Yes.

2. Do you have any commitments or agreements to pursue outside employment, with or without compensation, during your service with the Government? If so, please explain.

No.

3. Do you have any commitments or agreements after completing Government service to resume employment, affiliation or practice with your previous employer, business firm, association or organization other than those listed in the Office of Government Ethics Financial Disclosure Report (Form 278)? If so, please explain.

No.

4. Has anybody made an offer of employment to you in any capacity after you leave Government service? If so, please explain.

No.

5. If confirmed, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

PART D—CONFLICT OF INTEREST

1. Have you read Section 208 of Title 18 of the United States Code, Acts affecting a personal financial interest? (A copy is attached to this form.)

Yes.

2. During the past five years, have you or your spouse received any compensation or personally been involved in any financial transaction with a foreign government or interest? If so, please explain.

No.

3. Have you ever been a registered agent of a foreign government or otherwise represented a foreign government or other foreign interest? If so, provide details.

No.

4. Describe briefly any lobbying activity during the past ten years, other than in an official Government capacity, in which you or your spouse have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of any legislation or affecting the administration and execution of law or public policy. ("Lobbying activity" includes any activity performed as a representative or agent of another individual or of an organization which involves direct communication with Congressional or agency officials or employees. Activity directed at the administration and execution of law or public policy should be considered "lobbying activity" if it aims at influencing agency action in quasi-legislative proceedings, such as rule-making or rate-making, or other general policy determinations.) If you or your spouse have engaged in none, please state so.

None.

5. Describe any business relationship, dealing or financial transaction which you have had during the last five years, whether for yourself, on behalf of a client, or acting as an agent, which you believe may result in or constitute a potential conflict of interest in the position to which you have been nominated. If none, please state so.

None.

6. Is your spouse employed? If the nature of the employment is related in any way to the position for which you are seeking confirmation, please indicate your spouse's employer, the position and the length of time it has been held. If it is not, please state so.

Riggs Bank, NA, Board of Directors, one year.

PART E—ETHICAL MATTERS

1. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, or charged or held by any Federal, state or other law enforcement authority for violation of any Federal, state, county or municipal law, regulation or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been convicted of or entered a plea of guilty or nolo contendere to any criminal violation other than a minor traffic offense? If so, provide details.

No.

4. Are you presently or have you ever been a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

5. Have you been interviewed or asked to supply any information in connection with any administrative or grand jury investigation in the past 18 month? If so, provide details.

No.

6. Has any business of which you are or were an officer, director or partner been a party to any administrative agency proceeding or civil litigation relevant to the position to which you have been nominated? If so, provide details. (With respect to a business of which you are or were an officer, you need only consider proceedings and litigation that occurred while you were an officer of that business.)

No.

7. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

N/A.

AFFIDAVIT

I, Thomas S. Foley, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

Date: June 17, 1997.

THOMAS S. FOLEY.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to request to appear and testify before any duly constituted committee of the Senate.)

By Mr. SHELBY, from the Select Committee on Intelligence:

Lieutenant General John A. Gordon, U.S. Air Force, to be Deputy Director of Central Intelligence.

(The above nomination was reported with the recommendation that he be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. McCAIN:

S. 1267. A bill to amend title 49, United States Code, to provide for enhanced intermodal transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. FRIST:

S. 1268. A bill to amend the Tennessee Valley Authority Act of 1933 to modify provisions relating to the Board of Directors of the Tennessee Valley Authority, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ROTH:

S. 1269. An original bill to establish objectives for negotiating and procedures for implementing certain trade agreements; from the Committee on Finance; placed on the calendar.

By Mr. ROBB:

S. 1270. A bill to amend section 8339(p) of title 5, United States Code, to clarify the computations of certain civil service retirement system annuities based on part-time service, and for other purposes; to the Committee on Governmental Affairs.

By Mr. D'AMATO:

S. 1271. An original bill to reauthorize the mass transit programs of the Federal Government, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. REED:

S. 1272. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel ARCELLA; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM:

S. 1273. A bill to amend title 10, United States Code, to expand the National Mail Order Pharmacy Program of the Department of Defense to include covered beneficiaries under the military health care system who are also entitled to Medicare; to the Committee on Armed Services.

By Mr. CAMPBELL:

S. 1274. A bill to amend the Internal Revenue Code of 1986 to prohibit the Internal Revenue Service from using the threat of audit to compel agreement with the Tip Reporting Alternative Commitment or the Tip Rate Determination Agreement; to the Committee on Finance.

By Mr. MURKOWSKI (for himself and Mr. AKAKA):

S. 1275. A bill to implement further the Act (Public Law 94-241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 1276. A bill to amend the Federal Power Act, to facilitate the transition to more competitive and efficient electric power markets, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON:

S. 1277. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate any portion of their income tax overpayments, and to make other contributions, for the benefit of units of the National Park System; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCAIN:

S. 1267. A bill to amend title 49, United States Code, to provide for enhanced intermodal transportation safety, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE INTERMODAL TRANSPORTATION SAFETY ACT OF 1997

Mr. McCAIN. Mr. President, today I am introducing the Intermodal Transportation Safety Act of 1997. I offer this measure as a starting point for reauthorizing the many surface transportation safety programs last considered in the Intermodal Surface Transportation Efficiency Act [ISTEA] of 1991.

These programs, which are under the jurisdiction of the Senate Committee on Commerce, Science, and Transportation, include provisions to improve travel safety on our Nation's roads, promote the safe shipment of hazardous materials, advance pipeline transportation safety, and ensure that our Nation's commercial motor vehicle fleet is well maintained and safely operated.

Mr. President, transportation safety must be at the forefront of our deliberations during the consideration of legislation to reauthorize ISTEA. The ISTEA bill contains necessary funding and policy authorizations to improve our transportation infrastructure and facilitate the efficient and economical transportation of people and goods. The legislation I am introducing is a vital component of that effort which is intended to meet our obligation to help ensure that people and goods are transported safely.

The need for improvements in Federal transportation safety policy is crystal clear. The National Transportation Safety Board [NTSB] recently reported that deaths from transportation accidents in the United States totaled more than 44,000 for calendar year 1996. For example, highway-related deaths, which account for more than 90 percent of all transportation fatalities, rose by 109, reaching a total of 41,907. The Federal Transit Administration reported 120 fatalities from accidents associated with the operations of light and commuter rail companies, compared to 98 in 1995. And, pipeline-related deaths totaled 20, against 21 in 1995.

Mr. President, the bill I am introducing addresses a wide range of issues and programs to promote and enhance surface transportation safety in our Nation. Using the administration's reauthorization submissions as a primary guidepost, my legislation extends key safety programs for 6 years. Many of the administration's safety proposals are included, but several new initiatives are added.

The primary differences between the administration's proposals and the bill I am introducing are based on the budget agreement enacted in August. While I m sure a case can be made for additional funding in some areas, the budget agreement simply does not allow for it. Consequently, the funding authorized under this measure fully complies within the budget agreement.

Mr. President, I would like to provide a broad overview of the various transportation safety provisions contained in this legislation. First, this bill addresses various programs under the National Highway Transportation Safety Administration [NHTSA]. The legislation reauthorizes various grant programs, administered by NHTSA, to improve safety on America's roadways. Those grant programs would provide over $1.1 billion to the States during the next 6 years. This portion of the bill is the administration's request which I'm introducing without modification as a starting point for discussion and debate. In regard to these grant programs, the legislation is identical to the administration's proposal, with the exception that the funds authorized have been scaled down to fit within the boundaries of the budget agreement.

Second, this bill reauthorizes funding for programs to ensure the safe transportation of hazardous materials. It also includes a number of changes intended to strengthen and improve the hazardous materials transportation program. For example, according to DOT s Research and Special Programs Administration [RSPA] statistics, there were hundreds of transportation related incidents involving undeclared or hidden hazardous materials. These incidents resulted in 110 deaths and 112 injuries from January 1990 through October 1996. This legislation would give DOT inspectors the authority to open and examine the contents of packages suspected of containing hazardous materials.

This provision would help ensure that packages containing undeclared hazardous materials shipments can be removed from transportation before they harm individuals. In the event a package is opened under the bill s authorities, DOT inspectors would be required to mark the package accordingly and notify the shipper before the parcel could continue in transport.

The legislation also expands hazardous materials training access by allowing States and Indian tribes to use a portion of their grants to help train small businesses in complying with hazardous materials shipment procedures. DOT has indicated that the majority of hazardous materials shipment and packaging mistakes occur at small businesses.

The legislation also authorizes the Secretary of Transportation to issue emergency orders when it is determined that an unsafe condition poses an imminent hazard. In such a situation, the Secretary is granted the authority to issue recalls, restrictions, or out-of-service orders to lessen the dangerous condition.

Third, at the request of the majority leader, this bill incorporates S. 1115, the Comprehensive One-Call Notification Act, introduced by Senators LOTT and DASCHLE on July 31, 1997. S. 1115 would encourage a national effort to encourage States to strengthen their laws that protect underground pipelines, telecommunication cables, and other infrastructure from excavation damage.

Discussions are ongoing concerning this and several of the administration's proposals and I m hopeful that we can reach agreement on some of the remaining technical issues. Quick and timely resolution on these outstanding matters will be necessary so we can address these issues as the Intermodal Transportation Safety Act of 1997 moves to the Senate Floor.

Fourth, this bill reauthorizes the Motor Carrier Safety Assistance Program [MCSAP] which provides funding for commercial driver and vehicle safety inspections, traffic enforcement, compliance reviews, and safety data collection. It further authorizes a performance-based approach for the MCSAP, removing many of the prescriptive requirements of the program. Instead, States would be given greater flexibility to implement safety activities and goals they design to evaluate and improve truck safety programs. This new performance-based approach, to be implemented by 2000, would enable States to spend their limited resources on those activities best able to address their unique motor carrier problem areas.

This legislation also contains several other important truck and bus safety enhancement provisions. It would strengthen safety enforcement by extending the Secretary s safety jurisdiction to intrastate trips made by interstate carriers. The bill would also help ensure greater safety oversight by permitting the Secretary to contract with private entities to conduct inspections and investigations to ensure compliance with Federal motor carrier safety regulations. Similar contractual authority is already afforded to the Department of Defense and the Federal Aviation Administration. The bill further strengthens safety oversight by extending safety regulations such as commercial drivers licensing and drug and alcohol testing requirements to for-hire passenger vans. It would also

permit the Secretary to order any unsafe carrier to cease operations. Currently this authority applies only to prevent unsafe operations of commercial passenger carriers and hazardous materials carriers.

I have also incorporated a number of provisions designed to promote the timely and accurate exchange of important carrier and driver safety records. This bill authorizes comprehensive information systems and strategic safety initiatives to support motor carrier regulatory and enforcement activities as requested by the administration.

It also establishes a pilot program to help facilitate the exchange of accurate driver records data history in an attempt to prevent such unacceptable tragedies as the one that occurred this summer on the streets of Washington DC, when an unfit driver of a dump truck killed a young man. Further, this legislation would permit carriers to provide safety records of former drivers to prospective employers without the fear of a former employee taking legal action against the carrier, provided the data exchanged is accurate.

Mr. President, like every time Congress considers legislation affecting Federal motor carrier safety regulations, various segments of the industry seek exemptions. Some are common sense, such as acknowledging the special transportation time constraints of farmers during the planting and harvesting seasons, or, for example, recognizing the need to permit road maintenance crews, such as for snow removal, to operate during weather emergencies. Legislation should not be needed to permit these and other exemptions. However, that is the process we go through today.

While the Secretary already has authority to grant waivers from some or all of the regulations, the authority is almost meaningless because prior to granting an exemption, it must first be proven the exemption would not diminish safety. However, it is not possible to make such a finding unless an exemption can first be tested on a limited basis. In an attempt to address this problem and recognize the Secretary should be permitted to examine innovative approaches or alternatives to certain rules, and in turn reduce unnecessary regulatory burdens that do not produce a safety return. This legislation would authorize the Secretary to carry out pilot programs to test the affects of certain limited regulatory exemptions.

However, safety must remain at the forefront of these pilot projects. The bill language clearly states that the Secretary can only approve pilot projects that are expected to meet or exceed the overall level of safety that would be achieved with existing regulatory requirements.

Mr. President, there are other important provisions in the Intermodal Transportation Safety Act. While I will not list each and every provision, there is another initiative I want to highlight.

Our transportation system is vulnerable to security threats. Almost 2 years ago today, Arizonans and citizens throughout the country were saddened to learn of an Amtrak derailment near Hyder, AZ, which claimed the life of 1 individual and injured 78 others. Shortly after the accident, the sadness turned to shock as we learned that the derailment could have been caused by someone who may have intentionally sabotaged the track. The Arizona accident is not unique. There have been other examples of acts against railroads. Therefore, as requested by the administration, this legislation would create criminal sanctions for violent attacks against railroads, their employees, and passengers. The penalties are similar to those which currently cover vessels, airlines, motor carriers, and pipelines.

As chairman of the Senate Committee on Commerce, Science, and Transportation, I invite my colleagues to join me in determining whether any refinements to this safety bill are warranted. I welcome my colleagues input and plan to work with all members to incorporate this comprehensive safety legislation during our work on legislation to reauthorize ISTEA.

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

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

S. 1267

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermodal Transportation Safety Act of 1997".

SEC. 2. AMENDMENT OF TITLE 49, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 3. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Amendment of title 49, United States Code.
Sec. 3. Table of contents.
Title I—Highway Safety
Sec. 101. Highway safety programs.
Sec. 102. National driver register.
Sec. 103. Authorizations of appropriations.
Title II—Traffic Safety
Sec. 201. Amendment to title 23, United States Code.
Sec. 202. Amendments to chapter 301 (motor vehicle safety).
Title III—Hazardous Materials Transportation Reauthorization
Sec. 301. Findings and purposes; definitions.
Sec. 302. Handling criteria repeal.
Sec. 303. Hazmat employee training requirements.
Sec. 304. Registration.
Sec. 305. Shipping paper retention.
Sec. 306. Unsatisfactory safety rating.
Sec. 307. Public sector training curriculum.
Sec. 308. Planning and training grants.
Sec. 309. Special permits and exclusions.
Sec. 310. Administration.
Sec. 311. Cooperative agreements.
Sec. 312. Enforcement.
Sec. 313. Penalties.
Sec. 314. Preemption.
Sec. 315. Judicial review.
Sec. 316. Hazardous material transportation reauthorization.
Sec. 317. Authorization of appropriations.
Title IV—Comprehensive One-call Notification
Sec. 401. Findings.
Sec. 402. Establishment of one-call notification programs.
Title V—Motor Carrier Safety
Sec. 501. Statement of purpose.
Sec. 502. Grants to States.
Sec. 503. Federal share.
Sec. 504. Authorization of appropriations.
Sec. 505. Information systems and strategic safety initiatives.
Sec. 506. Improved flow of driver history pilot program.
Sec. 507. Motor carrier and driver safety research.
Sec. 508. Authorization of appropriations.
Sec. 509. Conforming amendments.
Sec. 510. Automobile transporter defined.
Sec. 511. Repeal of review panel; review procedure.
Sec. 512. Commercial motor vehicle operators.
Sec. 513. Penalties.
Sec. 514. International registration plan and international fuel tax agreement.
Sec. 515. Study of adequacy of parking facilities.
Sec. 516. National minimum drinking age—technical corrections.
Sec. 517. Application of regulations.
Sec. 518. Authority over charter bus transportation.
Sec. 519. Federal motor carrier safety investigations.
Sec. 520. Foreign motor carrier safety fitness.
Sec. 521. Commercial motor vehicle safety advisory committee.
Sec. 522. Waivers and pilot programs.
Title VI—Rail and Mass Transportation Anti-terrorism and Safety.
Sec. 601. Purpose.
Sec. 602. Amendments to the "Wrecking Trains" statute.
Sec. 603. Terrorist attacks against mass transportation.
Sec. 604. Investigative jurisdiction.
Sec. 605. Safety considerations in grants or loans to commuter railroads.
Sec. 606. Railroad accident and incident reporting.
Sec. 607. Vehicle weight limitations—mass transportation buses.

TITLE I—HIGHWAY SAFETY

SEC. 101. HIGHWAY SAFETY PROGRAMS.

(a) UNIFORM GUIDELINES.—Section 402(a) of title 23, United States Code, is amended—

(1) by striking the fifth sentence; and

(2) by striking "section 4007" and inserting "section 4004".

(b) ADMINISTRATIVE REQUIREMENTS.—Section 402(b) of such title is amended—

(1) in paragraph (1) by striking the period at the end of each of subparagraphs (A) and (B) and inserting a semicolon;

(2) in paragraph (1)(C) by inserting ", including Indian tribes," after "subdivisions of such State";

(3) in paragraph (1)(C) by striking the period at the end and inserting "; and";

(4) by striking paragraph (1)(E); and

(5) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3).

(c) APPORTIONMENT OF FUNDS.—Section 402(c) of such title is amended—

(1) in the 6th sentence by inserting "the apportionment to the Secretary of the Interior shall not be less than three-fourths of 1 percent of the total apportionment and" after "except that"; and

(2) by striking the 7th and 8th sentences.

(d) APPLICATION IN INDIAN COUNTRY.—Section 402(i) of such title is amended to read as follows:

"(i) APPLICATION IN INDIAN COUNTRY.—

"(1) IN GENERAL.—For the purpose of application of this section in Indian country, the terms 'State' and 'Governor of a State' include the Secretary of the Interior and the term 'political subdivision of a State' includes an Indian tribe. Notwithstanding the provisions of subparagraph (b)(1)(C) of this section, 95 percent of the funds apportioned to the Secretary of the Interior under this section shall be expended by Indian tribes to carry out highway safety programs within their jurisdictions. The provisions of subparagraph (b)(1)(D) of this section shall be applicable to Indian tribes, except to those tribes with respect to which the Secretary determines that application of such provisions would not be practicable.

"(2) INDIAN COUNTRY DEFINED.—For the purposes of this subsection, the term 'Indian country' means—

"(A) all land within the limits of any Indian reservation under the jurisdiction of the United States, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation;

"(B) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof and whether within or without the limits of a State; and

"(C) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through such allotments.".

(e) RULEMAKING PROCESS.—Section 402(j) of such title is amended to read as follows:

"(j) RULEMAKING PROCESS.—The Secretary may from time to time conduct a rulemaking process to identify highway safety programs that are highly effective in reducing motor vehicle crashes, injuries and deaths. Any such rulemaking shall take into account the major role of the States in implementing such programs. When a rule promulgated in accordance with this section takes effect, States shall consider these highly effective programs when developing their highway safety programs.".

(f) SAFETY INCENTIVE GRANTS.—Section 402(k) of such title is amended to read as follows:

"(k)(1) SAFETY INCENTIVE GRANTS: GENERAL AUTHORITY.—The Secretary shall make a grant to a State that takes specific actions to advance highway safety under subsection (l), (m), (n), or (o) of this section. A State may qualify for more than one grant and shall receive a separate grant for each subsection for which it qualifies. Such grants may only be used by recipient States to implement and enforce, as appropriate, the programs for which the grants are awarded.

"(2) MAINTENANCE OF EFFORT.—No grant may be made to a State under subsection (l), (m), (n), or (o) of this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for the specific actions for which a grant is provided at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this subsection.

"(3) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—Each grant under subsection (l), (m), (n), or (o) of this section shall be available for not more than 6 fiscal years beginning in the fiscal year after September 30, 1997, in which the State becomes eligible for the grant. The Federal share payable for any grant under subsection (l), (m), (n), or (o) shall not exceed—

"(A) in the first and second fiscal years in which the State receives the grant, 75 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year a program adopted by the State;

"(B) in the third and fourth fiscal years in which the State receives the grant, 50 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program; and

"(C) in the fifth and sixth fiscal years in which the State receives the grant, 25 percent of the cost of implementing and enforcing, as appropriate, in such fiscal year such program.

"(l) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: BASIC GRANT ELIGIBILITY.—The Secretary shall make grants to those States that adopt and implement effective programs to reduce traffic safety problems resulting from persons driving under the influence of alcohol. A State shall become eligible for one or more of three basic grants under this subsection by adopting or demonstrating the following to the satisfaction of the Secretary:

"(1) BASIC GRANT A.—At least 4 of the following:

"(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures.

"(B) UNDERAGE DRINKING PROGRAM.—An effective system, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages. Such system may include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 years of age or older.

"(C) STOPPING MOTOR VEHICLES.—Either—

"(i) A statewide program for stopping motor vehicles on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of such motor vehicles are driving while under the influence of alcohol, or

"(ii) a statewide Special Traffic Enforcement Program for impaired driving that emphasizes publicity for the program.

"(D) REPEAT OFFENDERS.—Effective sanctions for repeat offenders convicted of driving under the influence of alcohol. Such sanctions, as determined by the Secretary, may include electronic monitoring; alcohol interlocks; intensive supervision of probation; vehicle impoundment, confiscation, or forfeiture; and dedicated detention facilities.

"(E) GRADUATED LICENSING SYSTEM.—A three-stage graduated licensing system for young drivers that includes nighttime driving restrictions during the first two stages, requires all vehicle occupants to be properly restrained, and makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater.

"(2) BASIC GRANT B.—Both of the following:

"(A) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of alcohol which requires that—

"(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as requested by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receiving the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(ii) the suspension and revocation referred to under clause (A)(i) of this subparagraph shall take effect not later than 30 days after the day on which the person refused to submit to a chemical test or receives notice of having been determined to be driving under the influence of alcohol, in accordance with the State's procedures; and

"(B) .08 BAC PER SE LAW.—A law that provides that any person with a blood alcohol concentration of 0.08 percent or greater while operating a motor vehicle shall be deemed to be driving while intoxicated.

"(3) BASIC GRANT C.—Both of the following:

"(A) FATAL IMPAIRED DRIVER PERCENTAGE REDUCTION.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has decreased in each of the 3 most recent calendar years for which statistics for determining such percentages are available; and

"(B) FATAL IMPAIRED DRIVER PERCENTAGE COMPARISON.—The percentage of fatally injured drivers with 0.10 percent or greater blood alcohol concentration in the State has been lower than the average percentage for all States in each of such calendar years.

"(4) BASIC GRANT AMOUNT.—The amount of each basic grant under this subsection for any fiscal year shall be up to 15 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

"(5) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in no more than two fiscal years of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

"(A) OPEN CONTAINER LAWS.—The State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(i) as allowed in the passenger area, by a person (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(ii) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(B) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—The State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in a crash resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(C) VIDEO EQUIPMENT FOR DETECTION OF DRUNK DRIVERS.—The State provides for a program to acquire video equipment to be used in detecting persons who operate motor vehicles while under the influence of alcohol and in prosecuting those persons, and to train personnel in the use of that equipment.

"(D) BLOOD ALCOHOL CONCENTRATION FOR PERSONS UNDER AGE 21.—The State enacts and enforces a law providing that any person under age 21 with a blood alcohol concentration of 0.02 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated or driving under the influence of alcohol, and further provides for a minimum suspension of the person's driver's license for not less than 30 days.

"(E) SELF-SUSTAINING DRUNK DRIVING PREVENTION PROGRAM.—The State provides for a self-sustaining drunk driving prevention program under which a significant portion of the fines or surcharges collected from individuals apprehended and fined for operating a motor vehicle while under the influence of alcohol are returned to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(F) REDUCING DRIVING WITH A SUSPENDED LICENSE.—The State enacts and enforces a law to reduce driving with a suspended license. Such law, as determined by the Secretary, may require a "zebra" stripe that is clearly visible on the license plate of any motor vehicle owned and operated by a driver with a suspended license.

"(G) EFFECTIVE DWI TRACKING SYSTEM.—The State demonstrates an effective driving while intoxicated (DWI) tracking system. Such a system, as determined by the Secretary, may include data covering arrests, case prosecutions, court dispositions and sanctions, and provide for the linkage of such data and traffic records systems to appropriate jurisdictions and offices within the State.

"(H) ASSESSMENT OF PERSONS CONVICTED OF ABUSE OF CONTROLLED SUBSTANCES; ASSIGNMENT OF TREATMENT FOR ALL DWI/DUI OFFENDERS.—The State provides for assessment of individuals convicted of driving while intoxicated or driving under the influence of alcohol or controlled substances, and for the assignment of appropriate treatment.

"(I) USE OF PASSIVE ALCOHOL SENSORS.—The State provides for a program to acquire passive alcohol sensors to be used by police officers in detecting persons who operate motor vehicles while under the influence of alcohol, and to train police officers in the use of that equipment.

"(J) EFFECTIVE PENALTIES FOR PROVISION OR SALE OF ALCOHOL TO PERSONS UNDER 21.—The State enacts and enforces a law that provides for effective penalties or other consequences for the sale or provision of alcoholic beverages to any individual under 21 years of age.

"(6) DEFINITIONS.—For the purposes of this subsection, the following definitions apply:

"(A) 'Alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(B) 'Controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(C) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

"(D) 'Open alcoholic beverage container' means any bottle, can, or other receptacle—

"(i) which contains any amount of an alcoholic beverage; and

"(ii)(I) which is open or has a broken seal, or

"(II) the contents of which are partially removed.

"(m) OCCUPANT PROTECTION: BASIC GRANT ELIGIBILITY.—The Secretary shall make basic grants to those States that adopt and implement effective programs to reduce highway deaths and injuries resulting from persons riding unrestrained or improperly restrained in motor vehicles. A State may establish its eligibility for one or both of the grants by adopting or demonstrating the following to the satisfaction of the Secretary:

"(1) BASIC GRANT A.—At least 4 of the following:

"(A) SAFETY BELT USE LAW FOR ALL FRONT SEAT PASSENGERS.—The State has in effect a safety belt use law that makes unlawful throughout the State the operation of a passenger motor vehicle whenever a person in the front seat of the vehicle (other than a child who is secured in a child restraint system) does not have a safety belt properly secured about the person's body.

"(B) PRIMARY SAFETY BELT USE LAW OR PENALTY POINTS.—The State provides for primary enforcement of its safety belt use law or provides for the imposition of penalty points against a person's driver's license for a violation of its safety belt use law.

"(C) CHILD PASSENGER PROTECTION LAW.—The State has in effect a law that requires any child up to 4 years of age who is riding in a passenger motor vehicle to be properly secured in a child safety seat.

"(D) MINIMUM FINES.—The State requires a minimum fine of at least $25 for violations of its safety belt use law and a minimum fine of at least $25 for violations of its child passenger protection law.

"(E) SPECIAL TRAFFIC ENFORCEMENT PROGRAM.—The State demonstrates implementation of a statewide Special Traffic Enforcement Program for occupant protection that emphasizes publicity for the program.

"(2) BASIC GRANT B.—Both of the following:

"(A) STATE SAFETY BELT USE RATE.—The State demonstrates a statewide safety belt use rate in both front outboard seating positions in all passenger motor vehicles of 80 percent or higher in each of the first three years a grant under this paragraph is received, and of 85 percent or higher in each of the fourth, fifth, and sixth years a grant under this paragraph is received.

"(B) SURVEY METHOD.—The State follows safety belt use survey methods which conform to guidelines issued by the Secretary ensuring that such measurements are accurate and representative.

"(3) BASIC GRANT AMOUNT.—The amount of each basic grant for which a State qualifies under this subsection for any fiscal year shall equal up to 20 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

"(4) OCCUPANT PROTECTION PROGRAM: SUPPLEMENTAL GRANTS.—During the period in which a State is eligible for a basic grant under this subsection, the State shall be eligible to receive a supplemental grant in a fiscal year of up to 5 percent of the amount apportioned to the State in fiscal year 1997 under section 402 of this title. The State may receive a separate supplemental grant for meeting each of the following criteria:

"(A) PENALTY POINTS AGAINST A DRIVER'S LICENSE FOR VIOLATIONS OF CHILD PASSENGER PROTECTION REQUIREMENTS.—The State has in effect a law that requires the imposition of penalty points against a driver's license for violations of child passenger protection requirements.

"(B) ELIMINATION OF NON-MEDICAL EXEMPTIONS TO SAFETY BELT AND CHILD PASSENGER PROTECTION LAWS.—The State has in effect safety belt and child passenger protection laws that contain no nonmedical exemptions.

"(C) CHILD OCCUPANT PROTECTION EDUCATION PROGRAM.—The State demonstrates implementation of a statewide comprehensive child occupant protection education program that includes education about proper seating positions for children in air bag equipped motor vehicles and instruction on how to reduce the improper use of child restraints systems.

"(D) OPEN BED LAWS.—The State has in effect a law that prohibits persons from riding in the open bed of a pickup truck.

"(E) SAFETY BELT USE IN REAR SEATS.—The State has in effect a law that requires safety belt use by all rear-seat passengers in all passenger motor vehicles with a rear seat.

"(5) DEFINITIONS.—As used in this subsection—

"(A) 'Child safety seat' means any device except safety belts, designed for use in a motor vehicle to restrain, seat, or position children who weigh 50 pounds or less.

"(B) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

"(C) 'Multipurpose passenger vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed either on a truck chassis or with special features for occasional off-road operation.

"(D) 'Passenger car' means a motor vehicle with motive power (except a multipurpose passenger vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

"(E) 'Passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

"(F) 'Safety belt' means—

"(i) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(ii) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap and shoulder belts.

"(n) STATE HIGHWAY SAFETY DATA IMPROVEMENTS.—The Secretary shall make a grant to a State that takes effective actions to improve the timeliness, accuracy, completeness, uniformity, and accessibility of the State's data needed to identify priorities within State and local highway and traffic safety programs, to evaluate the effectiveness of such efforts, and to link these State data systems, including traffic records, together and with other data systems within the State, such as systems that contain medical and economic data:

"(1) FIRST-YEAR GRANT ELIGIBILITY.—A State is eligible for a first-year grant under this subsection in a fiscal year if such State either:

"(A) Demonstrates, to the satisfaction of the Secretary, that it has—

"(i) established a Highway Safety Data and Traffic Records Coordinating Committee with a multi-disciplinary membership including the administrators, collectors, and users of such data (including the public health, injury control, and motor carrier communities) of highway safety and traffic records databases;

"(ii) completed within the preceding 5 years a highway safety data and traffic records assessment or audit of its highway safety data and traffic records system; and

"(iii) initiated the development of a multi-year highway safety data and traffic records strategic plan to be approved by the Highway Safety Data and Traffic Records Coordinating Committee that identifies and prioritizes its highway safety data and traffic records needs and goals, and that identifies performance-based measures by which progress toward those goals will be determined; or

"(B) Provides, to the satisfaction of the Secretary—

"(i) certification that it has met the provisions outlined in clauses (A)(i) and (A)(ii) of subparagraph (A) of this paragraph;

"(ii) a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined; and

"(iii) certification that the Highway Safety Data and Traffic Records Coordinating Committee continues to operate and supports the multi-year plan described in clause (B)(ii) of this subparagraph.

"(2) FIRST-YEAR GRANT AMOUNT.—The amount of a first-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State eligible for such a grant under subparagraph (1)(A) of paragraph (A) of this subsection shall equal $125,000, subject to the availability of appropriations, and for any State eligible for such a grant under subparagraph (1)(B) of this subsection shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than $225,000, subject to the availability of appropriations.

"(3) STATE HIGHWAY SAFETY DATA AND TRAFFIC RECORDS IMPROVEMENTS: SUCCEEDING-YEAR GRANTS.—A State shall be eligible for a grant in any fiscal year succeeding the first fiscal year in which the State receives a State highway safety data and traffic records grant if the State, to the satisfaction of the Secretary:

"(A) Submits or updates a multi-year plan that identifies and prioritizes the State's highway safety data and traffic records needs and goals, that specifies how its incentive funds for the fiscal year will be used to address those needs and the goals of the plan, and that identifies performance-based measures by which progress toward those goals will be determined;

"(B) Certifies that its Highway Safety Data and Traffic Records Coordinating Committee continues to support the multi-year plan; and

"(C) Reports annually on its progress in implementing the multi-year plan.

"(4) SUCCEEDING-YEAR GRANT AMOUNTS.—The amount of a succeeding-year grant made for State highway safety data and traffic records improvements for any fiscal year to any State that is eligible for such a grant shall equal a proportional amount of the amount apportioned to the State for fiscal year 1997 under section 402 of this title, except that no State shall receive less than $225,000, subject to the availability of appropriations.

"(o) DRUGGED DRIVING COUNTERMEASURES.—The Secretary shall make grants to those States that adopt and implement effective programs to reduce drug use and drugged driving:

"(1) GRANT ELIGIBILITY.—A State is eligible for a grant under this subsection in a fiscal year by meeting, to the satisfaction of the Secretary, 5 or more of the following criteria:

"(A) ZERO TOLERANCE FOR DRUGS.—The State has in effect a law that requires that any person with a measurable amount of a controlled substance, a combination of controlled substances, or a combination of alcohol and controlled substances when driving a motor vehicle shall be deemed to be driving under the influence of or impaired by a controlled substance.

"(B) DRUG IMPAIRED DRIVING.—The State has in effect a law that makes it unlawful for any person to drive or be in actual physical control of a motor vehicle while under the influence of or impaired by a drug or substance (licit or illicit).

"(C) MANDATORY TESTING FOR DRUGS OR SUBSTANCES.—The State has in effect a law that provides for mandatory chemical testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in a crash resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed a drug or substance-related traffic offense.

"(D) ADMINISTRATIVE LICENSE REVOCATION.—The State has in effect an administrative driver's license suspension or revocation system for persons who operate motor vehicles while under the influence of a drug or substance which requires that—

"(i) in the case of a person who, in any 5-year period beginning after the date of enactment of this subsection, is determined on the basis of one or more chemical tests to have been operating a motor vehicle under the influence of a drug or substance or is determined to have refused to submit to such a test as requested by the law enforcement officer, the State agency responsible for administering drivers' licenses, upon receipt the report of the law enforcement officer—

"(I) shall suspend the driver's license of such person for a period of not less than 90 days if such person is a first offender in such 5-year period; and

"(II) shall suspend the driver's license of such person for a period of not less than 1 year, or revoke such license, if such person is a repeat offender in such 5-year period; and

"(ii) the suspension and revocation referred to under (D)(i) shall take effect not later than 30 days after the day on which the person was determined to have been driving under the influence of drugs or refused to take a chemical test in accordance with the State's procedures.

"(E) LICENSE REVOCATION OR SUSPENSION OF PERSONS CONVICTED OF DRUG OFFENSES.—The State has in effect a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

"(i) the revocation, or suspension for at least 6 months, of the driver's license of any person who is convicted, after the enactment of such law, of—

"(I) any violation of the Controlled Substances Act, or

"(II) any drug offense; and

"(ii) a delay in the issuance or reinstatement of a driver's license to such a person for at least 6 months after the person applies for the issuance or reinstatement of a driver's license if the person does not have a driver's license, or the driver's license of the person is suspended, at the time the person is so convicted.

"(F) GRADUATED LICENSING.—The State has adopted an effective three-stage graduated licensing system for young drivers, as determined by the Secretary, that includes drug use and drugged driving provisions.

"(G) ACTIVE ENFORCEMENT AND PUBLICITY.—The State provides for active enforcement and publicity, as determined by the Secretary, of drugged driving laws.

"(H) DRUG INTERVENTION.—The State has in effect a system that provides for an assessment of persons determined to have been operating a motor vehicle under the influence of or impaired by a drug or controlled substance, as determined by the Secretary, and referral to drug education, counseling, and treatment, as appropriate.

"(I) DRUG EDUCATION.—The State has adopted an effective educational program, as determined by the Secretary, under which drug information is provided to persons who apply for and who renew their driver's licenses, and drug-related questions are included on drivers' license examinations.

"(2) GRANT AMOUNT.—The amount of a grant made for drugged driving countermeasures for any fiscal year to any eligible State shall not be more than 20 percent of the amount apportioned to the State for fiscal year 1997 under section 402 of this title.

"(3) DEFINITIONS.—For the purposes of this subsection—

"(A) 'Alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(B) 'Controlled substances' has the meaning such term has under section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(C) 'Motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets,

roads, and highways, but does not include a vehicle operated only on a rail line.".

(g) CONFORMING AMENDMENT.—Section 410 of chapter 4 of this title is repealed, and the analysis for chapter 4 of this title is amended by striking the item relating to Section 410.

SEC. 102. NATIONAL DRIVER REGISTER.

(a) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—Section 30302 of title 49, United States Code, is amended by adding at the end thereof the following:

"(e) TRANSFER OF SELECTED FUNCTIONS TO NON-FEDERAL MANAGEMENT.—(1) The Secretary may enter into an agreement with an organization that represents the interests of the States to manage, administer, and operate the National Driver Register's computer timeshare and user assistance functions. If the Secretary decides to enter into such an agreement, the Secretary shall ensure that the management of these functions is compatible with this chapter and the regulations issued to implement this chapter.

"(2) Any transfer of the National Driver Register's computer timeshare and user assistance functions to an organization that represents the interests of the States shall begin only after a determination is made by the Secretary that all States are participating in the National Driver Register's 'Problem Driver Pointer System' (the system used by the Register to effect the exchange of motor vehicle driving records), and that the system is functioning properly.

"(3) The agreement entered into under this subsection shall include a provision for a transition period sufficient to allow the States to make the budgetary and legislative changes they may need to pay fees charged by the organization representing their interests for their use of the National Driver Register's computer timeshare and user assistance functions. During this transition period, the Secretary (through the National Highway Traffic Safety Administration) shall continue to fund these transferred functions.

"(4) The total of the fees charged by the organization representing the interests of the States in any fiscal year for the use of the National Driver Register's computer timeshare and user assistance functions shall not exceed the total cost to the organization for performing these functions in such fiscal year.

"(5) Nothing in this subsection shall be construed to diminish, limit, or otherwise affect the authority of the Secretary to carry out this chapter.".

(b) ACCESS TO REGISTER INFORMATION.—

(1) CONFORMING AMENDMENTS.—Section 30305(b) of title 49, United States Code, is amended—

(A) in paragraph (2), by inserting before the period at the end ", unless the information is about a revocation or suspension still in effect on the date of the request";

(B) In paragraph (8), as redesignated by section 207(b) of the Coast Guard Authorization Act of 1996 (Public Law 104–324, 110 Stat. 3908), by striking "paragraph (2)" and substituting "subsection (a) of this section"; and

(C) by redesignating paragraph (8), as redesignated by section 502(b)(1) of the Federal Aviation Reauthorization Act of 1996 (Public Law 104–264, 110 Stat. 3262), as paragraph (9).

(2) FEDERAL AGENCY ACCESS PROVISION.—Section 30305(b) of title 49, United States Code, is further amended by—

(A) redesignating paragraph (6) as paragraph (10) and inserting it after paragraph (9);

(B) inserting the following new paragraph (6):

"(6) The head of a Federal department or agency that issues motor vehicle operator's licenses may request the chief driver licensing official of a State to obtain information under subsection (a) of this section about an individual applicant for a motor vehicle operator's license from such department or agency. The department or agency may receive the information, provided it transmits to the Secretary a report regarding any individual who is denied a motor vehicle operator's license by that department or agency for cause; whose motor vehicle operator's license is revoked, suspended or canceled by that department or agency for cause; or about whom the department or agency has been notified of a conviction of any of the motor vehicle-related offenses or comparable offenses listed in subsection 30304(a)(3) and over whom the department or agency has licensing authority. The report shall contain the information specified in subsection 30304(b).''; and

(C) inserting the following at the end of the subsection:

"(11) The head of a Federal department or agency authorized to receive information regarding an individual from the Register under this section may request and receive such information from the Secretary.".

SEC. 103. AUTHORIZATIONS OF APPROPRIATIONS.

(a) HIGHWAY SAFETY PROGRAMS.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) CONSOLIDATED STATE HIGHWAY SAFETY PROGRAMS.—

(A) For carrying out the State and Community Highway Safety Program under section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration, except for the incentive programs under subsections (l), (m), (n), and (o) of that section—

(i) $116,370,000 for fiscal year 1998;
(ii) $121,838,000 for fiscal year 1999;
(iii) $125,125,000 for fiscal year 2000;
(iv) $128,505,000 for fiscal year 2001;
(v) $131,809,000 for fiscal year 2002; and
(vi) $139,732,000 for fiscal year 2003.

(B) To carry out the alcohol-impaired driving countermeasures incentive grant provisions of subsection (l) of section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $30,570,000 for fiscal year 1998;
(ii) $28,500,000 for fiscal year 1999;
(iii) $29,273,000 for fiscal year 2000;
(iv) $30,065,000 for fiscal year 2001;
(v) $38,743,000 for fiscal year 2002; and
(vi) $39,815,000 for fiscal year 2003.

Amounts made available to carry out subsection (l) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (l) to subsections (m), (n), and (o) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(C) To carry out the occupant protection program incentive grant provisions of subsection (m) of section 402 of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $13,950,000 for fiscal year 1998;
(ii) $14,618,000 for fiscal year 1999;
(iii) $15,012,000 for fiscal year 2000;
(iv) $15,418,000 for fiscal year 2001;
(v) $17,640,000 for fiscal year 2002; and
(vi) $17,706,000 for fiscal year 2003.

Amounts made available to carry out subsection (m) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (m) to subsections (l), (n), and (o) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(D) To carry out the State highway safety data improvements incentive grant provisions of subsection (n) of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $8,370,000 for fiscal year 1998;
(ii) $8,770,000 for fiscal year 1999;
(iii) $9,007,000 for fiscal year 2000; and
(iv) $9,250,000 for fiscal year 2001.

Amounts made available to carry out subsection (n) are authorized to remain available until expended.

(E) To carry out the drugged driving countermeasures incentive grant provisions of section 402(o) of title 23, United States Code, by the National Highway Traffic Safety Administration—

(i) $3,488,000 for fiscal year 1998;
(ii) $3,654,000 for fiscal year 1999;
(iii) $3,752,000 for fiscal year 2000;
(iv) $3,850,000 for fiscal year 2001;
(v) $3,950,000 for fiscal year 2002; and
(vi) $4,071,000 for fiscal year 2003.

Amounts made available to carry out subsection (o) are authorized to remain available until expended, provided that, in each fiscal year the Secretary may reallocate any amounts remaining available under subsection (o) to subsections (l), (m), and (n) of section 402 of title 23, United States Code, as necessary to ensure, to the maximum extent possible, that States may receive the maximum incentive funding for which they are eligible under these programs.

(2) NATIONAL DRIVER REGISTER.—For carrying out chapter 303 (National Driver Register) of title 49, United States Code, by the National Highway Traffic Safety Administration—

(i) $1,605,000 for fiscal year 1998;
(ii) $1,680,000 for fiscal year 1999;
(iii) $1,726,000 for fiscal year 2000;
(iv) $1,772,000 for fiscal year 2001;
(v) $1,817,000 for fiscal year 2002; and
(vi) $1,872,000 for fiscal year 2003.

TITLE II—TRAFFIC SAFETY

SEC. 201. AMENDMENT TO TITLE 23, UNITED STATES CODE.

Section 402 of title 23, United States Code, is amended by adding at the end the following new subsection:

"(p) TRANSFER OF FUNDS AND PERFORMANCE OPTION: PRIMARY SAFETY BELT USE.—

"(1) TRANSFER.—

"(A) FISCAL YEAR 2002.—If, by the last day of fiscal year 2002, a State has not enacted and had in continuous effect a primary enforcement safety belt use law described in subsection (m), the Secretary shall transfer 1½ percent of the funds apportioned to the State for fiscal year 2003 under each of paragraphs (1), (3), and (5)(B) of section 104(b) of this title to the apportionment of the State under section 402 of this title. These transferred funds may be used only for occupant protection programs.

"(B) THEREAFTER.—If, by the last day of any fiscal year beginning after September 30, 2002, a State has not enacted and had in continuous effect a primary enforcement safety belt use law described in subsection (m), the Secretary shall transfer 3 percent of the

funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1), (3), and (5)(B) of section 104(b) of this title to the apportionment of the State under section 402 of this title. These transferred funds may be used only for occupant protection programs.

"(2) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 of this title with funds transferred to the apportionment of section 402 shall be 100 percent.

"(3) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 of this title for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for such fiscal year to the State for Federal-aid highways and highway construction programs for carrying out only projects under section 402, which is determined by multiplying—

"(A) the amount of funds transferred to the apportionment of section 402 of the State under section 402 for such fiscal year, by

"(B) the ratio of the amount of obligation authority distributed for such fiscal year to the State for its Federal-aid highways and highway construction programs to the total of the sums apportioned to the State for its Federal-aid highways and highway construction programs (excluding sums not subject to any obligation limitation) for such fiscal year.

"(4) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 of this title shall apply to funds transferred under this subsection to the State apportionment of section 402.

"(5) PERFORMANCE OPTION.—Paragraph (1) of this subsection shall not apply to a State in a fiscal year beginning after September 30, 2002, if the Secretary certifies before each such fiscal year that the State has a statewide safety belt use rate of 85 percent or higher in both front outboard seating positions in all passenger motor vehicles, as defined in subsection (m) of this section. The State shall document its safety belt use rate by conducting an annual survey that conforms to guidelines issued by the Secretary ensuring that measurements are accurate and representative. The Secretary shall use this survey and may use additional surveys or other relevant information as necessary in deciding whether to certify that the State's safety belt use rate is 85 percent or higher.

"(6) DEFINITION.—For the purposes of this subsection, the term 'safety belt' means—

"(A) with respect to open-body passenger vehicles, including convertibles, an occupant restraint system, consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to other passenger vehicles, an occupant restraint system consisting of integrated lap shoulder belts.".

SEC. 202. AMENDMENTS TO CHAPTER 301 (MOTOR VEHICLE SAFETY).

(a) IN GENERAL.—Chapter 301 is amended by adding at the end the following new section:

"§ 30148. International motor vehicle safety outreach

"(a) ACTIVITIES.—The Secretary is authorized, in consultation with the Secretaries of State and Commerce where appropriate, to engage in activities that improve worldwide motor vehicle safety through appropriate activities. Such activities may include—

"(1) promoting the adoption of international and national vehicle standards that are harmonized with, functionally equivalent to, or compatible with United States vehicle standards;

"(2) participating in efforts to foster an international acceptance of globally harmonized and/or functionally equivalent or compatible motor vehicle regulations and standards to otherwise improve international highway and motor vehicle safety;

"(3) promoting international cooperative programs for conducting research, development, demonstration projects, training, and other forms of technology transfer and exchange, including safety conferences, seminars, and/or expositions to enhance international motor vehicle safety; and

"(4) providing technical assistance to other countries relating to their adoption of United States vehicle regulations or standards functionally equivalent to United States vehicle standards.

"(b) COOPERATION.—The Secretary may carry out the authority granted by this section, in cooperation with appropriate United States government agencies, any State or local agency, and any authority, association, institution, corporation (profit or nonprofit), foreign government, multinational institution, or any other organization or person.

"(c) CONSIDERATION.—When engaging in activities to improve worldwide motor vehicle safety, the Secretary shall ensure that these activities maintain or improve the level of safety of motor vehicles and motor vehicle equipment sold in the United States."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by adding at the end thereof the following:

"30148. International motor vehicle safety outreach".

TITLE III—HAZARDOUS MATERIALS TRANSPORTATION REAUTHORIZATION

SEC. 301. FINDINGS AND PURPOSES; DEFINITIONS.

(a) FINDINGS AND PURPOSES.—Section 5101 is amended to read as follows:

"§ 5101. Findings and purposes

"(a) FINDINGS.—The Congress finds with respect to hazardous materials transportation that—

"(1) approximately 4 billion tons of regulated hazardous materials are transported each year and that approximately 500,000 movements of hazardous materials occur each day, according the Department of Transportation estimates;

"(2) accidents involving the release of hazardous materials are a serious threat to public health and safety;

"(3) many States and localities have enacted laws and regulations that vary from Federal laws and regulations pertaining to the transportation of hazardous materials, thereby creating the potential for unreasonable hazards in other jurisdictions and confounding shippers and carriers that attempt to comply with multiple and conflicting registration, permitting, routings, notification, loading, unloading, incidental storage, and other regulatory requirements;

"(4) because of the potential risks to life, property and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials, including loading, unloading, and incidental storage, is necessary and desirable;

"(5) in order to achieve greater uniformity and to promote the public health, welfare, and safety at all levels, Federal standards for regulating the transportation of hazardous materials in intrastate, interstate, and foreign commerce are necessary and desirable;

"(6) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of adequately trained State and local emergency response personnel is required;

"(7) the movement of hazardous materials in commerce is necessary and desirable to maintain economic vitality and meet consumer demands, and shall be conducted in a safe and efficient manner; and

"(8) primary authority for the regulation of such transportation should be consolidated in the Department of Transportation to ensure the safe and efficient movement of hazardous materials in commerce.

"(b) PURPOSES.—The purposes of this chapter are—

"(1) to ensure the safe and efficient transportation of hazardous materials in intrastate, interstate, and foreign commerce, including the loading, unloading, and incidental storage of hazardous material;

"(2) to provide the Secretary with preemption authority to achieve uniform regulation of hazardous material transportation, to eliminate inconsistent rules that apply differently from Federal rules, to ensure efficient movement of hazardous materials in commerce, and to promote the national health, welfare, and safety; and

"(3) to provide adequate training for public sector emergency response teams to ensure safe responses to hazardous material transportation accidents and incidents.".

(b) DEFINITIONS.—Section 5102 is amended by—

(1) by striking paragraph (1) and inserting the following:

"(1) 'commerce' means trade or transportation in the jurisdiction of the United States—

"(A) between a place in a State and a place outside of the State;

"(B) that affects trade or transportation between a place in a State and a place outside of the State; or

"(C) on a United States-registered aircraft.";

(2) by striking paragraphs (3) and (4) and inserting the following:

"(3) 'hazmat employee' means an individual who—

"(A) is—

"(i) employed by a hazmat employer,

"(ii) self-employed, or

"(iii) an owner-operator of a motor vehicle; and

"(B) during the course of employment—

"(i) loads, unloads, or handles hazardous material;

"(ii) manufactures, reconditions, or tests containers, drums, or other packagings represented as qualified for use in transporting hazardous material;

"(iii) performs any function pertaining to the offering of hazardous material for transportation;

"(iv) is responsible for the safety of transporting hazardous material; or

"(v) operates a vehicle used to transport hazardous material.

"(4) 'hazmat employer' means a person who—

"(A) either—

"(i) is self-employed,

"(ii) is an owner-operator of a motor vehicle, or

"(iii) has at least one employee; and

"(B) performs a function, or uses at least one employee, in connection with—

"(i) transporting hazardous material in commerce;

"(ii) causing hazardous material to be transported in commerce, or

"(iii) manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material.";

(3) by striking "title. " in paragraph (7) and inserting "title, except that a freight forwarder is included only if performing a function related to highway transportation";

(4) by redesignating paragraphs (9) through (13) as paragraphs (12) through (16);

(5) by inserting after paragraph (8) the following:

"(9) 'out-of-service order' means a mandate that an aircraft, vessel, motor vehicle, train, other vehicle, or a part of any of these, not be moved until specified conditions have been met.

"(10) 'package' or 'outside package' means a packaging plus its contents.

"(11) 'packaging' means a receptacle and any other components or materials necessary for the receptacle to perform its containment function in conformance with the minimum packaging requirements established by the Secretary of Transportation."; and

(6) by striking "or transporting hazardous material to further a commercial enterprise;" in paragraph 12(A), as redesignated by paragraph (4) of this subsection, and inserting a comma and "transporting hazardous material to further a commercial enterprise, or manufacturing, reconditioning, or testing containers, drums, or other packagings represented as qualified for use in transporting hazardous material".

(c) CLERICAL AMENDMENT.—The chapter analysis of chapter 51 is amended by striking the item relating to section 5101 and inserting the following:

"5101. Findings and purposes".

SEC. 302. HANDLING CRITERIA REPEAL.

Section 5106 is repealed and the chapter analysis of chapter 51 is amended by striking the item relating to that section.

SEC. 303. HAZMAT EMPLOYEE TRAINING REQUIREMENTS.

Section 5107(f)(2) is amended by striking "and sections 5106, 5108(a)-(g)(1) and (h), and".

SEC. 304. REGISTRATION.

Section 5108 is amended by—

(1) by striking subsection (b)(1)(C) and inserting the following:

"(C) each State in which the person carries out any of the activities.";

(2) by striking subsection (c) and inserting the following:

"(c) FILING SCHEDULE.—Each person required to file a registration statement under subsection (a) of this section shall file that statement annually in accordance with regulations issued by the Secretary.";

(3) by striking "552(f)" in subsection (f) and inserting "552(b)";

(4) by striking "may" in subsection (g)(1) and inserting "shall"; and

(5) by inserting "or an Indian tribe," in subsection (i)(2)(B) after "State,".

SEC. 305. SHIPPING PAPER RETENTION.

Section 5110(e) is amended by striking the first sentence and inserting "After expiration of the requirement in subsection (c) of this section, the person who provided the shipping paper and the carrier required to maintain it under subsection (a) of this section shall retain the paper or an electronic image thereof, for a period of 1 year after the shipping paper was provided to the carrier, to be accessible through their respective principal places of business.".

SEC. 306. UNSATISFACTORY SAFETY RATING.

Section 5113(d) is amended by striking "Secretary, in consultation with the Interstate Commerce Commission," and inserting "Secretary".

SEC. 307. PUBLIC SECTOR TRAINING CURRICULUM.

Section 5115 is amended by—

(1) by striking "DEVELOPMENT AND UPDATING.—Not later than November 16, 1992, in" in subsection (a) and inserting "UPDATING.—In";

(2) by striking "develop and" in the first sentence of subsection (a);

(3) by striking the second sentence of subsection (a);

(4) by striking "developed" in the first sentence of subsection (b);

(5) by inserting "or involving an alternative fuel vehicle" after "material" in subparagraphs (A) and (B) of subsection (b)(1); and

(6) by striking subsection (d) and inserting the following:

"(d) DISTRIBUTION AND PUBLICATION.—With the national response team, the Secretary of Transportation may publish a list of programs that use a course developed under this section for training public sector employees to respond to an accident or incident involving the transportation of hazardous material.".

SEC. 308. PLANNING AND TRAINING GRANTS.

Section 5116 is amended by—

(1) by striking "of" in the second sentence of subsection (e) and inserting "received by";

(2) by striking subsection (f) and inserting the following:

"(f) MONITORING AND TECHNICAL ASSISTANCE.—The Secretary of Transportation shall monitor public sector emergency response planning and training for an accident or incident involving hazardous material. Considering the results of the monitoring, the Secretary shall provide technical assistance to a State, political subdivision of a State, or Indian tribe for carrying out emergency response training and planning for an accident or incident involving hazardous material and shall coordinate the assistance using the existing coordinating mechanisms of the National Response Team for Oil and Hazardous Substances and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee."; and

(3) by adding at the end thereof the following:

"(l) SMALL BUSINESSES.—The Secretary may authorize a State or Indian tribe receiving a grant under this section to use up to 25 percent of the amount of the grant to assist small businesses in complying with regulations issued under this chapter.".

SEC. 309. SPECIAL PERMITS AND EXCLUSIONS.

(a) Section 5117 is amended by—

(1) by striking the section caption and inserting the following:

"§ 5117. Special permits and exclusions";

(2) by striking "exemption" each place it appears and inserting "special permit";

(3) by inserting "authorizing variances" after "special permit" the first place it appears; and

(4) by striking "2" and inserting "4" in subsection (a)(2).

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5117 and inserting the following:

"5117. Special permits and exclusions".

SEC. 310. ADMINISTRATION.

(a) Section 5121 is amended by striking subsections (a), (b), and (c) and redesignating subsections (d) and (e) as subsections (a) and (b).

(b) Section 5122 is amended by redesignating subsections (a), (b), and (c) as subsections (d), (e), and (f), and by inserting before subsection (d), as redesignated, the following:

"(a) GENERAL AUTHORITY.—To carry out this chapter, the Secretary of Transportation may investigate, make reports, issue subpenas, conduct hearings, require the production of records and property, take depositions, and conduct research, development, demonstration, and training activities. After notice and an opportunity for a hearing, the Secretary may issue an order requiring compliance with this chapter or a regulation prescribed under this chapter.

"(b) RECORDS, REPORTS, AND INFORMATION.—A person subject to this chapter shall—

"(1) maintain records, make reports, and provide information the Secretary by regulation or order requires; and

"(2) make the records, reports, and information available when the Secretary requests.

"(c) INSPECTION.—

"(1) The Secretary may authorize an officer, employee, or agent to inspect, at a reasonable time and in a reasonable way, records and property related to—

"(A) manufacturing, fabricating, marking, maintaining, reconditioning, repairing, testing, or distributing a packaging or a container for use by a person in transporting hazardous material in commerce; or

"(B) the transportation of hazardous material in commerce.

"(2) An officer, employee, or agent under this subsection shall display proper credentials when requested.".

SEC. 311. COOPERATIVE AGREEMENTS.

Section 5121, as amended by section 310(a), is further amended by adding at the end thereof the following:

"(c) AUTHORITY FOR COOPERATIVE AGREEMENTS.—To carry out this chapter, the Secretary may enter into grants, cooperative agreements, and other transactions with a person, agency or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the State Department), an educational institution, or other entity to further the objectives of this chapter. The objectives of this chapter include the conduct of research, development, demonstration, risk assessment, emergency response planning and training activities.".

SEC. 312. ENFORCEMENT.

Section 5122, as amended by section 310(b), is further amended by—

(1) by inserting "inspect," after "may" in the first sentence of subsection (a);

(2) by striking the last sentence of subsection (a) and inserting: "Except as provided in subsection (e) of this section, the Secretary shall provide notice and an opportunity for a hearing prior to issuing an order requiring compliance with this chapter or a regulation, order, special permit, or approval issued under this chapter.";

(3) by redesignating subsections (d), (e) and (f) as subsections (f), (g) and (h), and inserting after subsection (c) the following:

"(d) OTHER AUTHORITY.—

"(1) INSPECTION.—During inspections and investigations, officers, employees, or agents of the Secretary may—

"(A) open and examine the contents of a package offered for, or in, transportation when—

"(i) the package is marked, labeled, certified, placarded, or otherwise represented as containing a hazardous material, or

"(ii) there is an objectively reasonable and articulable belief that the package may contain a hazardous material;

"(B) take a sample, sufficient for analysis, of material marked or represented as a hazardous material or for which there is an objectively reasonable and articulable belief that the material may be a hazardous material, and analyze that material;

"(C) when there is an objectively reasonable and articulable belief that an imminent hazard may exist, prevent the further transportation of the material until the hazardous qualities of that material have been determined; and

"(D) when safety might otherwise be compromised, authorize properly qualified personnel to conduct the examination, sampling, or analysis of a material.

"(2) NOTIFICATION.—No package opened pursuant to this subsection shall continue its transportation until the officer, employee, or agent of the Secretary—

"(A) affixes a label to the package indicating that the package was inspected pursuant to this subsection; and

"(B) notifies the shipper that the package was opened for examination.

"(e) EMERGENCY ORDERS.—

"(1) If, through testing, inspection, investigation, or research carried out under this chapter, the Secretary decides that an unsafe condition or practice, or a combination of them, causes an emergency situation involving a hazard of death, personal injury, or significant harm to the environment, the Secretary may immediately issue or impose restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, that may be necessary to abate the situation.

"(2) The Secretary's action under this subsection must be in a written order describing the condition or practice, or combination of them, that causes the emergency situation; stating the restrictions, prohibitions, recalls, or out-of-service orders being issued or imposed; and prescribing standards and procedures for obtaining relief from the order.

"(3) After taking action under this subsection, the Secretary shall provide an opportunity for review of that action under section 554 of title 5.

"(4) If a petition for review is filed and the review is not completed by the end of the 30-day period beginning on the date the petition was filed, the action will cease to be effective at the end of that period unless the Secretary determines in writing that the emergency situation still exists.".

SEC. 313. PENALTIES.

(a) Section 5123(a)(1) is amended by striking the first sentence and inserting the following: "A person that knowingly violates this chapter or a regulation, order, special permit, or approval issued under this chapter is liable to the United States Government for a civil penalty of at least $250 but not more than $27,500 for each violation.".

(b) Section 5123(c)(2) is amended to read as follows:

"(2) with respect to the violator, the degree of culpability, any good-faith efforts to comply with the applicable requirements, any history of prior violations, any economic benefit resulting from the violation, the ability to pay, and any effect on the ability to continue to do business; and".

(c) Section 5124 is amended to read as follows:

"§ 5124. Criminal penalty

"(a) IN GENERAL.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(b) AGGRAVATED VIOLATIONS.—A person knowingly violating section 5104(b) of this title or willfully violating this chapter or a regulation, order, special permit, or approval issued under this chapter, and thereby causing the release of a hazardous material, shall be fined under title 18, imprisoned for not more than 20 years, or both.".

SEC. 314. PREEMPTION.

(a) REQUIREMENTS CONTRARY TO PURPOSES OF CHAPTER.—Section 5125(a)(2) is amended by inserting a comma and "the purposes of this chapter," after "this chapter" the first place it appears.

(b) DEADWOOD.—Section 5125(b)(2) is amended by striking "prescribes after November 16, 1990." and inserting "prescribes.".

SEC. 315. JUDICIAL REVIEW.

(a) Chapter 51 is amended by redesignating section 5127 as section 5128, and by inserting after section 5126 the following new section:

"§ 5127. Judicial review

"(a) FILING AND VENUE.—Except as provided in section 20114(c) of this title, a person disclosing a substantial interest in a final order issued, under the authority of section 5122 or 5123 of this title, by the Secretary of Transportation, the Administrators of the Research and Special Programs Administration, the Federal Aviation Administration, or the Federal Highway Administration, or the Commandant of the United States Coast Guard ('modal Administrator'), with respect to the duties and powers designated to be carried out by the Secretary under this chapter, may apply for review in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the order is issued. The court may allow the petition to be filed after the 60th day only if there are reasonable grounds for not filing by the 60th day.

"(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a) of this section, the clerk of the court immediately shall send a copy of the petition to the Secretary or the modal Administrator, as appropriate. The Secretary or the modal Administrator shall file with the court a record of any proceeding in which the order was issued, as provided in section 2112 of title 28.

"(c) AUTHORITY OF COURT.—When the petition is sent to the Secretary or the modal Administrator, the court has exclusive jurisdiction to affirm, amend, modify, or set aside any part of the order and may order the Secretary or the modal Administrator to conduct further proceedings. After reasonable notice to the Secretary or the modal Administrator, the court may grant interim relief by staying the order or taking other appropriate action when good cause for its action exists. Findings of fact by the Secretary or the modal Administrator, if supported by substantial evidence, are conclusive.

"(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final order under this section, the court may consider an objection to a final order of the Secretary or the modal Administrator only if the objection was made in the course of a proceeding or review conducted by the Secretary, the modal Administrator, or an administrative law judge, or if there was a reasonable ground for not making the objection in the proceeding.

"(e) SUPREME COURT REVIEW.—A decision by a court under this section may be reviewed only by the Supreme Court under section 1254 of title 28, United States Code.".

(b) The chapter analysis for chapter 51 is amended by striking the item related to section 5127 and inserting the following:

"5127. Judicial review.".

"5128. Authorization of appropriations.".

SEC. 316. HAZARDOUS MATERIAL TRANSPORTATION REAUTHORIZATION.

(a) IN GENERAL.—Chapter 51, as amended by section 315 of this Act, is amended by redesignating section 5128 as section 5129 and by inserting after section 5127 the following:

"§ 5128. High risk hazardous material; motor carrier safety study

"(a) STUDY.—The Secretary of Transportation shall conduct a study—

"(1) to determine the safety benefits and administrative efficiency of implementing a Federal permit program for high risk hazardous material carriers;

"(2) to identify and evaluate alternative regulatory methods and procedures that may improve the safety of high risk hazardous material carriers and shippers;

"(3) to examine the safety benefits of increased monitoring of high risk hazardous material carriers, and the costs, benefits, and procedures of existing State permit programs;

"(4) to make such recommendations as may be appropriate for the improvement of uniformity among existing State permit programs; and

"(5) to assess the potential of advanced technologies for improving the assessment of high risk hazardous material carriers' compliance with motor carrier safety regulations.

"(b) TIMEFRAME.—The Secretary shall begin the study required by subsection (a) within 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1997 and complete it within 30 months.

"(c) REPORT.—The Secretary shall report the findings of the study required by subsection (a), together with such recommendations as may be appropriate, within 36 months after the date of enactment of that Act.".

(b) SECTION 5109 REGULATIONS TO REFLECT STUDY FINDINGS.—Section 5109(h) is amended by striking "not later than November 16, 1991." and inserting "based upon the findings of the study required by section 5128(a).".

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 51, as amended by section 315, is amended by striking the item relating to section 5128 and inserting the following:

"5128. High risk hazardous material; motor carrier safety study

"5129. Authorization of appropriations".

SEC. 317. AUTHORIZATION OF APPROPRIATIONS.

Section 5129, as redesignated, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, and 5116) not more than—

"(1) $15,492,000 for fiscal year 1998;

"(2) $16,000,000 for fiscal year 1999;

"(3) $16,500,000 for fiscal year 2000;

"(4) $17,000,000 for fiscal year 2001;

"(5) $17,500,000 for fiscal year 2002; and

"(6) $18,000,000 for fiscal year 2003."; and

(2) by striking subsections (c) and (d) and inserting the following:

"(c) TRAINING CURRICULUM.—Not more than $200,000 is available to the Secretary of Transportation from the account established

under section 5116(i) of this title for each of the fiscal years ending September 30, 1999-2003, to carry out section 5115 of this title.

"(d) PLANNING AND TRAINING.—

"(1) Not more than $2,444,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999-2003, to carry out section 5116(a) of this title.

"(2) Not more than $3,666,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999-2003, to carry out section 5116(b) of this title.

"(3) Not more than $600,000 is available to the Secretary of Transportation from the account established under section 5116(i) of this title for the fiscal year ending September 30, 1998, and such sums as may be necessary for fiscal years 1999-2003, to carry out section 5116(f) of this title.".

TITLE IV—COMPREHENSIVE ONE-CALL NOTIFICATION

SEC. 401. FINDINGS.

The Congress finds that—

(1) unintentional damage to underground facilities during excavation is a significant cause of disruptions in telecommunications, water supply, electric power and other vital public services, such as hospital and air traffic control operations, and is a leading cause of natural gas and hazardous liquid pipeline accidents;

(2) excavation that is performed without prior notification to an underground facility operator or with inaccurate marking of such a facility prior to excavation can cause damage that results in fatalities, serious injuries, harm to the environment and disruption of vital services to the public; and

(3) protection of the public and the environment from the consequences of underground facility damage caused by excavations will be enhanced by a coordinated national effort to improve one-call notification programs in each State and the effectiveness and efficiency of one-call notification systems that operate under such programs.

SEC. 402. ESTABLISHMENT OF ONE-CALL NOTIFICATION PROGRAMS.

(a) IN GENERAL.—Subtitle III is amended by adding at the end thereof the following:

"CHAPTER 61—ONE-CALL NOTIFICATION PROGRAMS

"Sec.

"6101. Purposes

"6102. Definitions

"6103. Minimum standards for State one-call notification programs

"6104. Compliance with minimum standards

"6105. Review of one-call system best practices

"6106. Grants to States

"6107. Authorization of appropriations

"§ 6101. Purposes

"The purposes of this chapter are—

"(1) to enhance public safety;

"(2) to protect the environment;

"(3) to minimize risks to excavators; and

"(4) to prevent disruption of vital public services,

by reducing the incidence of damage to underground facilities during excavation through the adoption and efficient implementation by all States of State one-call notification programs that meet the minimum standards set forth under section 6103.

"§ 6102. Definitions

"For purposes of this chapter—

"(1) ONE-CALL NOTIFICATION SYSTEM.—The term 'one-call notification system' means a system operated by an organization that has as one of its purposes to receive notification from excavators of intended excavation in a specified area in order to disseminate such notification to underground facility operators that are members of the system so that such operators can locate and mark their facilities in order to prevent damage to underground facilities in the course of such excavation.

"(2) STATE ONE-CALL NOTIFICATION PROGRAM.—The term 'State one-call notification program' means the State statutes, regulations, orders, judicial decisions, and other elements of law and policy in effect in a State that establish the requirements for the operation of one-call notification systems in such State.

"(3) STATE.—The term 'State' means a State, the District of Columbia, and Puerto Rico.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"§ 6103. Minimum standards for State one-call notification programs

"(a) MINIMUM STANDARDS.—A State one-call notification program shall, at a minimum, provide for—

"(1) appropriate participation by all underground facility operators;

"(2) appropriate participation by all excavators; and

"(3) flexible and effective enforcement under State law with respect to participation in, and use of, one-call notification systems.

"(b) APPROPRIATE PARTICIPATION.—In determining the appropriate extent of participation required for types of underground facilities or excavators under subsection (a), a State shall assess, rank, and take into consideration the risks to the public safety, the environment, excavators, and vital public services associated with—

"(1) damage to types of underground facilities; and

"(2) activities of types of excavators.

"(c) IMPLEMENTATION.—A State one-call notification program also shall, at a minimum, provide for—

"(1) consideration of the ranking of risks under subsection (b) in the enforcement of its provisions;

"(2) a reasonable relationship between the benefits of one-call notification and the cost of implementing and complying with the requirements of the State one-call notification program; and

"(3) voluntary participation where the State determines that a type of underground facility or an activity of a type of excavator poses a de minimis risk to public safety or the environment.

"(d) PENALTIES.—To the extent the State determines appropriate and necessary to achieve the purposes of this chapter, a State one-call notification program shall, at a minimum, provide for—

"(1) administrative or civil penalties commensurate with the seriousness of a violation by an excavator or facility owner of a State one-call notification program;

"(2) increased penalties for parties that repeatedly damage underground facilities because they fail to use one-call notification systems or for parties that repeatedly fail to provide timely and accurate marking after the required call has been made to a one-call notification system;

"(3) reduced or waived penalties for a violation of a requirement of a State one-call notification program that results in, or could result in, damage that is promptly reported by the violator;

"(4) equitable relief; and

"(5) citation of violations.

"§ 6104. Compliance with minimum standards

"(a) REQUIREMENT.—In order to qualify for a grant under section 6106, each State shall, within 2 years after the date of the enactment of the Intermodal Transportation Safety Act of 1997, submit to the Secretary a grant application under subsection (b).

"(b) APPLICATION.—

"(1) Upon application by a State, the Secretary shall review that State's one-call notification program, including the provisions for implementation of the program and the record of compliance and enforcement under the program.

"(2) Based on the review under paragraph (1), the Secretary shall determine whether the State's one-call notification program meets the minimum standards for such a program set forth in section 6103 in order to qualify for a grant under section 6106.

"(3) In order to expedite compliance under this section, the Secretary may consult with the State as to whether an existing State one-call notification program, a specific modification thereof, or a proposed State program would result in a positive determination under paragraph (2).

"(4) The Secretary shall prescribe the form of, and manner of filing, an application under this section that shall provide sufficient information about a State's one-call notification program for the Secretary to evaluate its overall effectiveness. Such information may include the nature and reasons for exceptions from required participation, the types of enforcement available, and such other information as the Secretary deems necessary.

"(5) The application of a State under paragraph (1) and the record of actions of the Secretary under this section shall be available to the public.

"(c) ALTERNATIVE PROGRAM—A State may maintain an alternative one-call notification program if that program provides protection for public safety, the environment, or excavators that is equivalent to, or greater than, protection under a program that meets the minimum standards set forth in section 6103.

"(d) REPORT—Within 3 years after the date of the enactment of the Intermodal Transportation Safety Act of 1997, the Secretary shall begin to include the following information in reports submitted under section 60124 of this title—

"(1) a description of the extent to which each State has adopted and implemented the minimum Federal standards under section 6103 or maintains an alternative program under subsection (c);

"(2) an analysis by the Secretary of the overall effectiveness of the State's one-call notification program and the one-call notification systems operating under such program in achieving the purposes of this chapter;

"(3) the impact of the State's decisions on the extent of required participation in one-call notification systems on prevention of damage to underground facilities; and

"(4) areas where improvements are needed in one-call notification systems in operation in the State.

The report shall also include any recommendations the Secretary determines appropriate. If the Secretary determines that the purposes of this chapter have been substantially achieved, no further report under this section shall be required.

"§ 6105. Review of one-call system best practices

"(a) STUDY OF EXISTING ONE-CALL SYSTEMS.—Except as provided in subsection (d), the Secretary, in consultation with other appropriate Federal agencies, State agencies, one-call notification system operators, underground facility operators, excavators, and other interested parties, shall undertake a study of damage prevention practices associated with existing one-call notification systems.

"(b) PURPOSE OF STUDY OF DAMAGE PREVENTION PRACTICES.—The purpose of the study is to assemble information in order to determine which existing one-call notification systems practices appear to be the most effective in preventing damage to underground facilities and in protecting the public, the environment, excavators, and public service disruption. As part of the study, the Secretary shall at a minimum consider—

"(1) the methods used by one-call notification systems and others to encourage participation by excavators and owners of underground facilities;

"(2) the methods by which one-call notification systems promote awareness of their programs, including use of public service announcements and educational materials and programs;

"(3) the methods by which one-call notification systems receive and distribute information from excavators and underground facility owners;

"(4) the use of any performance and service standards to verify the effectiveness of a one-call notification system;

"(5) the effectiveness and accuracy of mapping used by one-call notification systems;

"(6) the relationship between one-call notification systems and preventing intentional damage to underground facilities;

"(7) how one-call notification systems address the need for rapid response to situations where the need to excavate is urgent;

"(8) the extent to which accidents occur due to errors in marking of underground facilities, untimely marking or errors in the excavation process after a one-call notification system has been notified of an excavation;

"(9) the extent to which personnel engaged in marking underground facilities may be endangered;

"(10) the characteristics of damage prevention programs the Secretary believes could be relevant to the effectiveness of State one-call notification programs; and

"(11) the effectiveness of penalties and enforcement activities under State one-call notification programs in obtaining compliance with program requirements.

"(c) REPORT—Within 1 year after the date of the enactment of the Intermodal Transportation Safety Act of 1997, the Secretary shall publish a report identifying those practices of one-call notification systems that are the most and least successful in—

"(1) preventing damage to underground facilities; and

"(2) providing effective and efficient service to excavators and underground facility operators.

The Secretary shall encourage States and operators of one-call notification programs to adopt and implement the most successful practices identified in the report.

"(d) SECRETARIAL DISCRETION—Prior to undertaking the study described in subsection (a), the Secretary shall determine whether timely information described in subsection (b) is readily available. If the Secretary determines that such information is readily available, the Secretary is not required to carry out the study.

"§ 6106. Grants to States

"(a) IN GENERAL.—The Secretary may make a grant of financial assistance to a State that qualifies under section 6104(b) to assist in improving—

"(1) the overall quality and effectiveness of one-call notification systems in the State;

"(2) communications systems linking one-call notification systems;

"(3) location capabilities, including training personnel and developing and using location technology;

"(4) record retention and recording capabilities for one-call notification systems;

"(5) public information and education;

"(6) participation in one-call notification systems; or

"(7) compliance and enforcement under the State one-call notification program.

"(b) STATE ACTION TAKEN INTO ACCOUNT.—In making grants under this section the Secretary shall take into consideration the commitment of each State to improving its State one-call notification program, including legislative and regulatory actions taken by the State after the date of enactment of the Intermodal Transportation Safety Act of 1997.

"(c) FUNDING FOR ONE-CALL NOTIFICATION SYSTEMS.—A State may provide funds received under this section directly to any one-call notification system in such State that substantially adopts the best practices identified under section 6105.

"§ 6107. Authorization of appropriations

"(a) FOR GRANTS TO STATES.—There are authorized to be appropriated to the Secretary in fiscal year 1999 no more than $1,000,000 and in fiscal year 2000 no more than $5,000,000, to be available until expended, to provide grants to States under section 6106.

"(b) FOR ADMINISTRATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary during fiscal years 1998, 1999, and 2000 to carry out sections 6103, 6104, and 6105.

"(c) GENERAL REVENUE FUNDING.—Any sums appropriated under this section shall be derived from general revenues and may not be derived from amounts collected under section 60301 of this title.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis of chapters for subtitle III is amended by adding at the end thereof the following:

"CHAPTER 61—ONE-CALL NOTIFICATION PROGRAM"

(2) Chapter 601 of title 49, United States Code, is amended

(A) by striking "sections 60114 and" in section 60105(a) of that chapter and inserting "section";

(B) by striking section 60114 and the item relating to that section in the table of sections for that chapter;

(C) by striking "60114(c), 60118(a)," in section 60122(a)(1) of that chapter and inserting "60118(a),";

(D) by striking "60114(c) or" in section 60123(a) of that chapter;

(E) by striking "sections 60107 and 60114(b)" in subsections (a) and (b) of section 60125 and inserting "section 60107" in each such subsection; and

(F) by striking subsection (d) of section 60125, and redesignating subsections (e) and (f) of that section as subsections (d) and (e).

TITLE V—MOTOR CARRIER SAFETY

SEC. 501. STATEMENT OF PURPOSE.

Chapter 311 is amended—

(1) by inserting before section 31101 the following:

"§ 31100. Purpose

"The purposes of this subchapter are—

"(1) to improve commercial motor vehicle and driver safety;

"(2) to facilitate efforts by the Secretary, States, and other political jurisdictions, working in partnership, to focus their resources on strategic safety investments;

"(3) to increase administrative flexibility;

"(4) to strengthen enforcement activities;

"(5) to invest in activities related to areas of the greatest crash reduction;

"(6) to identify high risk carriers and drivers; and

"(7) to improve information and analysis systems."; and

(2) by inserting before the item relating to section 31101 in the chapter analysis for chapter 311 the following:

"§31100. Purposes".

SEC. 502. GRANTS TO STATES.

(a) PERFORMANCE-BASED GRANTS.—Section 31102 is amended—

(1) by inserting "improving motor carrier safety and" in subsection (a) after "programs for"; and

(2) by striking "adopt and assume responsibility for enforcing" in the first sentence of paragraph (b)(1) and inserting "assume responsibility for improving motor carrier safety and to adopt and enforce".

(b) HAZARDOUS MATERIALS.—Section 31102 is amended—

(1) by inserting a comma and "hazardous materials transportation safety," after "commercial motor vehicle safety" in subsection (a); and

(2) by inserting a comma and "hazardous materials transportation safety," in the first sentence of subsection (b) after "commercial motor vehicle safety".

(c) CONTENTS OF STATE PLANS.—Section 31102(b)(1) is amended—

(1) by redesignating subparagraphs (A) through (Q) as subparagraphs (B) through (R), respectively;

(2) by inserting before subparagraph (B), as redesignated, the following:

"(A) implements performance-based activities by fiscal year 2000;"

(3) by inserting "(1)" in subparagraph (K), as redesignated, after "(c)"; and

(4) by striking subparagraphs (L) and (M), as redesignated, and inserting the following:

"(L) ensures consistent, effective, and reasonable sanctions;

"(M) ensures that the State agency will coordinate the plan, data collection, and information systems with the State highway safety programs under title 23;";

(5) by striking "activities—" in subparagraph (P), as redesignated, and inserting "activities in support of national priorities and performance goals including—";

(6) by striking "to remove" in clause (i) of subparagraph (P), as redesignated, and inserting "activities aimed at removing"; and

(7) by striking "to provide" in clause (ii) of subparagraph (P), as redesignated, and inserting "activities aimed at providing".

SEC. 503. FEDERAL SHARE.

Section 31103 is amended—

(1) by inserting before "The Secretary of Transportation" the following:

"(a) COMMERCIAL MOTOR VEHICLE SAFETY PROGRAMS AND ENFORCEMENT.—";

(2) by inserting "improve commercial motor vehicle safety and" in the first sentence before "enforce"; and

(3) by adding at the end the following:

"(b) OTHER ACTIVITIES.—The Secretary may reimburse State agencies, local governments, or other persons up to 100 percent for those activities identified in 31104(f)(2).".

SEC. 504. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 31104(a) is amended to read as follows:

"(a) GENERAL.—Subject to section 9503(c)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(1)), there are available from the Highway Trust Fund (except the Mass Transit Account) for the Secretary of Transportation to incur obligations to carry out section 31102 of this title, not more than—

"(1) $80,000,000 for the fiscal year ending September 30, 1998;

"(2) $82,000,000 for the fiscal year ending September 30, 1999;

"(3) $84,000,000 for the fiscal year ending September 30, 2000;

"(4) $86,000,000 for the fiscal year ending September 30, 2001;

"(5) $88,000,000 for the fiscal year ending September 30, 2002; and

"(6) $90,000,000 for the fiscal year ending September 30, 2003.".

(b) AVAILABILITY AND REALLOCATION.—Section 31104(b)(2) is amended to read as follows:

"(2) Amounts made available under section 4002(e)(1) and (2) of the Intermodal Surface Transportation Efficiency Act of 1991 before October 1, 1996, that are not obligated on October 1, 1997, are available for obligation under paragraph (1) of this subsection.".

(c) ALLOCATION CRITERIA.—Section 31104(f) is amended to read as follows:

"(f) ALLOCATION CRITERIA AND ELIGIBILITY.—

"(1) On October 1 of each fiscal year or as soon after that date as practicable, the Secretary, after making the deduction described in subsection (e) of this section, shall allocate, under criteria the Secretary prescribes through regulation, the amounts available for that fiscal year among the States with plans approved under section 31102 of this title.

"(2) The Secretary may designate—

"(A) no less than 5 percent of such amounts for activities and projects of national priority for the improvement of commercial motor vehicle safety; and

"(B) no less than 5 percent of such amounts to reimburse States for border commercial motor vehicle safety programs and enforcement activities and projects. These amounts shall be allocated by the Secretary to State agencies and local governments that use trained and qualified officers and employees in coordination with State motor vehicle safety agencies.".

(d) OTHER AMENDMENTS.—

(1) Section 31104 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(2) Section 31104 is amended by striking subsection (i) and redesignating subsection (j) as subsection (h).

SEC. 505. INFORMATION SYSTEMS AND STRATEGIC SAFETY INITIATIVES.

Section 31106 is amended to read as follows:

"§ 31106. Information Systems and Strategic Safety Initiatives.

"(a) INFORMATION SYSTEMS.—

"(1) IN GENERAL.—The Secretary is authorized to establish motor carrier information systems and data analysis programs to support motor carrier regulatory and enforcement activities required under this title. In cooperation with the States, the information systems shall be coordinated into a network providing identification of motor carriers and drivers, registration and licensing tracking, and motor carrier and driver safety performance. The Secretary shall develop and maintain data analysis capacity and programs to provide the means to develop strategies to address safety problems and to use data analysis to measure the effectiveness of these strategies and related programs; to determine the cost effectiveness of State and Federal safety compliance, enforcement programs, and other countermeasures; to evaluate the safety fitness of motor carriers and drivers; to identify and collect necessary data; and to adapt, improve, and incorporate other information and information systems as deemed appropriate by the Secretary.

"(2) PERFORMANCE AND REGISTRATION INFORMATION SYSTEMS MANAGEMENT—

"(A) The Secretary shall include, as part of the motor carrier safety information network system of the Department of Transportation, an information system, to be called the Performance and Registration Information Systems Management, to serve as a clearinghouse and repository of information related to State registration and licensing of commercial motor vehicles and the safety system of the commercial motor vehicle registrants or the motor carriers operating the vehicles. The Secretary may include in the system information on the safety fitness of each of the motor carriers and registrants and other information the Secretary considers appropriate, including information on vehicle, driver, and motor carrier safety performance.

"(B) The Secretary shall prescribe technical and operational standards to ensure—

"(i) uniform, timely and accurate information collection and reporting by the States necessary to carry out this system;

"(ii) uniform State and Federal procedures and policies necessary to operate the Commercial Vehicle Information System; and

"(iii) the availability and reliability of the information to the States and the Secretary from the information system.

"(C) The system shall link the Federal motor carrier safety systems with State driver and commercial vehicle registration and licensing systems, and shall be designed—

"(i) to enable a State, when issuing license plates or throughout the registration period for a commercial motor vehicle, to determine, through the use of the information system, the safety fitness of the registrant or motor carrier;

"(ii) to allow a State to decide, in cooperation with the Secretary, the types of sanctions that may be imposed on the registrant or motor carrier, or the types of conditions or limitations that may be imposed on the operations of the registrant or motor carrier that will ensure the safety fitness of the registrant or motor carrier;

"(iii) to monitor the safety fitness of the registrant or motor carrier during the registration period; and

"(iv) to require the State, as a condition of participation in the system, to implement uniform policies, procedures, and standards, and to possess or seek authority to impose commercial motor vehicle registration sanctions on the basis of a Federal safety fitness determination.

"(D) Of the amounts available for expenditure under this section, up to 50 percent in each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 may be made available to carry out paragraph (a)(2) of this section. The Secretary may authorize the operation of the information system by contract, through an agreement with one or more States, or by designating, after consultation with the States, a third party that represents the interests of the States. Of the amounts made available to carry out subsection (a)(2) of this section, the Secretary is encouraged to direct no less than 80 percent to States that have not previously received financial assistance to develop or implement the Performance and Registration Information Systems Management system.

"(b) COMMERCIAL MOTOR VEHICLE DRIVER SAFETY PROGRAM.—The Secretary is authorized to establish a program focusing on improving commercial motor vehicle driver safety. The objectives of the program shall include—

"(1) enhancing the exchange of driver licensing information among the States and among the States, the Federal Government, and foreign countries;

"(2) providing information to the judicial system on the commercial motor vehicle driver licensing program; and

"(3) evaluating any aspect of driver performance and safety as deemed appropriate by the Secretary.

"(c) COOPERATIVE AGREEMENTS, GRANTS, AND CONTRACTS.—The Secretary may carry out this section either independently or in cooperation with other Federal departments, agencies, and instrumentalities, or by making grants to and entering into contracts and cooperative agreements with States, localities, associations, institutions, corporations (profit or nonprofit) or other persons.".

SEC. 506. IMPROVED FLOW OF DRIVER HISTORY PILOT PROGRAM.

The Secretary of Transportation shall carry out a pilot program in cooperation with one or more States to improve upon the timely exchange of pertinent driver performance and safety records data. The program shall—

(1) determine to what extent driver performance records data, including relevant fines, penalties, and failures to appear for a hearing or trial, should be included as part of any information systems under the Department of Transportation's oversight;

(2) assess the feasibility, costs, safety impact, and benefits of record exchanges; and

(3) assess methods for the efficient exchange of driver safety data available from existing State information systems and sources.

SEC. 507. MOTOR CARRIER AND DRIVER SAFETY RESEARCH.

Of the funds made available to carry out programs established by the amendments made by title II of the Intermodal Surface Transportation Efficiency Act of 1997, no less than $10,000,000 shall be made available for each of fiscal years 1998, 1999, 2000, 2001, 2002, and 2003 for activities designed to advance commercial motor vehicle and driver safety. Any obligation, contract, cooperative agreement, or support granted under this section in excess of $100,000 shall be awarded on a competitive basis. The Secretary shall submit annually a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on the research activities carried out under this section, including the amount, purpose, recipient and nature of each contract, cooperative agreement or award.".

SEC. 508. AUTHORIZATION OF APPROPRIATIONS.

Section 31107 is amended to read as follows:

"§ 31107. Authorization of appropriations for information systems and strategic safety initiatives.

"There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary to incur obligations to carry out section 31106 of this title

the sum of $10,000,000 for each of the fiscal years 1998, 1999, 2000, 2001, 2002, and 2003. The amounts made available under this subsection shall remain available until expended.".

SEC. 509. CONFORMING AMENDMENTS.

The chapter analysis for chapter 311 is amended—

(1) by striking the heading for subchapter I and inserting the following:

"Subchapter I—State Grants and Other Commercial Motor Vehicle Programs"

and

(2) by striking the items relating to sections 31106 and 31107 and inserting the following:

"31106. Information systems and strategic safety initiatives

"31107. Authorization of appropriations for information systems and strategic safety initiatives".

SEC. 510. AUTOMOBILE TRANSPORTER DEFINED.

Section 31111(a) is amended—

(1) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(2) by inserting before paragraph (2), as redesignated, the following:

"(1) 'automobile transporter' means any vehicle combination designed and used specifically for the transport of assembled highway vehicles, including truck camper units.".

SEC. 511. REPEAL OF REVIEW PANEL; REVIEW PROCEDURE.

(a) REPEAL.—Subchapter III of chapter 311 is amended—

(1) by striking sections 31134 and 31140; and

(2) by striking the items relating to sections 31134 and 31140 in the chapter analysis for that chapter.

(b) REVIEW PROCEDURE.—

(1) IN GENERAL.—Section 31141 is amended—

(A) by striking subsection (b) and redesignating subsections (c), (d), (e), (f), (g), and (h) as subsections (b), (c), (d), (e), (f), and (g), respectively;

(B) by striking so much of subsection (b), as redesignated, as precedes paragraph (2) and inserting the following:

"(b) REVIEW AND DECISIONS BY THE SECRETARY.—

"(1) The Secretary shall review the laws and regulations on commercial motor vehicle safety in effect in each State, and decide—

"(A) whether the State law or regulation—

"(i) has the same effect as a regulation prescribed by the Secretary under section 31136 of this title;

"(ii) is less stringent than that regulation; or

"(iii) is additional to or more stringent than that regulation; and

"(B) for each State law or regulation which is additional to or more stringent than the regulation prescribed by the Secretary, whether—

"(i) the State law or regulation has no safety benefit;

"(ii) the State law or regulation is incompatible with the regulation prescribed by the Secretary under section 31136 of this title; or

"(iii) enforcement of the State law or regulation would cause an unreasonable burden on interstate commerce.";

(C) by striking paragraph (5) of subsection (b)(5), as redesignated, and inserting the following:

"(5) In deciding under paragraph (4) of this subsection whether a State law or regulation will cause an unreasonable burden on interstate commerce, the Secretary may consider the effect on interstate commerce of implementation of all similar laws and regulations of other States.";

(D) by striking subsections (d) and (e), as redesignated, and inserting the following:

"(d) WRITTEN NOTICE OF DECISIONS.—The Secretary shall give written notice of the decision under subsection (b) of this section to the State concerned."; and

(E) by redesignating subsections (f) and (g), as redesignated, as subsections (e) and (f), respectively.

(2) CONFORMING CHANGES.—

(A) The caption of section 31141 of such title is amended to read as follows:

"§ 31141. Preemption of State laws and regulations".

(B) The chapter analysis of chapter 311 of such title is amended by striking the item relating to section 31141 and inserting the following:

"31141. Preemption of State laws and regulations".

(d) INSPECTION OF VEHICLES.—

(1) Section 31142 is amended—

(A) by striking "part 393 of title 49, Code of Federal Regulations" in subsection (a) and inserting "regulations issued pursuant to section 31135 of this title"; and

(B) by striking subsection (c)(1)(C) and inserting the following:

"(C) prevent a State from participating in the activities of a voluntary group of States enforcing a program for inspection of commercial motor vehicles; or".

(2) Subchapter IV of chapter 311 is amended—

(A) by striking sections 31161 and 31162; and

(B) by striking the items relating to sections 31161 and 31162 in the chapter analysis for that chapter.

(3) Section 31102(b)(1) is amended—

(A) by striking "and" at the end of subparagraph (P);

(B) by striking "thereunder." in subparagraph (Q) and inserting "thereunder; and"; and

(C) by adding at the end thereof the following:

"(R) provides that the State will establish a program (i) to ensure the proper and timely correction of commercial motor vehicle safety violations noted during an inspection carried out with funds authorized under section 31104 of this title; and (ii) to ensure that information is exchanged among the States in a timely manner.".

(e) SAFETY FITNESS OF OWNERS AND OPERATORS.—Section 31144 is amended to read as follows:

"§ 31142. Safety fitness of owners and operators

"(a) PROCEDURE.—The Secretary of Transportation shall maintain in regulation a procedure for determining the safety fitness of owners and operators of commercial motor vehicles, including persons seeking new or additional operating authority as motor carriers under section 13902 of this title. The procedure shall include—

"(1) specific initial and continuing requirements to be met by the owners, operators, and other persons to demonstrate safety fitness;

"(2) a means of deciding whether the owners, operators, or other persons meet the safety requirements under paragraph (1) of this subsection; and

"(3) specific time deadlines for action by the Secretary in making fitness decisions.

"(b) PROHIBITED TRANSPORTATION.—Except as provided in sections 521(b)(5)(A) and 5113 of this title, a motor carrier that fails to meet the safety fitness requirements established under subsection (a) of this section may not operate in interstate commerce beginning on the 61st day after the date of the determination by the Secretary that the motor carrier fails to meet the safety fitness requirements and until the motor carrier meets the safety fitness requirements. The Secretary may, for good cause shown, provide a carrier with up to an additional 60 days to meet the safety fitness requirements.

"(c) RATING REVIEW.—The Secretary shall review the factors that resulted in a motor carrier failing to meet the safety fitness requirements not later than 45 days after the motor carrier requests a review.

"(d) GOVERNMENT USE PROHIBITED.—A department, agency, or instrumentality of the United States Government may not use a motor carrier that does not meet the safety fitness requirements.

"(e) PUBLIC AVAILABILITY; UPDATING OF FITNESS DETERMINATIONS.—The Secretary shall amend the motor carrier safety regulations in subchapter B of chapter III of title 49, Code of Federal Regulations, to establish a system to make readily available to the public, and to update periodically, the safety fitness determinations of motor carriers made by the Secretary.

"(f) PENALTIES.—The Secretary shall prescribe regulations setting penalties for violations of this section consistent with section 521 of this title.".

(f) SAFETY FITNESS OF PASSENGER AND HAZARDOUS MATERIAL CARRIERS.—

(1) IN GENERAL.—Section 5113 is amended—

(A) by striking subsection (a) and inserting the following:

"(a) PROHIBITED TRANSPORTATION.—

"(1) A motor carrier that fails to meet the safety fitness requirements established under subsection 31144(a) of this title may not operate a commercial motor vehicle (as defined in section 31132 of this title)—

"(A) to transport hazardous material for which placarding of a motor vehicle is required under regulations prescribed under this chapter; or

"(B) to transport more than 15 individuals.

"(2) The prohibition in paragraph (1) of this subsection applies beginning on the 46th day after the date on which the Secretary determines that a motor carrier fails to meet the safety fitness requirements and applies until the motor carrier meets the safety fitness requirements.";

(B) by striking "RATING" in the caption of subsection (b) and inserting "FITNESS";

(C) by striking "receiving an unsatisfactory rating" in subsection (b) and inserting "failing to meet the safety fitness requirements";

(D) by striking "has an unsatisfactory rating from the Secretary" in subsection (c) and inserting "failed to meet the safety fitness requirements"; and

(E) by striking "RATINGS" in the caption of subsection (d) and inserting "FITNESS DETERMINATIONS";

(F) by striking ", in consultation with the Interstate Commerce Commission," in subsection (d); and

(G) by striking "ratings of motor carriers that have unsatisfactory ratings from" in subsection (d) and inserting "fitness determinations of motor carriers made by".

(2) CONFORMING AMENDMENTS.—

(A) The caption of section 5113 of such chapter is amended to read as follows:

"§ 5113. Safety fitness of passenger and hazardous material carriers".

(B) The chapter analysis for such chapter is amended by striking the item relating to section 5113 and inserting the following:

"5113. Safety fitness of passenger and hazardous material carriers".

(g) DEFINITIONS.—

(1) Section 31101(1) is amended—

(A) by inserting "or gross vehicle weight, whichever is greater," after "rating"in subparagraph (A);

(ii) by striking "10,000" and inserting "10,001";

(B) by striking subparagraph (B) and inserting the following:

"(B) is designed or used to transport passengers for compensation, but does not include a vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places;";

(C) by inserting "and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103" after "title" in subparagraph (C).

(2) Section 31132 is amended—

(A) by inserting "or gross vehicle weight, whichever is greater," after "rating" in paragraph (1)(A); and

(B) by adding at the end of paragraph (3) the following:

"For purposes of this paragraph, the term business affecting interstate commerce' means a business employing a commercial motor vehicle in interstate commerce and includes all operations of the business in intrastate commerce which use vehicles otherwise defined as commercial motor vehicles under paragraph (1) of this section.".

(h) EMPLOYEE PROTECTIONS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary of Labor, shall report to the United States Senate Committee on Commerce, Science, and Transportation and the United States House of Representatives Committee on Transportation and Infrastructure on the effectiveness of existing statutory employee protections provided for under section 31105 of title 49, United States Code. The report shall include recommendations to address any statutory changes as may be necessary to strengthen the enforcement of such employee protection provisions.

(i) INSPECTIONS AND REPORTS.—

(1) GENERAL POWERS OF THE SECRETARY.—Section 31133(a)(1) is amended by inserting "and make contracts for" after "conduct".

(2) REPORTS AND RECORDS.—Section 504(c) is amended by inserting "(and, in the case of a motor carrier, a contractor)" before the second comma.

SEC. 512. COMMERCIAL MOTOR VEHICLE OPERATORS.

(a) REPEAL OF OBSOLETE GRANT PROGRAMS.—Chapter 313 is amended—

(1) by striking sections 31312 and 31313; and

(2) by striking the items relating to sections 31312 and 31313 in the chapter analysis for that chapter.

(b) COMMERCIAL DRIVER'S LICENSE REQUIREMENT.—

(1) IN GENERAL.—Section 31302 is amended to read as follows:

"§ 31302. Commercial driver's license requirement

"No individual shall operate a commercial motor vehicle without a commercial driver's license issued according to section 31308 of this title.".

(2) CONFORMING AMENDMENTS.—

(A) The chapter analysis for that chapter is amended by striking the item relating to section 31302 and inserting the following:

"31302. Commercial driver's license requirement".

(B) Section 31305(a) is amended by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively, and by inserting after paragraph (1) the following:

"(2) may establish performance based testing and licensing standards that more accurately measure and reflect an individual's knowledge and skills as an operator;".

(c) COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM.—Section 31309 is amended—

(1) by striking "make an agreement under subsection (b) of this section for the operation of, or establish under subsection (c) of this section," in subsection (a) and inserting "maintain";

(2) by striking subsections (b) and (c) and redesignating subsections (d), (e), and (f) as subsections (b), (c), and (d) respectively;

(3) by striking "Not later than December 31, 1990, the" in paragraph (2) of subsection (b), as redesignated, and inserting "The"; and

(4) by inserting after the caption of subsection (c), as redesignated, the following: "Information about a driver in the information system may be made available under the following circumstances:"; and

(5) by starting a new paragraph with "(1) On request" and indenting the paragraph 2 ems from the lefthand margin.

(d) REQUIREMENTS FOR STATE PARTICIPATION.—Section 31311(a) is amended—

(1) by striking "31310(b)-(e)" in paragraph (15) and inserting "31310(b)-(e), and (g)(1)(A) and (2)";

(2) by striking paragraph (17); and

(3) by redesignating paragraph (18) as paragraph (17).

(e) WITHHOLDING AMOUNTS FOR STATE NONCOMPLIANCE.—Section 31314 is amended—

(1) by striking ", (2), (5), and (6)" and inserting "(3), and (5)"; and

(2) by striking "1992" in subsections (a) and (b) and inserting "1995";

(3) by striking paragraph (1) of subsection (c);

(4) by striking "(2)" in subsection (c)(2);

(5) by striking subsection (d); and

(6) by redesignating subsection (e) as subsection (d).

(f) COMMERCIAL MOTOR VEHICLE DEFINED.—Section 31301 is amended—

(1) by inserting "or gross vehicle weight, whichever is greater," after "rating" each place it appears in paragraph (4)(A); and

(2) by inserting "is" in paragraph (4)(C)(ii) before "transporting" each place it appears and before "not otherwise".

(g) SAFETY PERFORMANCE HISTORY OF NEW DRIVERS; LIMITATION ON LIABILITY.—

(1) IN GENERAL.—Chapter 5 is amended by adding at the end thereof the following:

"§ 508. Safety performance history of new drivers; limitation on liability

"(a) LIMITATION ON LIABILITY.—No action or proceeding for defamation, invasion of privacy, or interference with a contract that is based on the furnishing or use of safety performance records in accordance with regulations issued by the Secretary may be brought against —

"(1) a motor carrier requesting the safety performance records of an individual under consideration for employment as a commercial motor vehicle driver as required by and in accordance with regulations issued by the Secretary;

"(2) a person who has complied with such a request; or

"(3) the agents or insurers of a person described in paragraph (1) or (2) of this subsection.

"(b) RESTRICTIONS.—

"(1) Subsection (a) does not apply unless—

"(A) the motor carrier requesting the safety performance records at issue, the person complying with such a request, and their agents have taken all precautions reasonably necessary to ensure the accuracy of the records and have fully complied with the regulations issued by the Secretary in using and furnishing the records, including the requirement that the individual who is the subject of the records be afforded a reasonable opportunity to review and comment on the records;

"(B) the motor carrier requesting the safety performance records, the person complying with such a request, their agents, and their insurers, have taken all precautions reasonably necessary to protect the records from disclosure to any person, except for their insurers, not directly involved in forwarding the records or deciding whether to hire that individual; and

"(C) the motor carrier requesting the safety performance records has used those records only to assess the safety performance of the individual who is the subject of those records in deciding whether to hire that individual.

"(2) Subsection (a) does not apply to persons who knowingly furnish false information.

"(c) PREEMPTION OF STATE AND LOCAL LAW.—No State or political subdivision thereof may enact, prescribe, issue, continue in effect, or enforce any law (including any regulation, standard, or other provision having the force and effect of law) that prohibits, penalizes, or imposes liability for furnishing or using safety performance records in accordance with regulations issued by the Secretary. Notwithstanding any provision of law, written authorization shall not be required to obtain information on the motor vehicle driving record of an individual under consideration for employment with a motor carrier.".

(2) CONFORMING AMENDMENT.—The chapter analysis for that chapter is amended by inserting after the item relating to section 507 the following:

"508. Safety performance history of new drivers; limitation on liability".

SEC. 515. PENALTIES.

(a) NOTIFICATION OF VIOLATIONS AND ENFORCEMENT PROCEDURES.—Section 521(b)(1) is amended—

(1) by inserting: "with the exception of reporting and recordkeeping violations,"in the first sentence of subparagraph (A) after "under any of those provisions,";

(2) by striking "fix a reasonable time for abatement of the violation,"in the third sentence of subparagraph (A);

(3) by striking "(A)" in subparagraph (A); and

(4) by striking subparagraph (B).

(b) CIVIL PENALTIES.—Section 521(b)(2) is amended—

(1) by striking subparagraph (A) and inserting the following:

"(A) IN GENERAL.—Except as otherwise provided in this subsection, any person who is determined by the Secretary, after notice and opportunity for a hearing, to have committed an act which is a violation of regulations issued by the Secretary under subchapter III of chapter 311 (except sections 31137 and 31138) or section 31502 of this title shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each offense. Notwithstanding any other provision of this section (except subparagraph (C)), no civil penalty shall be assessed

under this section against an employee for a violation in an amount exceeding $2,500.";

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(3) by inserting after subparagraph (A) the following:

"(B) RECORDKEEPING AND REPORTING VIOLATIONS.—

"(i) A person required to make a report to the Secretary, answer a question, or make, prepare, or preserve a record under section 504 of this title or under any regulation issued by the Secretary pursuant to subchapter III of chapter 311 (except sections 31137 and 31138) or section 31502 of this title about transportation by motor carrier, motor carrier of migrant workers, or motor private carrier, or an officer, agent, or employee of that person, who—

"(I) does not make that report;

"(II) does not specifically, completely, and truthfully answer that question in 30 days from the date the Secretary requires the question to be answered; or

"(III) does not make, prepare, or preserve that record in the form and manner prescribed by the Secretary,

shall be liable to the United States for a civil penalty in an amount not to exceed $500 for each offense, and each day of the violation shall constitute a separate offense, except that the total of all civil penalties assessed against any violator for all offenses related to any single violation shall not exceed $5,000.

"(ii) Any such person, or an officer, agent, or employee of that person, who—

"(I) knowingly falsifies, destroys, mutilates, or changes a required report or record;

"(II) knowingly files a false report with the Secretary;

"(III) knowingly makes or causes or permits to be made a false or incomplete entry in that record about an operation or business fact or transaction; or

"(IV) knowingly makes, prepares, or preserves a record in violation of a regulation or order of the Secretary,

shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each violation, provided that any such action can be shown to have misrepresented a fact that constitutes a violation other than a reporting or recordkeeping violation.".

SEC. 514. INTERNATIONAL REGISTRATION PLAN AND INTERNATIONAL FUEL TAX AGREEMENT.

Chapter 317 is amended—

(1) by striking sections 31702, 31703, and 31708; and

(2) by striking the items relating to sections 31702, 31703, and 31708 in the chapter analysis for that chapter.

SEC. 515. STUDY OF ADEQUACY OF PARKING FACILITIES.

The Secretary shall conduct studies to determine the location and quantity of parking facilities at commercial truck stops and travel plazas and public rest areas that could be used by motor carriers to comply with Federal hours-of-service rules. Each study shall include an inventory of current facilities serving corridors of the National Highway System, analyze where specific shortages exist or are projected to exist, and propose a specific plan to reduce the shortages. The studies may be carried out in cooperation with research entities representing the motor carrier and travel plaza industry.

SEC. 516. NATIONAL MINIMUM DRINKING AGE—TECHNICAL CORRECTIONS.

Section 158 of title 23, United States Code, is amended —

(1) by striking "104(b)(2), 104(b)(5), and 104(b)(6)" each place it appears in subsection (a) and inserting "104(b)(3), and 104(b)(5)(B)"; and

(2) by striking subsection (b) and inserting the following:

"(b) AVAILABILITY OF WITHHELD FUNDS.—No funds withheld under this section from apportionment to any State after September 31, 1988, shall be available for apportionment to such State.".

SEC. 517. APPLICATION OF REGULATIONS.

(a) APPLICATION OF REGULATIONS TO CERTAIN COMMERCIAL MOTOR VEHICLES.—Section 31135 as redesignated, is amended by adding at the end thereof the following:

"(g) APPLICATION TO CERTAIN VEHICLES.—Effective 6 months after the date of enactment of the Intermodal Transportation Safety Act of 1997, regulations prescribed under this section shall apply to operators of commercial motor vehicles described in section 31132(1)(B) to the extent that those regulations did not apply to those operators before the day that is 6 months after such date of enactment.".

(b) DEFINITION.—Section 31301(4)(B) is amended to read as follows:

"(B) is designed or used to transport—

"(i) passengers for compensation, but does not include a vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places; or

"(ii) more than 15 passengers, including the driver, and not used to transport passengers for compensation; or".

(c) APPLICATION OF REGULATIONS TO CERTAIN OPERATORS.—

(1) Chapter 313 is amended by adding at the end thereof the following:

"§ 31318. Application of regulations to certain operators

"Effective 1 year after the date of enactment of the Intermodal Transportation Safety Act of 1997, regulations prescribed under this chapter shall apply to operators of commercial motor vehicles described in section 31301(4)(B) to the extent that those regulations did not apply to those operators before the day that is 1 year after such date of enactment.".

SEC. 518. AUTHORITY OVER CHARTER BUS TRANSPORTATION.

Section 14501(a) is amended—

(1) by striking "route or relating" and inserting "route;"; and

(2) by striking "required." and inserting "required; or to the authority to provide intrastate or interstate charter bus transportation.".

SEC. 519. FEDERAL MOTOR CARRIER SAFETY INVESTIGATIONS.

The Department of Transportation shall maintain the level of Federal motor carrier safety investigators as in effect on September 30, 1997, or provide for alternative resources and mechanisms to ensure an equivalent level of commercial motor vehicle safety inspections. Such funds as are necessary to carry out this section shall be made available within the limitation on general operating expenses of the Department of Transportation.

SEC. 520. FOREIGN MOTOR CARRIER SAFETY FITNESS.

(a) IN GENERAL.—No later than 90 days after enactment of this Act, the Secretary of Transportation shall make a determination regarding the willingness and ability of any foreign motor carrier that applied to operate in the United States prior to January 1, 1996, to meet the safety fitness and other regulatory requirements under this title. The Secretary shall notify each carrier of the determination.

(b) REPORT.—One year after the date of enactment this Act, the Secretary of Transportation shall submit a report to the Senate Commerce, Science, and Transportation Committee and the House Transportation and Infrastructure Committee on the application of section 13902(c)(9) of title 49, United States Code. The report shall include—

(1) information on which carriers have applied to the Department of Transportation under that section;

(2) a description of the process utilized to respond to such applications and to certify the safety fitness of those carriers; and

(3) a description of performance-based measurements that have been used, or are proposed, to ensure the prompt and accurate registration of such foreign motor carriers.

SEC. 521. COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation may establish a Commercial Motor Vehicle Safety Advisory Committee to provide advice and recommendations on a range of regulatory issues. The members of the advisory committee shall be appointed by the Secretary from among individuals affected by rulemakings under consideration by the Department of Transportation.

(b) FUNCTION.—The Advisory Committee established under subsection (a) shall provide advice to the Secretary on commercial motor vehicle safety regulations and assist the Secretary in timely completion of ongoing rulemakings by utilizing negotiated rulemaking procedures.

SEC. 522. WAIVERS AND PILOT PROGRAMS.

Section 31315 is amended—

(1) by inserting "(a) IN GENERAL.—" before "After notice"; and

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

"(b) PILOT PROGRAMS.—

"(1) IN GENERAL.—In carrying out this section, the Secretary is authorized to carry out pilot programs to examine innovative approaches or alternatives to regulations issued under this title.

"(2) REQUIREMENT FOR APPROVAL.—In carrying out a pilot project under this subsection, the Secretary shall require, as a condition of approval of the project, that the safety measures in the project are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would otherwise be achieved through compliance with the standards prescribed under this title.

"(3) EXEMPTIONS.—A pilot project under this subsection—

"(A) may exempt a motor carrier under the project from any requirement (or portion thereof) imposed under this subtitle; and

"(B) shall preempt any State or local regulation that conflicts with the pilot project during the time the pilot project is in effect.

"(4) REVOCATION OF EXEMPTION.—The Secretary shall revoke an exemption granted under paragraph (3) if—

"(A) the motor carrier to which it applies fails to comply with the terms and conditions of the exemption; or

"(B) the Secretary determines that the exemption has resulted in a lower level of safety than was maintained before the exemption was granted.

TITLE VI—RAIL AND MASS TRANSPORTATION ANTI-TERRORISM; SAFETY

SEC. 601. PURPOSE.

The purpose of this title is to protect the passengers and employees of railroad carriers and mass transportation systems and

the movement of freight by railroad from terrorist attacks.

SEC. 602. AMENDMENTS TO THE "WRECKING TRAINS" STATUTE.

(a) Section 1992 of title 18, United States Code, is amended to read as follows:

"§ 1992. Terrorist attacks against railroads

"(a) GENERAL PROHIBITIONS.—Whoever willfully—

"(1) wrecks, derails, sets fire to, or disables any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

"(2) brings, carries, possesses, places or causes to be placed any destructive substance, or destructive device in, upon, or near any train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, without previously obtaining the permission of the carrier, and with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

"(3) sets fire to, or places any destructive substance, or destructive device in, upon or near, or undermines any tunnel, bridge, viaduct, trestle, track, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, or otherwise makes any such tunnel, bridge, viaduct, trestle, track, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance unworkable or unusable or hazardous to work or use, knowing or having reason to know such activity would likely derail, disable, or wreck a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier;

"(4) removes appurtenances from, damages, or otherwise impairs the operation of any railroad signal system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal on a railroad line used, operated, or employed by a railroad carrier;

"(5) interferes with, disables or incapacitates any locomotive engineer, conductor, or other person while they are operating or maintaining a train, locomotive, motor unit, or freight or passenger car used, operated, or employed by a railroad carrier, with intent to endanger the safety of any passenger or employee of the carrier, or with a reckless disregard for the safety of human life;

"(6) commits an act intended to cause death or serious bodilyinjury to an employee or passenger of a railroad carrier while on the property of the carrier;

"(7) causes the release of a hazardous material being transported by a rail freight car, with the intent to endanger the safety of any person, or with a reckless disregard for the safety of human life;

"(8) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

"(9) attempts, threatens, or conspires to do any of the aforesaid acts,

shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts; Provided however, that whoever is convicted of any crime prohibited by this subsection shall be:

"(A) imprisoned for not less than thirty years or for life if the railroad train involved carried high-level radioactive waste or spent nuclear fuel at the time of the offense;

"(B) imprisoned for life if the railroad train involved was carrying passengers at the time of the offense; and

"(C) imprisoned for life or sentenced to death if the offense has resulted in the death of any person.

"(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

"(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a passenger train of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a passenger train or in a passenger terminal facility of a railroad carrier, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both, if such act is committed on a railroad carrier that is engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a passenger train or a passenger terminal facility of a railroad carrier involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

"(4) Paragraph (1) shall not apply to:

"(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

"(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

"(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

"(D) an individual transporting a firearm on board a railroad passenger train (except a loaded firearm) in baggage not accessible to any passenger on board the train, if the railroad carrier was informed of the presence of the weapon prior to the firearm being placed on board the train.

"(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any locomotive or car of a train, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a railroad carrier engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

"(d) DEFINITIONS.—In this section—

"(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

"(2) 'dangerous weapon" has the meaning given to that term in section 930 of this title;

"(3) 'destructive substance" has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

"(4) 'firearm' has the meaning given to that term in section 921 of this title;

"(5) 'hazardous material' has the meaning given to that term in section 5102(2) of title 49, United States Code;

"(6) 'high-level radioactive waste' has the meaning given to that term in section 10101(12) of title 42, United States Code;

"(7) 'railroad' has the meaning given to that term in section 20102(1) of title 49, United States Code;

"(8) 'railroad carrier' has the meaning given to that term in section 20102(2) of title 49, United States Code;

"(9) 'serious bodily injury' has the meaning given to that term in section 1365 of this title;

"(10) 'spent nuclear fuel' has the meaning given to that term in section 10101(23) of title 42, United States Code; and

"(11) 'State' has the meaning given to that term in section 2266 of this title.".

(b) In the analysis of chapter 97 of title 18, United States Code, item "1992" is amended to read:

"1992. Terrorist attacks against railroads".

SEC. 603. TERRORIST ATTACKS AGAINST MASS TRANSPORTATION.

(a) Chapter 97 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1994. Terrorist attacks against mass transportation

"(a) GENERAL PROHIBITIONS.—Whoever willfully—

"(1) wrecks, derails, sets fire to, or disables a mass transportation vehicle or vessel;

"(2) places or causes to be placed any destructive substance in, upon, or near a mass transportation vehicle or vessel, without previously obtaining the permission of the mass transportation provider, and with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

"(3) sets fire to, or places any destructive substance in, upon, or near any garage, terminal, structure, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, knowing or having reason to know such activity would likely derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider;

"(4) removes appurtenances from, damages, or otherwise impairs the operation of a mass transportation signal system, including a train control system, centralized dispatching system, or rail grade crossing warning signal;

"(5) interferes with, disables or incapacitates any driver or person while they are employed in operating or maintaining a mass transportation vehicle or vessel, with intent to endanger the safety of any passenger or employee of the mass transportation provider, or with a reckless disregard for the safety of human life;

"(6) commits an act intended to cause death or serious bodily injury to an employee or passenger of a mass transportation provider on the property of a mass transportation provider;

"(7) conveys or causes to be conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this subsection; or

"(8) attempts, threatens, or conspires to do any of the aforesaid acts—shall be fined under this title or imprisoned not more than twenty years, or both, if such act is committed, or in the case of a threat or conspiracy such act would be committed, within the United States on, against, or affecting a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act. Whoever is convicted of a crime prohibited by this section shall also be subject to imprisonment for life if the mass transportation vehicle or vessel was carrying a passenger at the time of the offense, and imprisonment for life or sentenced to death if the offense has resulted in the death of any person.

"(b) PROHIBITIONS ON THE USE OF FIREARMS AND DANGEROUS WEAPONS.—

"(1) Except as provided in paragraph (4), whoever knowingly possesses or causes to be present any firearm or other dangerous weapon on board a mass transportation vehicle or vessel, or attempts to do so, shall be fined under this title or imprisoned not more than one year, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(2) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon on board a mass transportation vehicle or vessel, or in a mass transportation passenger terminal facility, or attempts to do so, shall be fined under this title, or imprisoned not more than 5 years, or both, if such act is committed on a mass transportation provider engaged in or affecting interstate or foreign commerce, or if in the course of committing such act, that person travels or communicates across a State line in order to commit such act, or transports materials across a State line in aid of the commission of such act.

"(3) A person who kills or attempts to kill a person in the course of a violation of paragraphs (1) or (2), or in the course of an attack on a mass transportation vehicle or vessel, or a mass transportation passenger terminal facility involving the use of a firearm or other dangerous weapon, shall be punished as provided in sections 1111, 1112, and 1113 of this title.

"(4) Paragraph (1) shall not apply to:

"(A) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while engaged in the lawful performance of official duties, who is authorized by law to engage in the transportation of people accused or convicted of crimes, or supervise the prevention, detection, investigation, or prosecution of any violation of law;

"(B) the possession of a firearm or other dangerous weapon by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, while off duty, if such possession is authorized by law;

"(C) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

"(D) an individual transporting a firearm on board a mass transportation vehicle or vessel (except a loaded firearm) in baggage not accessible to any passenger on board the vehicle or vessel, if the mass transportation provider was informed of the presence of the weapon prior to the firearm being placed on board the vehicle or vessel.

"(c) PROHIBITION AGAINST PROPELLING OBJECTS.—Whoever willfully or recklessly throws, shoots, or propels a rock, stone, brick, or piece of iron, steel, or other metal or any deadly or dangerous object or destructive substance at any mass transportation vehicle or vessel, knowing or having reason to know such activity would likely cause personal injury, shall be fined under this title or imprisoned for not more than 5 years, or both, if such act is committed on or against a mass transportation provider engaged in or substantially affecting interstate or foreign commerce, or if in the course of committing such acts, that person travels or communicates across a State line in order to commit such acts, or transports materials across a State line in aid of the commission of such acts. Whoever is convicted of any crime prohibited by this subsection shall also be subject to imprisonment for not more than twenty years if the offense has resulted in the death of any person.

"(d) DEFINITIONS.—In this section—

"(1) 'dangerous device' has the meaning given to that term in section 921(a)(4) of this title;

"(2) 'dangerous weapon' has the meaning given to that term in section 930 of this title;

"(3) 'destructive substance' has the meaning given to that term in section 31 of this title, except that (A) the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes, and (B) 'destructive substance' includes any radioactive device or material that can be used to cause a harm listed in subsection (a) and that is not in use solely for medical, industrial, research, or other peaceful purposes;

"(4) 'firearm' has the meaning given to that term in section 921 of this title;

"(5) 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, United States Code, except that the term shall include schoolbus, charter, and sightseeing transportation;

"(6) 'serious bodily injury' has the meaning given to that term in section 1365 of this title; and

"(7) 'State' has the meaning given to that term in section 2266 of this title.".

(b) The analysis of chapter 97 of title 18, United States Code, is amended by adding at the end thereof:

"1994. Terrorist attacks against mass transportation.".

SEC. 604. INVESTIGATIVE JURISDICTION.

The Federal Bureau of Investigation shall lead the investigation of all offenses under sections 1192 and 1994 of title 18, United States Code. The Federal Bureau of Investigation shall cooperate with the National Transportation Safety Board and with the Department of Transportation in safety investigations by these agencies, and with the Treasury Department's Bureau of Alcohol, Tobacco and Firearms concerning an investigation regarding the possession of firearms and explosives.

SEC. 605. SAFETY CONSIDERATIONS IN GRANTS OR LOANS TO COMMUTER RAILROADS.

Section 5329 is amended by adding at the end the following:

"(c) COMMUTER RAILROAD SAFETY CONSIDERATIONS.—In making a grant or loan under this chapter that concerns a railroad subject to the Secretary's railroad safety jurisdiction under section 20102 of this title, the Federal Transit Administrator shall consult with the Federal Railroad Administrator concerning relevant safety issues. The Secretary may use appropriate authority under this chapter, including the authority to prescribe particular terms or covenants under section 5334 of this title, to address any safety issues identified in the project supported by the loan or grant.".

SEC. 606. RAILROAD ACCIDENT AND INCIDENT REPORTING.

Section 20901(a) is amended to read as follows:

"(a) GENERAL REQUIREMENTS.—On a periodic basis as specified by the Secretary of Transportation, a railroad carrier shall file a report with the Secretary on all accidents and incidents resulting in injury or death to an individual or damage to equipment or a roadbed arising from the carrier's operations during that period. The report shall state the nature, cause, and circumstances of each reported accident or incident. If a railroad carrier assigns human error as a cause, the report shall include, at the option of each employee whose error is alleged, a statement by the employee explaining any factors the employee alleges contributed to the accident or incident.".

SEC. 607. VEHICLE WEIGHT LIMITATIONS—MASS TRANSPORTATION BUSES.

Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991, as amended (23 U.S.C. 127 note), is amended by striking "the date on which" and all that follows through "1995" and inserting "January 1, 2003".

By Mr. ROBB:

S. 1270. A bill to amend section 8339(p) of title 5, United States Code, to clarify the computations of certain civil service retirement system annuities based on part-time service, and

for other purposes; to the Committee on Governmental Affairs.

CIVIL SERVICE RETIREMENT SYSTEM ANNUITIES CLARIFICATION LEGISLATION

Mr. ROBB. Mr. President, I rise today to introduce legislation to correct a wrong that has been done to an unknown number of Federal retirees in computing their annuities.

Through a letter from Mr. L. David Jones, I was informed that the 1986 Civil Service amendments contained in the Consolidated Omnibus Budget Reconciliation Act were being misapplied to penalize career Federal civil servants who had some part-time service at the end of their careers. Mr. Jones, and I'm sure many others, was encouraged to transition to retirement by working part-time for several years rather than just retiring after a 30-year career. Imagine Mr. Jones' surprise when he calculated his annuity after 30 years of full-time service and five years of part-time service and realized that he would have been better off if he had just retired after 30 years.

At first I believed this problem was simply a matter of the Office of Personnel Management misunderstanding the intent of Congress and that the situation could be corrected through administrative action. The Office of Personnel Management, however, has firmly stated that they are carrying out the letter of the law, and any change to the current annuity calculation will require congressional action.

That is why I am here today. Mr. Jones, and any others who are in a similar situation, deserve to have an annuity that accurately reflects their many years of service. This bill will allow those retirees to have their annuities recalculated to ensure that they are not penalized for not retiring outright. Realize also, however, that this bill does not authorize back payments for any lost annuity—the legislation simply tries to put things right for future payments to retirees affected by this previous error and to ensure that no future retirees are similarly penalized.

We must also look ahead and realize that any policy which discourages part-time service in these situations threatens to lead to a "brain drain" as baby boomers begin to retire. Many agencies have already expressed concern about their graying workforce and the difficulties they will face as these experienced workers retire. One option often mentioned is to encourage part-time service, so that the experience remains and allows for a transition of responsibilities to younger workers. As it stands now, a civil servant would be ill-advised to agree to that part-time transition to retirement.

For both of these reasons, I encourage all of my colleagues to support this legislation, and I will work with my colleagues on the Governmental Affairs Committee to see that this bill is considered as quickly as possible.

By Mr. GRAHAM:

S. 1273. A bill to amend title 10, United States Code, to expand the National Mail Order Pharmacy Program of the Department of Defense to include covered beneficiaries under the military health care system who are also entitled to Medicare; to the Committee on Armed Services.

THE NATIONAL MAIL ORDER PHARMACY PROGRAM EXPANSION ACT OF 1997

Mr. GRAHAM. Mr. President, today, I stand before you to highlight an injustice which has been done to the men and women who have served this country with selfless dedication. They have devoted themselves to the mission of protecting our country while promoting peace and democracy around the world. For this contribution to our country, we reward their performance with a retirement package which includes health care. Unfortunately, through a series of independent laws, we have created a disjointed health care benefits package which treats retirees differently depending on their age and where they happen to live.

I am introducing a bill to correct this disjointed health care policy. There is clearly a double standard affecting our veterans. Under the current provisions of the law, military retirees are eligible to receive health care under the CHAMPUS program until they become 65 years old. After that time, their health care is provided by Medicare. Under the CHAMPUS program, retirees have access to a program known as the mail-order pharmacy program which allows military members and retirees to obtain prescription drugs through the mail. Retirees over the age of 65 years old cannot be supported through the CHAMPUS program under current legislative restrictions. Medicare has no such pharmacy benefit. This means that once retirees become 65 years old, they lose the benefit and convenience of a mail-order pharmacy program. This comes at a time in their lives when they are more likely to need prescription drugs.

I commend the Department of Defense on their initiative to develop the mail-order pharmacy program. This new program was established to provide better service to the military community and to enable them to maximize that level of service within their decreasing available resources.

Military retirees and their dependents are eligible to receive free medical care from military installations on a space available basis. However, as the military continues to downsize their medical corps, "space available" is becoming more and more elusive for retirees. Pharmacy services are likewise available to retirees at military installations on a space available basis. For those retirees who were receiving their medical care, including prescription services, from a military installation which was closed by Base Realignment and Closure [BRAC] decisions, we have made an exception to the law which allows these retirees to participate in the mail-order pharmacy program. We have created a conglomeration of rules which apply to military retirees depending on their personal circumstances.

My proposal is very simple. All military retirees, including their dependents, should have access to the same health care benefits. We should not differentiate between medical benefits based only on a retiree's age or where a retiree happens to live. All retirees should be allowed to use the mail-order pharmacy program.

The General Accounting Office estimates that this proposal will cost approximately $229 million. While I remain committed to reducing the budget deficit and maintaining a balanced budget, I feel that the current legislation has created an inequity in the retirement benefits provided to our military personnel which must be corrected. It is the right thing to do.

This Nation owes a debt of gratitude to our military retirees. They have endured many hardships during their careers, including separation from their families for extended periods of time and frequent moves to all corners of the globe. They have also risked their lives in the name of freedom and democracy.

Military retirees have given tirelessly of themselves throughout their careers, and this proposal is an opportunity to correct an unjust situation.

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

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

S. 1273

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

SECTION 1. INCLUSION OF MEDICARE-ELIGIBLE COVERED BENEFICIARIES IN DEPARTMENT OF DEFENSE NATIONAL MAIL ORDER PHARMACY PROGRAM.

Section 1086 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i) Notwithstanding subsection (d)(1), the Secretary of Defense shall ensure that any program to make prescription pharmaceuticals available by mail to covered beneficiaries does not exclude covered beneficiaries who are entitled to hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) Such covered beneficiaries shall be eligible to receive pharmaceuticals available under the mail order program on the same terms and conditions as other covered beneficiaries included in the program.".

By Mr. CAMPBELL:

S. 1274. A bill to amend the Internal Revenue Code of 1986 to prohibit the Internal Revenue Service from using the threat of audit to compel agreement with the Tip Reporting Alternative Commitment or the Tip Rate Determination.

THE CITIZENS VOLUNTARY COMPLIANCE PARTNERSHIP ACT OF 1997

Mr. CAMPBELL. Mr. President, last week the Senate passed the Treasury and general Government appropriations bill for fiscal year 1998. Included in the final conference report to that bill was language regarding the Tip Reporting Alternative Commitment Program [TRAC].

TRAC is a voluntary agreement entered into by the Internal Revenue Service and restaurant employers across the country. Under TRAC, employers agree to better educate their employees on tip reporting and also to monitor the tips received by employees. Developed just a few short years ago, TRAC is seen as a way to combat the instances of underreporting and nonreporting of tips.

However, it has come to the attention of many in Congress that the IRS may be using the threat of an audit to compel restaurant owners to enter into this agreement. While the IRS does have the authority to perform audits, I do not feel it is appropriate for this agency to be utilizing this right as a means of intimidation.

The report language pertaining to TRAC, which I ask unanimous consent be printed in the RECORD, states that the IRS "should ensure compliance with tip reporting by stressing its customer service role while working with restaurant owners." The legislation I am introducing today would simply put some teeth into this report language.

All my bill does is prohibit the IRS from using the threat of making an examination or issuing a summons to compel a restaurant owner to enter into TRAC. It does not limit the IRS' authority to perform such functions. It simply prohibits the agency from using these tools as a means of forcing compliance.

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

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

S. 1274

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

SECTION 1. FINDINGS.

Congress finds that—

(1) the Tip Reporting Alternative Commitment Agreement and the tip Rate Determination Agreement are voluntary agreements developed by the Internal Revenue Service and the restaurant industry as a means of improving the reporting of tip income;

(2) there have been reports that the Internal Revenue Service may be compelling members of the restaurant industry to accept such voluntary agreement by using the possibility of audit to intimidate; and

(3) the Internal Revenue Service has the authority to perform audits to assure taxpayer compliance with the internal revenue laws.

SEC. 2. PROHIBITION ON USING THE THREAT OF AUDIT TO COMPEL AGREEMENT WITH THE TIP REPORTING ALTERNATIVE COMMITMENT.

Section 7602 of the Internal Revenue Code of 1986 (relating to examination of books and witnesses) is amended by adding at the end the following new subsection:

"(d) NO THREAT OF SUMMONS OR EXAMINATIONS TO COMPEL AGREEMENT WITH TIP REPORTING ALTERNATIVE COMMITMENT OR THE TIP RATE DETERMINATION AGREEMENT.—The Secretary shall not use the threat of making an examination or issuing a summons under subsection (1) to compel a taxpayer to agree to or sign the Tip Reporting Alternative Commitment Agreement (TRAC) or the Tip Rate Determination Agreement (TRDA)."

TIP REPORTING ALTERNATIVE COMMITMENT PROGRAM

The conferees agree with the House position that the IRS should work with taxpayers to ensure compliance with the Tip Reporting Alternative Commitment Agreement (TRAC). In too many instances, restaurant owners perceive that the IRS may be overzealous in their pursuit of voluntary agreement with TRAC by intimating that the business will be audited if there is no agreement. The conferees agree that IRS should ensure compliance with tip reporting by stressing its customer service role while working with the restaurant owners.

By Mr. MURKOWSKI (for himself and Mr. AKAKA):

S. 1275. A bill to implement further the Act (Public Law 94–241) approving the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, and for other purposes; to the Committee on Energy and Natural Resources.

THE NORTHERN MARIANA ISLANDS CONVENANT IMPLEMENTATION ACT

Mr. MURKOWSKI. Mr. President, I send to the desk, for appropriate reference, legislation on behalf of myself and Senator AKAKA that the administration has provided me in response to my request for a drafting service. This legislation represents the language that the administration believes will implement its recommendations contained in the most recent report on the Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement in the Commonwealth of the Northern Mariana Islands.

In 1994, Congress directed this Initiative in Public Law 103–332 and provided $7 million for fiscal years 1995 and 1996 with an additional $3 million for fiscal year 1997. In testimony before the Committee on Energy and Natural Resources, the administration committed to provide an annual report on the progress of the Initiative.

Partially in response to concerns that had been raised about conditions in the Commonwealth, Senator AKAKA and I visited Saipan in February of last year. In addition to extensive briefings and meetings with Commonwealth officials, we also met with Federal agency personnel and the U.S. attorney. We also visited a garment factory and talked with some Bangladesh workers who had not been paid and who were living in appalling conditions. We were assured that corrective action would be taken. I want to note that my concerns were not exclusively with the Commonwealth government, but also went to the willingness of the administration to commit the needed resources to address the problems that we saw. I specifically asked the Attorney General for the appointment of a full-time U.S. attorney for the Northern Marianas rather than having the U.S. attorney for Guam also serve the Northern Marianas. The Attorney General responded that there wasn't enough work to justify a U.S. attorney.

On June 26 of last year, I chaired a hearing that examined what progress had been made. In addition to the administration, the acting Attorney General of the Commonwealth appeared and requested that the committee delay any action until the Commonwealth could complete a study on minimum wage and assured me that the study would be completed by January. I agreed to the delay. My intention was to revisit this issue in the April-May period after the administration had transmitted its annual report. While the CNMI study was not finally transmitted until April, the Administration did not transmit its annual report, which was due in April, until July. On May 30, 1997, the President wrote the Governor of the Northern Marianas that he was concerned over activities in the Commonwealth and had concluded that Federal immigration, naturalization, and minimum wage laws should apply. That letter provoked a flurry of statements, letters, articles, stories, and legislation, most of which generated more heat than light.

It quickly became clear that unless there was some definition as to exactly what the problem was and what solution was being proposed, little would happen other than a series of bewildering and increasingly hostile statements. The atmosphere also made the possibility of a useful oversight hearing increasingly remote. I must say that I have not been particularly impressed by either the advocates of Federal legislation or the opponents. One side responds to concerns over workers living in barracks, abuse of domestics, prostitution, and other problems by suggesting that the answer is to raise the minimum wage. The response to allegations of abuse of workers, especially women, is not to propose raising the minimum wage. Paying a person more does not justify abuse. The other side of the argument seems to me to also miss the point. The last time we

heard a justification that economic advances would be jeopardized if workers were treated properly was shortly before Appomattox. Whatever economic benefits some may have realized, that does not justify worker abuse, indentured servants, or the conditions that I saw those Bangladesh workers living in.

There are certain issues that I believe need a full hearing and careful review. The minimum wage study that the Commonwealth commissioned noted at one point that the Marianas has used its control over immigration and minimum wage to import foreign workers who would be paid more than they would receive in their home countries, but less than the Federal minimum wage. These workers would produce garments that would be subject to quotas if produced in their home country, but which could be imported duty free into the mainland United States since the Marianas is outside the customs territory of the U.S. but subject to preferential treatment under General Note 3(a) of the Tariff Schedules. That is an issue that the Congress should review.

When we considered the Covenant for the Marianas, we were sensitive to the fact that the Marianas had been under the minimum wage provisions of the Trust Territory and that immediate introduction of the Federal minimum wage might have an adverse effect on a developing economy that was still heavily dependent on annual Federal grants for basic Government services. We also recognized the concern expressed by the negotiators for the Northern Marianas that their small population could be overrun easily by migration. In response, we permitted the Marianas to control the timing of minimum wage and to exercise control over immigration. We also provided restraints on land alienation to protect the population. We did not consider that entrepreneurs would discover a loophole that would allow a lower minimum wage and immigration to create a non-indigenous industry that is Marianas in name only. Congress should examine whether this is a situation that should be permitted under the tariff schedules.

There are also legitimate questions concerning minimum wage and immigration. We should now have sufficient experience to assess whether the Marianas is capable of providing the preclearance for any persons who attempt to enter the Marianas. The United States routinely does this in foreign countries as part of our visa process. The situation that I saw with the Bangladesh workers should never have happened. Reports of other workers who arrive only to find no jobs should also never happen. There should be no unemployment among the guest workers. These are legitimate immigration related issues. They do not necessarily lead to a Federal takeover, but they are legitimate issues and it serves no purpose to distort history and pretend that the current situation was the goal of the Covenant negotiators.

Minimum wage is also a fairly straightforward issue. It does not appear that any U.S. citizens in the Northern Marianas are paid less than the current Federal minimum wage. Is there a justification and a need to pay foreign workers less and to what extent does the ability to import skilled foreign labor at less than Federal minimum wages contribute to the unemployment rate in the Marianas? Is there a reason to pay less than the minimum wage to attract skilled positions? There are issues that should be reviewed in a hearing.

Given the furor that followed the President's letter, I decided to ask the administration to provide me with a drafting service of the language that would implement whatever the recommendations were in their report. The report was finally submitted in July, and I received the drafting service on October 6, 1997. On July 16, 1997, I wrote the Governor of the Commonwealth to inform him that I had made the request and the schedule that I intended to follow. I want to reiterate my statement. I am committed to holding hearings on this legislation. I am not wedded to any particular provision in the legislation, but I am not happy with the situation in the Commonwealth. I ask unanimous consent that a copy of my letter be printed in the RECORD as well as a copy of the transmittal letter from the administration, the text of the legislation, and a section-by-section analysis.

Mr. President, I appreciate that elections are only a few weeks away in the Marianas. I do not think that hearings prior to the elections would be particularly productive. Our committee has tried to be nonpartisan in our approach to our responsibilities for the territories and we have tried to avoid local politics. Given the seriousness of these issues, I think they should be raised after the elections. I want to make it clear, however, that whatever the results of the elections in the Marianas, the Energy and Natural Resources Committee intends to proceed impartially and expeditiously.

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

S. 1275

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

SECTION 1. SHORT TITLE AND REFERENCE.

This Act may be cited as the "Northern Mariana Islands Covenant Implementation Act". Public Law 94-241 (90 Stat. 263, 48 U.S.C. 1801), which approved the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as amended, hereinafter is referred to as the "Covenant Act".

SEC. 2. IMMIGRATION REFORM FOR THE NORTHERN MARIANA ISLANDS.

(a) COVENANT ACT AMENDMENTS.—The Covenant Act is amended to add the following new section 6 after section 5:

"SEC. 6. TRANSITION PROGRAM FOR IMMIGRATION.

"Pursuant to section 503 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved in Public Law 94-241, 90 Stat. 263)—

"(a) APPLICATION OF THE IMMIGRATION AND NATIONALITY ACT AND ESTABLISHMENT OF A TRANSITION PROGRAM.—Effective on the first day of the first full month commencing one year after the date of enactment of this section, the provisions of the Immigration and Nationality Act, as amended, shall apply to the Commonwealth of the Northern Mariana Islands, with a transition period not to exceed ten years thereafter, during which the Attorney General, in consultation with the Secretaries of State, Labor, and Interior, shall establish, administer, and enforce a transition program for immigration to the Commonwealth of the Northern Mariana Islands (the "transition program"). The transition program established pursuant to this section shall provide for the issuance of nonimmigrant temporary alien worker visas pursuant to subsection (b), and, under the circumstances set forth in subsection (c), for family-sponsored and employment-based immigrant visas. The transition program shall be implemented pursuant to regulations to be promulgated as appropriate by each agency having responsibilities under the transition program.

"(b) TEMPORARY ALIEN WORKERS.—The transition program shall conform to the following requirements with respect to temporary alien workers who would otherwise not be eligible for nonimmigrant classification under the Immigration and Nationality Act, as amended:

"(1) Aliens admitted under this subsection shall be treated as aliens seeking classification as nonimmigrants under section 101(a)(15) of the Immigration and Nationality Act, as amended, including the right to apply, if otherwise eligible, for a change of nonimmigrant status under section 248 of the Immigration and Nationality Act, as amended, or adjustment of status, if eligible therefor, under subsection (c) of this section and section 245 of the Immigration and Nationality Act, as amended.

"(2)(A) The Secretary of Labor shall establish, administer, and enforce a system for allocating and determining the number, terms, and conditions of permits to be issued to prospective employers for each temporary alien worker who would not otherwise be eligible for admission under the Immigration and Nationality Act, as amended. This system shall provide for a reduction in the allocation of permits for such workers on an annual basis, over a period not to exceed ten years. In no event shall a permit be valid beyond the expiration of the transition period. This system may be based on any reasonable method and criteria determined by the Secretary of Labor to promote the maximum use of, and to prevent adverse effects on wages and working conditions of, United States labor and lawfully admissible freely associated state citizen labor.

"(B) The Secretary of Labor is authorized to establish and collect appropriate user fees for the purpose of this section. Amounts collected pursuant to this section shall be deposited to a special fund of the Treasury.

Such amounts shall be available, to the extent and in the amounts as provided in advance in appropriations acts, for the purposes of administering this section. Such amounts are authorized to be appropriated to remain available until expended.

"(3) The Attorney General shall set the conditions for admission of nonimmigrant temporary alien workers under the transition program, and the Secretary of State shall authorize the issuance of nonimmigrant visas for aliens to engage in employment only as authorized in this subsection: *Provided*, That such visas shall not be valid for admission to the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act, as amended, except the Northern Mariana Islands. An alien admitted to the Northern Mariana Islands on the basis of such a nonimmigrant visa shall be permitted to engage in employment only as authorized pursuant to the transition program. No alien shall be granted nonimmigrant classification or a visa under this subsection unless the permit requirements established under paragraph (2) of this subsection have been met.

"(4) An alien admitted as a nonimmigrant pursuant to this subsection shall be permitted to transfer between employers in the Northern Mariana Islands during the period of such alien's authorized stay therein, provided that such transfer is authorized by the Attorney General in accordance with criteria established by the Attorney General and the Secretary of Labor.

"(c) *Immigrants.*—With the exception of immediate relatives, as defined in section 201(b)(2) of the Immigration and Nationality Act, as amended, and except as provided in paragraph (1) and (2) of this subsection, no alien shall be granted initial admission as a lawful permanent resident of the United States at a port-of-entry in the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Northern Mariana Islands.

"(1) FAMILY-SPONSORED IMMIGRANT VISAS.—The Attorney General, based on a joint recommendation of the Governor and Legislature of the Commonwealth of the Northern Mariana Islands, and in consultation with appropriate federal agencies, may establish a specific number of additional initial admissions as a family-sponsored immigrant at a port-of-entry in the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Northern Mariana Islands, pursuant to section 202 and 203(a) of the Immigration and Nationality Act, as amended, during the following fiscal year.

"(2) EMPLOYMENT-BASED IMMIGRANT VISAS.—

"(A) If the Secretary of Labor, upon receipt of a joint recommendation of the Governor and Legislature of the Commonwealth of the Northern Mariana Islands, finds that exceptional circumstances exist with respect to the inability of employers in the Northern Mariana Islands to obtain sufficient work-authorized labor, the Attorney General may establish a specific number of employment-based immigrant visas to be made available during the following fiscal year under section 203(b) of the Immigration and Nationality Act, as amended.

"(B) Upon notification by the Attorney General that a number has been established pursuant to subparagraph (A) of this paragraph, the Secretary of State may allocate up to that number of visas without regard to the numerical limitations set forth in sections 202 and 203(b)(3)(B) of the Immigration and Nationality Act, as amended. Visa numbers allocated under this subparagraph shall be allocated first from the number of visas available under section 203(b)(3) of the Immigration and Nationality Act, as amended, or, if such visa numbers are not available, from the number of visas available under section 203(b)(5) of such Act.

"(C) Persons granted employment-based immigrant visas under the transition program may be admitted initially at a port-of-entry in the Northern Mariana Islands, or at a port-of-entry in Guam for the purpose of immigrating to the Northern Mariana Islands, as lawful permanent residents of the United States.

"(D) Any immigrant visa issued pursuant to this paragraph shall be valid only for application for initial admission to the Northern Mariana Islands. The admission of any alien pursuant to such an immigrant visa shall be an admission for lawful permanent residence and employment only in the Northern Mariana Islands during the first five years after such admission. Such admission shall not authorize permanent residence or employment in any other part of the United States during such five-year period. An alien admitted for permanent residence pursuant to this paragraph shall be issued appropriate documentation identifying the person as having been admitted pursuant to the terms and conditions of this transition program, and shall be required to comply with a system for the registration and reporting of aliens admitted for permanent residence under the transition program, to be established by the Attorney General, by regulation, consistent with the Attorney General's authority under Chapter 7 of Title II of the Immigration and Nationality Act, as amended.

"(E) Nothing in this paragraph shall preclude an alien who has obtained lawful permanent resident status pursuant to this paragraph from applying, if otherwise eligible under this section and under the Immigration and Nationality Act, as amended, for an immigrant visa or admission as a lawful permanent resident under the Immigration and Nationality Act, as amended.

"(F) Any alien admitted under this subsection, who violates the provisions of this paragraph, or who is found removable or inadmissible under section 237(a), or paragraphs (1), (2), (3), (4)(A), (4)(B), (6), (7), (8), or (9) of section 212(a), shall be removed from the United States pursuant to sections 239, 240, and 241 of the Immigration and Nationality Act, as amended.

"(G) The Attorney General may establish by regulation a procedure by which an alien who has obtained lawful permanent resident status pursuant to this paragraph may apply for a waiver of the limitations on the terms and conditions of such status. The Attorney General may grant the application for waiver, in the discretion of the Attorney General, if: (1) the alien is not in removal proceedings, (2) the alien has been a person of good moral character for the preceding five years, (3) the alien has not violated the terms and conditions of the alien's permanent resident status, and (4) the alien would suffer exceptional and extremely unusual hardship were such terms and conditions not waived.

"(H) The limitations on the terms and conditions of an alien's permanent residence set forth in this paragraph shall expire at the end of five years after the alien's admission to the Northern Mariana Islands as a permanent resident and the alien is thereafter fully subject to the provisions of the Immigration and Nationality Act, as amended. Following the expiration of such limitations, the permanent resident alien may engage in any lawful activity, including employment, anywhere in the United States. Such an alien, if otherwise eligible for naturalization, may count the five-year period in the Northern Mariana Islands towards time in the United States for purposes of meeting the residence requirements of Title III of the Immigration and Nationality Act, as amended.

"(d) INVESTOR VISAS.—The following requirements shall apply to aliens who have been admitted to the Northern Mariana Islands in long-term investor status under the immigration laws of the Commonwealth of the Northern Mariana Islands on or before the effective date of this Act and who have continuously maintained residence in the Northern Mariana Islands pursuant to such status:

"(1) Such aliens may apply to the Attorney General or a consular officer for classification as a nonimmigrant under the transition program. Any nonimmigrant status granted as a result of such application shall terminate not later than December 31, 2008.

"(2) During the six-month period beginning January 1, 2008, and ending June 30, 2008, any alien granted nonimmigrant status pursuant to paragraph (1) of this subsection shall be permitted to apply to the Attorney General for status as a lawful permanent resident of the United States effective on or after January 1, 2009, and may be granted such status if otherwise admissible. Upon granting permanent residence to any such alien, the Attorney General shall advise the Secretary of State who shall reduce by one number, during the fiscal year in which the grant of status becomes effective, the total number of immigrant visas available to natives of the country of the alien's chargeability under section 202(b) of the Immigration and Nationality Act, as amended.

"(e) PERSONS LAWFULLY ADMITTED UNDER THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS IMMIGRATION LAW.—Subject to subsection (d) of this section, persons who would have been lawfully present in the Northern Mariana Islands pursuant to the immigration laws of the Commonwealth of the Northern Mariana Islands on the effective date of this subsection, shall be permitted to remain in the Northern Mariana Islands for the completion of the period of admission under such laws, or for two years, whichever is less.

"(f) TRAVEL RESTRICTIONS FOR CERTAIN APPLICANTS FOR ASYLUM.—Any alien admitted to the Northern Mariana Islands pursuant to the immigrant laws of the Commonwealth of the Northern Mariana Islands or pursuant to subsections (b) or (c) of this section who files an application seeking asylum in the United States shall be required, pursuant to regulations established by the Attorney General, to remain in the Northern Mariana Islands, during the period of time the application is being adjudicated or during any appeals filed subsequent to such adjudication. An applicant for asylum who, during the time his application is being adjudicated or during any appeals filed subsequent to such adjudication, leaves the Northern Mariana Islands of his own will without prior authorization by the Attorney General thereby abandons the application.

"(g) EFFECT ON OTHER LAWS.—Effective on the first day of the first full month commencing one year after the date of enactment of this section, the provisions of this section and the Immigration and Nationality Act, as amended, shall supersede and replace all laws, provisions, or programs of the Commonwealth of the Northern Mariana Islands

relating to the admission of aliens and the removal of aliens from the Northern Mariana Islands.

"(h) ACCRUAL OF TIME.—No time of 'unlawful presence' in the Northern Mariana Islands shall accrue for purposes of the ground of inadmissibility in section 212(a)(9)(B) prior to the date of enactment of this subsection.".

(b) CONFORMING AMENDMENTS.—(1) Effective on the first day of the first full month commencing one year after the date of enactment of this section, section 101(a) of the Immigration and Nationality Act, as amended, is amended as follows:

(A) in paragraph (36), by deleting "and the Virgin Islands of the United States." and substituting "the Virgin Islands of the United States, and the Northern Mariana Islands.", and;

(B) in paragraph (38), by deleting "and the Virgin Islands of the United States" and substituting "the Virgin Islands of the United States, and the Northern Mariana Islands.".

(2) Effective on the first day of the first full month commencing on date of enactment of this section, subsection (l) of section 212 of the Immigration and Nationality Act, as amended, is amended, as follows:

(A) in paragraph (1)—

(i) strike the words "stay on Guam", and insert the words "stay on Guam and the Northern Mariana Islands",

(ii) after the word "exceed" insert the words "a total of", and,

(iii) strike the words "after consultation with the Governor of Guam," and insert the words "after respective consultation with the Governor of Guam or the Governor of the Commonwealth of the Northern Mariana Islands,";

(B) in subparagraph (A) of paragraph (1), strike the words "on Guam", and insert the words "on Guam or the Northern Mariana Islands, respectively,";

(C) in subparagraph (A) of paragraph (2), strike the words "into Guam", and insert the words "into Guam or the Northern Mariana Islands, respectively,";

(D) in paragraph (3), strike the words "Government of Guam" and insert the words "Government of Guam or the Government of the Commonwealth of the Northern Mariana Islands".

(c) TECHNICAL ASSISTANCE PROGRAM.—The Secretaries of Interior and Labor, in consultation with the Commonwealth of the Northern Mariana Islands, shall develop a program of technical assistance, including recruitment and training, to aid employers in securing employees from among United States labor or lawfully admissible freely associated state citizen labor.

(d) DEPARTMENT OF JUSTICE AND DEPARTMENT OF LABOR OPERATIONS.—The Attorney General and the Department of Labor are authorized to establish and maintain Immigration and Naturalization Service, Executive Office of Immigration Review, and Department of Labor operations in the Northern Mariana Islands for the purpose of performing their responsibilities under the Immigration and Naturalization Act, as amended, and under the transition program. To the extent practicable and consistent with the satisfactory performance of their assigned responsibilities under applicable law, the Departments of Justice and Labor shall recruit and hire from among qualified applicants resident in the Northern Mariana Islands for staffing such operations.

(e) REPORT TO THE CONGRESS.—The President shall report to the Senate Committee on Energy and Natural Resources, and the House Committee on Resources, within six months after the fifth anniversary of the enactment of this Act, evaluating the overall effect of the transition program and the Immigration and Naturalization Act on the Northern Mariana Islands, and at other times as the President deems appropriate.

(f) LIMITATION ON NUMBER OF TEMPORARY WORKERS PRIOR TO APPLICATION OF THE IMMIGRATION AND NATURALIZATION ACT AND ESTABLISHMENT OF THE TRANSITION PROGRAM.—During the period between enactment of this section and the effective date of the transition program, the government of the Commonwealth of the Northern Mariana Islands shall not permit an increase in the total number of temporary alien workers who were present in the Northern Mariana Islands on the date of enactment of this section.

(g) APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section and of the Immigration and Naturalization Act, as amended, with respect to the Northern Mariana Islands.

SEC. 3. MINIMUM WAGE.

The Covenant Act is amended to add the following new section 7 after section 6:

"SEC. 7. MINIMUM WAGE.

"Pursuant to section 503 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved in Public Law 94-241, 90 Stat. 263)—

"(a) Effective thirty days after enactment of this Act, the minimum wage provisions of section 6 of the Fair Labor Standards Act of June 25, 1938 (52 Stat. 1062), as amended, shall apply to the Commonwealth of the Northern Mariana Islands, except—

"(1) the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall be $3.35 per hour; and

"(2) effective January 1, 1999, and every January 1 thereafter, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall be raised by thirty cents per hour or the amount necessary to raise the applicable minimum wage rate to the wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act, whichever is less.

"(b) Once the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands is equal to the wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act, the minimum wage rate applicable to the Commonwealth of the Northern Mariana Islands shall thereafter be the wage set forth in section 6(a)(1) of the Fair Labor Standards Act.".

SEC. 4. LABELING REQUIREMENTS FOR TEXTILE AND APPAREL PRODUCTS.

The Covenant Act is amended to add the following new section 8 after section 7:

"SEC. 8. LABELING OF TEXTILE AND APPAREL PRODUCTS.

"(a) No textile or apparel product that is produced in the Northern Mariana Islands shall have a stamp, tag, label, or other means of identification or substitute thereof on or affixed to the product stating 'Made in USA' or otherwise stating or implying that the product was produced in the United States unless the product is produced in a factory certified by the United States Department of Labor, in accordance with regulations issued by the Secretary of Labor, to use full-time employee equivalents of labor in the required percentage of qualified hours.

"(b) A textile or apparel product that does not meet the requirements of subsection (a), or where the certification by the United States Department of Labor is based on false or incomplete information provided to the United States Department of Labor, shall be deemed to be misbranded for the purposes of the Textile Fiber Products Identification Act (Public Law 85-897, 72 Stat. 1717).

"(c) In this section:

"(1) FREELY ASSOCIATED STATE.—The term 'freely associated state' means the Republic of Palau, the Republic of the Marshall Islands, or the Federated States of Micronesia.

"(2) QUALIFIED HOURS.—The term 'qualified hours' means the hours of labor performed by a person who is a citizen, national, or other protected individual as defined in section 274B(a)(3) of the Immigration and Nationality Act, as amended (without regard to application for naturalization), or who is a citizen of a freely associated state (as long as section 141 in the respective Compacts of Free Association with the Republic of the Marshall Islands, the Federated States of Micronesia or the Republic of Palau (Public Law 99-239 or Public Law 99-658) or equivalent provisions are in effect).

"(3) REQUIRED PERCENTAGE.—The term 'required percentage' means—

"(A) 20 percent, for the period beginning January 1, 1998, through December 31, 1998;

"(B) 35 percent, for the period beginning January 1, 1999, through December 31, 1999; and

"(C) 50 percent, for the period beginning January 1, 2000, and thereafter.".

SEC. 5 TARIFFS.

General Note 3(a)(iv) of the Harmonized Tariff Schedules of the United States is amended to add at the end the following:

"(E) No textile or apparel product that is produced in the Northern Mariana Islands shall be admitted duty-free into the customs territory of the United States as the product of an insular possession, unless the product is produced in a factory certified by the United States Department of Labor, in accordance with regulations issued by the Secretary of Labor, to use full-time employee equivalents of labor in the required percentage of qualified hours. In this subparagraph:

"(i) FREELY ASSOCIATED STATE.—The term 'freely associated state' means the Republic of Palau, the Republic of the Marshall Islands, or the Federated States of Micronesia.

"(ii) QUALIFIED HOURS.—The term 'qualified hours' means the hours of labor performed by a person who is a citizen, national, or other protected individual as defined in section 274B(a)(3) of the Immigration and Nationality Act, as amended (without regard to application for naturalization), or who is a citizen of a freely associated state (as long as section 141 in the respective Compacts of Free Association with the Republic of the Marshall Islands, the Federated Stats of Micronesia or the Republic of Palau (Public Law 99-239 or Public Law 99-658) or equivalent provisions are in effect).

"(iii) REQUIRED PERCENTAGE—The term 'required percentage; means—

"(A) 20 percent, for the period beginning January 1, 1998, through December 31, 1998;

"(B) 35 percent, for the period beginning January 1, 1999, through December 31, 1999; and

"(C) 50 percent, for the period beginning January 1, 2000, and thereafter.".

SECTION-BY-SECTION ANALYSIS

Section 1 would provide that this Act may be cited as the "Northern Mariana Islands Covenant Implementation Act." It further would provide that Public Law 94-241 (90 Stat. 263, 48 U.S.C. 1801) which approved the Covenant to Establish a Commonwealth of

the Northern Mariana Islands in Political Union with the United States of America would be referred in the Act as the "Covenant Act."

Section 2, entitled "Immigration Reform for the Northern Mariana Islands" contains a subsection (a) that would amend the Covenant Act by adding a new section 6 at the end of the Covenant Act with the following preamble and subsections:

Preamble: the immigration provisions in the new section 6 of the Covenant Act would be enacted pursuant to section 503 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (approved in Public Law 94-241, 90 Stat. 263), which provides that the Congress may enact immigration legislation regarding the Northern Mariana Islands after the termination of the Trusteeship Agreement with respect to the Northern Mariana Islands, which occurred on November 3, 1986. (Section 1 of Proclamation No. 5564, dated November 3, 1986. 51 F.R. 40399).

Section 6, subsection (a) would provide that, effective on the first day of the first full month commencing one year after the enactment date of section 6, the Immigration and Nationality Act, as amended (the "INA"), would apply in full to the Commonwealth of the Northern Mariana Islands (CNMI). At the same time, a transition program would become effective for the orderly phasing out of the CNMI's current temporary alien worker program. The Attorney General, in consultation with the Secretaries of State, Labor, and Interior, will be charged with establishing, administering, and enforcing this transition program. To implement this program, each agency having responsibilities under the program will be required to promulgate appropriate regulations. The details of this program are set forth in the subsections below.

Section 6, subsection (b) would set forth the requirements under the transition program for the admission of temporary alien workers who would not otherwise be eligible for nonimmigrant classification under the INA.

Paragraph (1) would provide that aliens who are admitted under the transition program, like most nonimmigrants admitted under the INA, will have the right to apply, if they are otherwise eligible, for a change of status to a nonimmigrant classification under the INA, or, if otherwise eligible, for adjustment of status to lawful permanent residence of the United States.

Paragraph (2)(A) would set out the responsibilities of the United States Department of Labor under the transition program. The Secretary of Labor would be charged with establishing, administering, and enforcing a reasonable system for the annual allocation of permits to be issued to prospective employers of temporary alien workers who would not be eligible for admission under the INA. This system would provide for a reduction in the allocation of permits for such workers on an annual basis, over a maximum period of ten years, with no such permit to be valid beyond the expiration of the transition period. The system would be designed to promote the maximum use of, and to prevent adverse effects on, United States labor and lawfully admissible freely associated state citizen labor. In carrying out its responsibilities under the subsection, the Department of Labor would be authorized to collect appropriate user fees. Paragraph (2)(B) would authorize the Secretary of Labor to establish and collect appropriate user fees for the purposes of this section.

Paragraph (3) would assign the Attorney General the responsibility of setting the conditions for admission of temporary alien workers under the transition program. In addition, this subsection would assign to the Secretary of State the responsibility for the issuance of nonimmigrant visas, which would not be valid for admission to other parts of the United States, to such persons. Aliens admitted to the NMI as temporary workers under this program would be permitted to engage in employment only as authorized in this subsection. Such temporary workers, therefore, would not engage open market employment in the NMI, but would be required to work for an employer approved by the Attorney General and the Secretary of Labor in accordance with this subsection.

Paragraph (4) would provide for job transfer rights for otherwise eligible temporary alien workers admitted under the transition program pursuant to criteria established by the Attorney General and the Secretary of Labor.

Section 6, subsection (c), would provide that, with the exception of certain close family relatives, and except as provided in section (6)(c)(1) and (2) aliens seeking to immigrate to the NMI under the INA would not be granted initial admission as a lawful permanent resident of the United States at a port-of-entry in the NMI, or at a port-of-entry in Guam for the purpose of immigration to the NMI.

Paragraph (1) would provide that, notwithstanding section 6(c) above, the Attorney General, based on the recommendation of the CNMI Government, and after consultation with appropriate federal agencies, may allow a specific number of additional initial admissions to the NMI (or through Guam to the NMI) as a family-sponsored immigrant under the INA.

Paragraph (2) would provide the Attorney General with the authority to admit to the NMI, under exceptional circumstances, a limited number of employment-based immigrants, without regard to the normal numerical limitations under the INA, during the transition program.

Subparagraph (a) would provide that the Secretary of Labor, upon receipt of a joint recommendation of the Governor and Legislature of the CNMI, may find that exceptional circumstances exist which preclude employers in the NMI from obtaining sufficient work-authorized labor. If the Secretary of Labor makes such a finding, the Attorney General may establish a specific number of employment-based "third preference" immigrant visas to be made available during the following fiscal year under the INA.

Subparagraph (B) would permit the Secretary of State to allocate up to the number of visas requested by the Attorney General without regard to the normal per-country or "other worker" employment-based third preference numerical limitations and visa issuance. These visas would be allocated first from unused employment-based third preference visa numbers, and then, if necessary, from unused alien entrepreneur visa numbers.

Subparagraph (C) would allow persons granted employment-based immigrant visas under the transition program to be admitted initially at a port-of-entry in the NMI (or through a port-of-entry in Guam to the NMI).

Subparagraph (D) would provide that any immigrant visa issued pursuant to this paragraph shall be valid only for application for initial admission to the NMI. Further, any employment-based immigrant visas issued on the basis of the above finding of "exceptional circumstances" would be valid for admission for lawful permanent residence and employment only in the NMI during the first five years after initial admission. Such visas would not authorize permanent residence or employment in any other part of the United States during this five-year period. The subsection also would provide for the issuance of appropriate documentation of such admission, and, consistent with Chapter 7 of Title II of the INA, would require an alien to register and report to the Attorney General during the five-year period.

Subparagraph (E) would provide that an alien who is subject to the five-year limitation under section 6(c) may, if otherwise eligible, apply for an immigrant visa or admission as a lawful permanent resident under the INA.

Subparagraph (F) would provide for the removal from the United States of any alien subject to the five-year limitation if the alien violates the provisions of section 6(c), or if the alien is found to be removable or inadmissible under various provisions of the INA.

Subparagraph (G) would allow certain aliens who have obtained lawful permanent resident status under the transition program to apply for a waiver of the terms and conditions of their status in certain extraordinary situations where the Attorney General finds that the alien would suffer exceptional and extremely unusual hardship were such conditions not waived. An example of such an extraordinary circumstance would be where the alien is a labor organizer and can demonstrate that, as a result of the alien's lawful labor activities, he or she has been "blacklisted" by local employers, and is therefore unable to find employment in the Northern Mariana Islands. The benefits of this provision would be unavailable to a person who has violated the terms and conditions of his or her permanent resident status, such as an alien who has engaged in the unauthorized employment.

Subparagrah (H) would provide that the limitations on the terms and conditions of an alien's permanent residence granted under section 6(c) shall expire at the end of five years after the alien's admission to the NMI as a permanent resident. Thereafter, such an alien would be fully subject to the provisions of the INA, and may engage in any lawful activity, including employment, anywhere in the United States. In addition, such an alien, if otherwise eligible for naturalization, may count the five-year period in the NMI towards time in the United States for purposes of meeting the residence requirements of Title III of the INA.

Section 6, subsection (d), would permit, upon the meeting certain requirements, that certain aliens who were admitted to the NMI in long-term investor status under CNMI immigration law on or before the effective date of this Act to remain in the NMI after the effective date of the Act. In order to enjoy the benefits of this subsection, such persons would be required to have continuously maintained residence in the NMI pursuant to such long-term investor status.

Paragraph (1) would provide that such long-term investors may apply to the Attorney General or a consular officer for nonimmigrant classification, to terminate no later than December 31, 2008, under the transition program.

Paragraph (2) would provide that an alien granted nonimmigrant status under this section may apply for adjustment of status to lawful permanent resident of the United

States during the six-month period beginning January 1, 2008, and ending June 30, 2008. If otherwise admissible, such an alien would be granted permanent resident status effective on or after January 1, 2009. Each such adjustment of status would be subject to the total per-country numerical limitations on immigrant visa issuance, and therefore would count against the total number of immigrant visas available to natives of the country of the alien's chargeability.

Section 6, subsection (e) would permit persons who would have been lawfully present in the NMI pursuant to local immigration law as of the effective date of this subsection to remain in the NMI for the completion of their period of admission under such local law, as long as such period does not extend beyond two years after such effective date.

Section 6, subsection (f) would impose travel restrictions on asylum aliens admitted to the NMI pursuant to the laws of the CNMI or as temporary workers or employment-based immigrants under the transition program who apply for asylum. Such persons will be required to remain the NMI during the period of time the application is pending or during any appeal period thereafter. An applicant for asylum who during such period leaves the CNMI on his own will without the prior permission of the Attorney General thereby abandons the application.

Section 6, subsection (g) would provide that, effective on the first day of the first full month commencing one year after the enactment date of this section, this section and the INA would supersede all laws, provisions, or programs of the CNMI Government relating to the admission of aliens to and the removal of aliens from the NMI.

Section 6, subsection (h) would provide that no time of "unlawful presence" in the NMI would accrue for purposes of the ground of inadmissibility in section 212(a)(9)(B) prior to the date of enactment of section 6.

Section 2, subsection (b) would provide for three "Conforming Amendments."

Paragraph (1)(A) would amend section 101(a)(36) of the INA, which defines the term "state" for purposes of the INA, to include the Northern Mariana Islands. This amendment would become effective on the first day of the first full month commencing one year after enactment date of section 2 of the Northern Mariana Islands Covenant Implementation Act.

Paragraph (1)(B) would amend section 101(a)(38) of the INA, which defines the term "United States" for purposes of the INA, to include the Northern Mariana Islands. This amendment would become effective on the first day of the first full month commencing one year after the enactment date of section 2 of the Northern Mariana Islands Covenant Implementation Act.

Paragraph (2) would amend section 212(l) of the INA to extend the Guam Visa Waiver Program to the CNMI.

Section 2, subsection (c) would obligate the Secretaries of Interior and Labor, in consultation with CNMI, to develop a technical assistance program to aid NMI employers in recruiting, training, and securing employees from among United States labor or lawfully admissible freely associated state citizen labor.

Section 2, subsection (d) would authorize the Attorney General to establish and maintain Immigration and Naturalization Service and Executive Office of Immigration Review operations, and the Secretary of Labor to establish and maintain operations in the NMI in order to perform their respective responsibilities under the INA and the transition program. Subsection (d) further provides for local recruitment and hiring, where appropriate, by the Departments of Justice and Labor.

Section 2, subsection (c) would provide that the President report to the Senate Committee on Energy and Natural Resources, and the House Committee on Resources, evaluating the overall effect of the transition program and the INA on the CNMI.

Section 2, subsection (f) would provide that the CNMI may not increase the total number of temporary alien workers who may be present in the NMI during the one year period after enactment of this section and before the effective date of the transition program from the number present on the date of enactment.

Section 2, subsection (g) would authorize the appropriation of such sums as may be necessary to carry out the purposes of this section and the INA with respect to the CNMI.

Section 3 would add a new section 7 to the Covenant Act that would, beginning thirty days after enactment, raise the minimum wage in the Commonwealth of the Northern Mariana Islands from the current CNMI rate of $3.05 per hour to the Federal minimum wage rate (currently $5.15 per hour), in 30-cent annual increments. This provision would be similar to the minimum wage increase law enacted by the CNMI legislature, but later repealed.

Section 4 would add a new section 8 to the Covenant Act that would require that textile and apparel products produced in the Northern Mariana Islands, which bear a "Made in USA" or similar label, be produced in a factory certified by the United States Department of Labor to use United States labor (including citizens, nationals, lawful permanent residents, refugees, or asylees) or freely associated state citizen labor in the following qualified hours of full-time employee equivalents—20 percent for the year beginning January 1, 1998, 35 percent for the year beginning January 1, 1999, and 50 percent beginning January 1, 2000, and thereafter. A textile or apparel product bearing a "Made in USA" label that is not produced in a certified factory would be deemed to be misbranded for the purposes of the Textile Fiber Products Identification Act, and sanctions would apply. Additionally, a product would be misbranded if certification by the United States Department of Labor were based on false or incomplete information provided to the Department of Labor.

Section 5 would amend General Note 3(a)(iv) of the Harmonized Tariff Schedules of the United States to prohibit a textile or apparel product produced in the Commonwealth of the Northern Mariana Islands from being admitted duty-free into the customs territory of the United States as a product of an insular possession unless the product is produced in a factory certified by the United States Department of Labor to use United States labor (including citizens, nationals, lawful permanent residents, refugees, or asylees) or freely associated state citizen labor in the following qualified hours of full-time employee equivalents—20 percent for the year beginning January 1, 1998, 35 percent for the year beginning January 1, 1999, and 50 percent beginning January 1, 2000, and thereafter.

U.S. SENATE, COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, July 16, 1997.

Hon. FROILAN C. TENORIO,
Governor of the Northern Mariana Islands, Saipan, MP.

DEAR GOVERNOR TENORIO: I am writing to you concerning the continuing reports of conditions in the Commonwealth of the Northern Mariana Islands and the various measures that have been suggested to address those problems. In February of last year, I had the opportunity to visit the Commonwealth with Senator Akaka. While our visit was brief, we did see conditions that simply should not be allowed to exist in any area under the sovereignty of the United States. In meetings with your staff, we were assured that your Administration was committed to prompt and effective law enforcement, and that we needed to give the joint Federal-CNMI initiative time to work.

On June 26 of last year, the Committee conducted a hearing that in part focused on oversight of the situation in the Northern Marianas. I stated that unless the Commonwealth took action to remedy the problems that existed, federal action was all but inevitable. While I support local authority, that authority must be responsibly exercised. At that hearing, your representative asked that the Committee delay any action until the Commonwealth could complete a report on minimum wage and that the report would be available in January of this year. I agreed. Although the report was not available until April, that delay did not appear to be a major problem since the Department of the Interior was due to submit its report on the Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement in April.

Although the Administration's report has still not been submitted, on May 30, 1997 the President wrote you that he had concluded that federal immigration, naturalization, and minimum wage laws should now be applied to the Commonwealth. To date, although the Administration has not transmitted legislation to implement the President's conclusion, legislation extending those laws has been introduced in the House and I am aware of several Members of the Senate who are also considering similar measures.

I intend to schedule a hearing to consider what legislation, if any, should be enacted shortly after the Administration submits its report, which I understand is now under final review by the Office of Management and Budget. I have asked the Secretary of the Interior to draft legislation to implement the final recommendations of the report. I intend to introduce that draft in order to focus the testimony at the hearing. In addition to the measures that have been discussed, I also want the hearing to consider whether changes should be made in the application of Headnote 3(A) and what needs to be done to strengthen enforcement of federal and local laws.

Given the delay in transmittal of the Administration's report, I do not expect that we will be able to schedule a hearing prior to September. I want to be certain that you have had sufficient time to review the Administration's report and any legislation, but I also want to conduct the hearing so that there is sufficient time to consider whatever legislative measures appear warranted during this session of the Congress.

Sincerely,

FRANK H. MURKOSWKI,
Chairman.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, October 6, 1997.

Hon. FRANK H. MURKOWSKI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your letter of July 16, 1997, requesting a drafting service that would implement the Administration's recommendations for the Commonwealth of the Northern Mariana Islands (CNMI) contained in the Administration's July 1997 report on the Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement. Pursuant to your request, I have enclosed a legislative proposal that addresses the recommendations in the Administration's report. The Administration strongly supports the enactment of this proposal.

While we are firm in our commitment to the proposals outlined in the recommendations, the Administration is, however, willing to consider amendments. A Federal policy framework is needed to respond to the use of CNMI as a platform for circumvention of United States' garment duties and quotas, the CNMI's ineffective immigration control, and the unhealthy and unsustainable dependence on temporary low-paid foreign workers in the islands.

President Clinton, in his May 30, 1997 letter to CNMI Governor Froilan Tenorio, stated that his Administration would consult with the Governor and other representatives of the Commonwealth regarding the application of laws to the CNMI. Following through on the President's commitment, the Departments of Labor, Justice (INS), State, Commerce, and Interior sent senior representatives to the CNMI in August to discuss legislative implementation of the recommendations contained in the report. While the Governor did not meet with this Federal delegation, it was able to convey to many local government and business leaders the longstanding concerns of the Federal government regarding the CNMI's garment and foreign labor policies, discuss details of the Administration's recommendations for addressing these problems, and hear local concerns regarding the recommendations. The information gained on the trip was carefully considered. In closing, let me note that the Administration looks forward to working with you and the CNMI to enact legislation that will reconcile Federal responsibilities with the CNMI's needs.

The Office of Management and Budget advises that there is no objection to the presentation of this proposal to Congress, and that its enactment would be in accord with the Administration's program.

Sincerely,

ALLEN P. STAYMAN,
Director,
Office of Insular Affairs.

Mr AKAKA. Mr. President, I am pleased to join Senator MURKOWSKI in introducing the Commonwealth of the Northern Mariana Islands Covenant Implementation Act, legislation to curb trade, immigration, wage, and apparel labeling abuses in the CNMI.

On July 31, 1997, I introduced S. 1100, the CNMI Reform Act, S. 1100 extends the Immigration and Nationality Act to the Commonwealth, limits use of the "Made in USA" label, and applies the U.S. minimum wage to the CNMI. The measure we are introducing today is similar to S. 1100, but also imposes duties on CNMI garments unless garment companies employ a sufficient number of U.S. employees and establishes a comprehensive regime for CNMI immigration and naturalization.

This is a bipartisan bill, drafted by the Clinton administration at the request of the Republican chairman of the Senate Energy Committee. It contains more comprehensive reforms than the measure I introduced earlier this year. Under the Murkowski-Akaka bill, the CNMI garment industry will face severe restrictions because of continued abuses.

After a thorough analysis, the Commerce Department recently concluded that the Commonwealth is an "outpost for Chinese apparel production." The Commerce Department found that apparel manufacturers from the People's Republic of China have transplanted their operations to the CNMI, employing bonded and indentured Chinese leaders to sew Chinese fabric into garments labeled "Made in USA." By using the Commonwealth as an apparel manufacturing base, Chinese manufacturers avoid tariffs and escape United States quotas on finished goods.

Despite promises of the American dream if they work in the CNMI, laborers must sign contracts with the People's Republic of China that waive rights guaranteed to U.S. workers, forbid participation in religious and political activities while in the United States, prohibit workers from marrying, and subject employees to penalties in the PRC. Working conditions in the CNMI garment industry hardly justify granting "Made in USA" status and preferential duties to CNMI garments.

A recent investigative report by King World Productions-"Inside Edition" is evidence of the abuses which garment workers suffer. "Inside Edition" used hidden cameras to expose the overcrowded and squalid buildings workers are forced to live in. Employees described being confined to barracks ringed by barbed wire and being treated more like prisoners than employees.

IMMIGRATION CONCERNS

I am sure many Senators will find it hard to believe that the Immigration and Nationality Act does not apply to all territories in the United States. As surprising as it may be, the CNMI is exempt from U.S. immigration law and maintains its own policy on immigration.

After 20 years, CNMI immigration policy is a proven failure. In 1980, the Commonwealth's population was 16,780. Of these, 12 percent were alien residents. Today, CNMI's has a population of 59,000, more than half of whom are aliens.

Rather than preventing an influx of immigrants, the CNMI has established an aggressive policy of recruiting low-wage, foreign guest workers to operate an ever-expanding garment and tourism industry. According to the CNMI representative in Washington, local immigration policy has "no limit. It is wide open, unrestricted."

The U.S. Immigration and Naturalization Service reports that CNMI authorities have no reliable records of aliens who have entered the CNMI, how long they remain, and when, if ever, they depart. Ninety-one percent of the private sector work force are alien guest workers, and these workers have overwhelmed the CNMI to the point where the unemployment rate among U.S. citizens living in the Commonwealth is 14 percent. There is no justification for an immigration policy that admits foreign workers in such overwhelming numbers that it leads to double-digit unemployment.

Given these circumstances, the application of U.S. immigration law to the CNMI is long overdue.

"MADE IN USA" ABUSE

The evidence that garments sewn in the CNMI directly and unfairly compete with U.S. apparel manufacturers is very strong. According to the Commerce Department, 85 percent of CNMI apparel is classified as import sensitive. This classification means that CNMI garments compete with segments of the U.S. apparel industry that are experiencing significant decline due to heavy import penetration.

Apparel manufacturers in the CNMI enjoy benefits that far exceed those enjoyed by foreign or domestic manufacturers. CNMI garment factories are not subject to the U.S. minimum wage and pay no duty on fabrics they import. Furthermore, quotas do not apply to either fabric imported into the Commonwealth, or to finished garments cut and sewn in the CNMI using foreign labor. Yet these products are labeled "Made in the USA" and compete unfairly with apparel employment elsewhere in the United States.

LABOR ABUSE

The 1976 covenant exempts the CNMI from the Federal minimum wage. This exemption was granted with the understanding that as its economy grew and prospered, the CNMI would raise its minimum wage to the Federal level. Foreign workers typically enter the CNMI under 1-year work permits and are paid a minimum wage of $3.05.

According to the July 1997 report by the Department of the Interior, the lower minimum wage, combined with unlimited access to foreign labor, creates an incentive for employers to hire foreign labor for all jobs, including skilled and entry level jobs at or near the minimum wage. Employment statistics clearly supports the Interior Department's analysis.

The minimum wage is sometimes a lightning-rod for Republicans. However, in a labor market where there is an unlimited supply of guest workers, the low CNMI minimum wage means that low-wage alien laborers are displacing U.S. workers. Any policy that

favors foreign workers over the interests of employed and unemployed U.S. citizens is indefensible.

HUMAN RIGHTS AND SEXUAL ABUSE

The Commonwealth's immigration policy results in serious problems in other areas. The Justice Department has documented numerous cases of women and girls being recruited from the Philippines, China, and other Asian countries expressly for criminal sexual activity. These abuses are a direct consequence the Commonwealth's unrestricted immigration policy.

Typically, these women are told they will work in the CNMI as waitresses, but are forced into nude dancing and prostitution upon their arrival. The Justice Department described this situation as the "systematic trafficking of women and minors for prostitution," which may also involve illegal smuggling, organized crime, immigration document fraud, and pornography. Cases of sexual servitude have also been identified.

The U.S. Justice Department also found cases of female guest workers and aliens living in the CNMI being forced into prostitution through intimidation or threats of physical harm. In some instances, women who resist are kidnapped, raped, and tortured.

I thank Senator MURKOWSKI, the chairman of the Senate Energy and Natural Resources Committee, for his efforts to reform these abuses in the CNMI. I look toward to working with him on moving this bill through our committee so that it can be considered on the Senate floor.

By Mr. BINGAMAN:

S. 1276. A bill to amend the Federal Power Act, to facilitate the transition to more competitive and efficient electric power markets, and for other purposes; to the Committee on Energy and Natural Resources.

THE FEDERAL POWER ACT AMENDMENTS OF 1997

Mr. BINGAMAN. Madam President, I rise today to introduce the Federal Power Act Amendments of 1997. This bill streamlines the Federal regulation of electric power and helps reduce costs for all factories, businesses, and homeowners. The changes in Federal regulation in this bill will also yield savings for consumers by providing new opportunities for competition in the wholesale market for electric power.

This bill improves the way the Federal Government regulates electric power to achieve three important goals. First, it will facilitate the ongoing transition to more competitive and efficient markets. Second, it will assure the continued reliability of the transmission system that carries the power in interstate commerce. And third, it will remove Federal regulatory ambiguities and barriers for those States that elect to give customers a choice in selecting their energy provider. Very importantly, my bill leaves for the States the issues that are best dealt with at that level and provides for Federal authority only over issues raising a clear national interest.

In the last 9 months the Energy and Natural Resources Committee has conducted seven workshops that helped bring forward many of the complex electric power issues facing State and Federal regulators. The debate today remains centered on whether or not the Federal Government should require the utilities in every State to implement competition at the retail level. There are, however, other important issues that underlie this central debate. These include the possible repeal of the Public Utilities Regulatory Policy Act, known as PURPA; changes in the Public Utility Holding Company Act, known to everyone here as PUHCA; and the treatment of past investments in powerplants that may no longer be economical, so called stranded costs, to name just a few.

Our electric power industry has a strong regional and local character with over 3,000 individual utilities, including investor-owned, municipal, Federal, and rural cooperatives. Several comprehensive bills have now been introduced in the House and Senate that promise to deregulate the Nation's electric power industry. Meanwhile, a number of individual States are moving forward with retail competition.

However, in list of the vast difference in the circumstance of 3,000 individual utility companies, it is going to be difficult to develop a consensus on comprehensive Federal legislation. If comprehensive electricity legislation does not move forward, I believe Congress must still address a number of important issues that can only be dealt with at the Federal level. I'd like to take a moment to explain what these issues are and how my bill differs from proposals that require retail competition for all electric utility customers.

Madam President, our electric power industry is made up of three main components: Powerplants that generate the power, high-voltage transmission lines that carry the power over long distances, and the local distribution systems that bring the power into our homes and businesses. Most of the other bills would require States to deregulate their utilities and implement retail competition. Still, for all the talk about deregulation, I hope everyone realizes they are talking about deregulating, only the first piece: The powerplants that use coal, natural gas, or other sources to generate the energy on which we all depend. The other two components of the industry, the transmission and local distribution systems, will remain regulated monopolies.

My bill takes a very different approach. It is not a restructuring bill. It will not overturn the established division between State and Federal regulation, and it does not require States to implement retail competition by a date certain. Rather, my bill forges new ground in the debate by focusing on the middle piece of the electric utility industry: The interstate transmission grid that is the critical link between generators and consumers. The transmission system clearly involves interstate commerce with a distinct national interest that can only be addressed at the Federal level.

Let me explain why it is important that we streamline the Federal regulation of interstate transmission and how that can save consumers money. The Nation's transmission system serves, if you will, like an interstate highway for electric power. We all know what can happen when the highway on-ramps or off-ramps are closed or when bottlenecks or breakdowns occur. The same is true of the electric transmission system. The smooth flow of electric power depends on having sufficient transmission capacity and on the system operating reliably and without disruptions. Problems in the electricity transmission system, like problems on interstate highways, can impede commerce. If some businesses are denied access, or if different highways operate under different rules, competition will suffer.

Madam President, I believe an efficient and reliable electric transmission system will be one of the most important factors in the development of robust regional and national markets for electric power. Over the last 100 years we have developed a complex grid of transmission lines owned by private, government, and cooperative utilities. With the Energy Policy Act of 1992, Congress took the first steps toward providing fair and open access to portions of the transmission system. Today, Federal and State regulators are continuing to push for increased competition. These dramatic changes in regulation are placing new demands on the transmission system. We are asking it to function increasingly like the interstate highways. However, the system we have was never planned to function in this more competitive environment.

Today we have a transmission system with many constraints and bottlenecks, with no uniform system of regulation, with some portions of the system closed to users, and without any assurance that all users of the system will follow the same rules. Clearly, we can't hope to realize the full benefits of competition if buyers and sellers of power can't deal equally in an open and fair market. Without fair competition, the cost of power is higher than it should be. My bill will help correct this situation.

Currently, the regulation of power sales over the Nation's electric power grid is split between various State and

Federal jurisdictions. The Federal Energy Regulatory Commission has authority over pricing of transmission service. The States have authority to license and site new transmission facilities. A growing portion of power transmission and sales is taking place on a regional and even a national scale. We are increasingly dependent on long-distance power transmission; sometimes from as far away as 1,000 miles. In the West, every single State from New Mexico to Montana and from California to Washington is electrically interconnected. All of the Eastern States except parts of Texas are similarly interconnected. My bill seeks to maintain a careful balance of State and national interests that assures the Nation's transmission system operates efficiently, all players are treated equitably, and reliability is maintained.

Madam President, I'd like now to describe briefly some of the key provisions in the bill.

FEDERAL AND STATE JURISDICTION

One of the important goals of this bill is to resolve ambiguities in Federal and State jurisdiction that have arisen since 1992 with the implementation of open transmission access. First, this bill removes once and for all any ambiguity over whether States, indeed, have the authority to implement retail competition. In addition, we used to have a clear line between Federal and State jurisdiction. However, now that some States are electing to implement retail competition, the bright line is increasingly blurred. If we don't clarify these ambiguities we could well find ourselves swamped with litigation that frustrates State and Federal efforts to expand competition.

TRANSMISSION ACCESS

Another provision in the bill requires all transmission systems to be operated under the same regulatory policies. Under current law, FERC's jurisdiction is primarily limited to transmission systems owned by investor-owned utilities. Only these utilities are required to provide open access to anyone who requests it. The goal is to bring all transmission systems, including those owned by Federal entities, municipalities, and rural electric co-ops, under the same system of regulation. My bill also extends fair and open access to transmission lines that cross the borders with Mexico and Canada. A uniform regulatory environment will promote the use of the transmission grid for fair and equitable competition.

RURAL AND LOW-INCOME CONSUMERS

Will all customers be able to benefit from competition? I have heard this concern expressed often. My bill makes sure the States that choose to implement retail competition do not forget about low-income and retired citizens on fixed incomes, or about rural consumers who might otherwise be left out because they are not as profitable to serve as urban consumers.

RECIPROCITY

A provision of this bill deals with the situation where one State elects competition and a neighboring State does not. Utilities in the State without competition could cross the State line and steal customers without fear of losing their own customers. My bill would prevent this practice by allowing a State to protect its own utilities from unfair competition. It also encourages utilities to open up their systems voluntarily so they can participate in the growing competition.

RELIABILITY

Finally, to assure fair and open competition on the Nation's interstate transmission system, the bill gives the Federal Energy Regulatory Commission authority in several new areas. First, to enhance system reliability, we provide the commission with regulatory authority to back up the existing voluntary system with rules and regulations that have the weight of Federal enforcement. The existing system under the National Electric Reliability Council has worked effectively. However, competition is bringing many new players to the interstate transmission grid, and effective enforcement of rules and standards requires there by some teeth in the system.

TRANSMISSION SITING

The bill provides a Federal role, in partnership with States, to assure that transmission lines that cross State boundaries are upgraded and expanded when needed. Any siting decision would be subject to all applicable State and Federal legislation, including the Environmental Protection Act. The interstate transmission system is one of the keys to maintaining system reliability and additional capacity will stimulate competition by allowing new players into the market.

INDEPENDENT SYSTEM OPERATORS

My bill also provides new authority to the Federal Energy Regulatory Commission to assure the transmission system is managed and operated in an open and fair way that does not discriminate against any users. With this new authority, the commission may require the formation of independent operators for regional transmission systems. Having an independent system operator provides greater efficiency in transmission pricing, makes sure there is fair and open access for all users, and that the owners of the transmission system do not use it to their own advantage. In some cases, these independent systems are already developing voluntary or under state mandates.

Madam President, I'd like to say a few words about an issue known as "stranded costs." Stranded costs are investments in powerplants made under past regulatory practices that may no longer be economic in the new competitive environment. Stranded costs are of critical concern to utility investors and to rural electric cooperatives. As I hope I have made clear, my bill focuses on the regulation and use of the interstate transmission system, a national issue that does not compel retail competition or the resulting stranded costs. I believe the States are the proper forum to deal with retail competition and to resolve thorny issues like stranded costs that are not national in nature. We in Congress are monitoring how the States are handling stranded costs from retail competition. If in the future it appears that States are not equitably addressing stranded costs, then I believe Congress should take a very serious look at the subject.

In putting forward the proposals in this bill I have listened to a number of suggestions and evaluated a variety of concepts. Not all of the ideas could be incorporated into the framework of a single bill, even though many of the approaches clearly have merit. As the debate on electricity regulation moves forward, I expect to refine and expand on the proposals I am putting forward today.

In summary, Madam President, this bill will reduce costs for consumers by encouraging the development of robust competition in the interstate market for electric power. We do this by streamlining Federal regulation of the interstate transmission system and by assuring that all transmissions owners and users play by the same rules. In addition, the bill will remove Federal regulatory barriers for those states that allow consumers to choose their source of electric power. I hope all Senators will consider the important proposals in this bill.

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

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

S. 1276

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Power Act Amendments of 1997".

SEC. 2. CLARIFICATION OF JURISDICTION.

(a) DECLARATION OF POLICY.—Section 201(a) of the Federal Power Act (16 U.S.C. 824(a)) is amended by—

(1) inserting after "transmission of electric energy in interstate commerce" the following: ", including the unbundled transmission of electric energy sold at retail,"; and

(2) striking "such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States." and inserting the following: "such Federal regulation shall not extend, however, to the bundled retail sale of electric energy or to unbundled local distribution service, which are subject to regulation by the States.".

(b) APPLICATION OF PART.—Section 201(b) of the Federal Power Act (16 U.S.C. 824(b)(1)) is amended by—

(1) inserting after "the transmission of electric energy in interstate commerce" the following: ", including the unbundled transmission of electric energy sold at retail,"; and

(2) adding at the end the following:

"(3) The Commission, after consulting with the appropriate State regulatory authorities, shall determine, by rule or order, which facilities used for the transmission and delivery of electric energy are used for transmission in interstate commerce subject to the jurisdiction of the Commission under this Part, and which are used for local distribution subject to State jurisdiction.".

(c) DEFINITION OF INTERSTATE COMMERCE.—Section 201(c) of the Federal Power Act (16 U.S.C. 824(c)) is amended by inserting after "outside thereof" the following: "(including consumption in a foreign country)".

(d) DEFINITIONS OF TYPES OF SALES.—Section 201(d) of the Federal Power Act (16 U.S.C. 824(d)) is amended by—

(1) inserting "(1) after the subsection designation;

(2) adding at the end the following:

"(2) The term "bundled retail sale of electric energy" means the sale of electric energy to an ultimate consumer in which the generation and transmission service are not sold separately.

"(3) The term "unbundled local distribution service" means the delivery of electric energy to an ultimate consumer if—

"(A) the electric energy and the service of delivering it are sold separately, and

"(B) the delivery uses facilities for local distribution as determined by the Commission under subsection (b)(3).

"(4) The term "unbundled transmission of electric energy sold at retail" means the transmission of electric energy to an ultimate consumer if—

"(A) the electric energy and the service of transmitting it are sold separately, and

"(B) the transmission uses facilities for transmission in interstate commerce as determined by the Commission under subsection (b)(3).".

(e) DEFINITIONS OF PUBLIC UTILITY.—Section 201 of the Federal Power Act (16 U.S.C. 824) is amended by striking subsection (e) and inserting the following:

"(e) The term "public utility" when used in this Part or in the Part next following means—

"(1) any person who owns or operates facilities subject to the jurisdiction of the Commission under this Part (other than facilities subject to such jurisdiction solely by reason of section 210, 211, or 212); or

"(2) any electric utility or Federal power marketing agency not otherwise subject to the jurisdiction of the Commission under this Part, including—

"(A) the Tennessee Valley Authority,

"(B) a Federal power marketing agency,

"(C) a State or any political subdivision of a State, or any agency, authority, or instrumentality of a State or political subdivision,

"(D) a corporation or association that has ever received a loan for the purpose of providing electric service from the Administrator of the Rural Electrification Administration or the Rural Utilities Service under the Rural Electrification Act of 1936; or

"(E) any corporation or association which is wholly owned, directly or indirectly, by any one or more of the foregoing.

but only with respect to determining, fixing, and otherwise regulating the rates, terms, and conditions for the transmission of electric energy under this Part (including sections 217, 218, and 219).".

(f) APPLICATION OF PART TO GOVERNMENT UTILITIES.—Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by striking "No provision" and inserting "Except as provided in subsection (e)(2) and section 3(23), no provision".

(g) DEFINITION OF TRANSMITTING UTILITY.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by striking paragraph (23) and inserting the following:

"(23) TRANSMITTING UTILITY.—The term "transmitting utility" means any electric utility, qualifying cogeneration facility, qualifying small power production facility, Federal power marketing agency, or any public utility, as defined in section 201(e)(2), that owns or operates electric power transmission facilities which are used for the sale of electric energy.".

SEC. 3. FEDERAL WHEELING AUTHORITY.

(a) COMMISSION AUTHORITY TO ORDER RETAIL WHEELING.—

(1) Section 211(a) of the Federal Power Act (16 U.S.C. 824k(a)) is amended by striking "for resale".

(2) Section 212(a) of the Federal Power Act (16 U.S.C. 824k(a) is amended by striking "wholesale transmission services" each place it appears and inserting "transmission services".

(3) Section 212(g) of the Federal Power Act (16 U.S.C. 824k(g)) is repealed.

(b) LIMITATION ON COMMISSION AUTHORITY TO ORDER RETAIL WHEELING.—Section 212 of the Federal Power Act (16 U.S.C. 824k) is further amended by striking subsection (h) and inserting the following:

"(h) LIMITATION ON COMMISSION AUTHORITY TO ORDER RETAIL WHEELING.—No rule or order issued under this Act shall require or be conditioned upon the transmission of electric energy:

"(1) directly to an ultimate consumer in connection with a sale of electric energy to the consumer unless the seller of such energy is permitted or required under applicable State law to make such sale to such consumer, or

"(2) to, or for the benefit of, an electric utility if such electric energy would be sold by such utility directly to an ultimate consumer, unless the utility is permitted or required under applicable State law to sell electric energy to such ultimate consumer.".

(c) CONFORMING AMENDMENT.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended by striking paragraph (24) and inserting the following:

"(24) TRANSMISSION SERVICES.—The term "transmission services" means the transmission of electric energy in interstate commerce.".

SEC. 4. STATE AUTHORITY TO ORDER RETAIL ACCESS.

Part II of the Federal Power Act is further amended by adding at the end the following:

"SEC. 215. STATE AUTHORITY TO ORDER RETAIL ACCESS.

"(a) STATE AUTHORITY.—Neither silence on the part of Congress nor any Act of Congress shall be construed to preclude a State or State commission, acting under authority of state law, from requiring an electric utility subject to its jurisdiction to provide unbundled local distribution service to any electric consumer within such State.

"(b) NONDISCRIMINATORY SERVICE.—If a State or State commission permits or requires an electric utility subject to its jurisdiction to provide unbundled local distribution service to any electric consumer within such State, the electric utility shall provide such service on a not unduly discriminatory basis. Any law, regulation, or order of a State or State commission that results in unbundled local distribution service that is unjust, unreasonable, unduly discriminatory, or preferential is hereby preempted.

"(c) RECIPROCITY.—Notwithstanding subsection (b), a State or State commission may bar an electric utility from selling electric energy to an ultimate consumer using local distribution facilities in such State if such utility or any of its affiliates owns or controls local distribution facilities and is not itself providing unbundled local distribution service.

"(d) STATE CHARGES.—Nothing in this Act shall prohibit a State or State regulatory authority from assessing a nondiscriminatory charge on unbundled local distribution service within the State, the retail sale of electric energy within the State, or the generation of electric energy for consumption by the generator within the State.".

SEC. 5. UNIVERSAL AND AFFORDABLE SERVICE.

Part II of the Federal Power Act is further amended by adding at the end the following:

"SEC. 216. UNIVERSAL AND AFFORDABLE SERVICE.

"(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

"(1) every consumer of electric energy should have access to electric energy at reasonable and affordable rates, and

"(2) the Commission and the States should ensure that competition in the electric energy business does not result in the loss of service to rural, residential, or low-income consumers.

"(b) CONSIDERATION AND REPORTS.—Any State or State commission that requires an electric utility subject to its jurisdiction to provide unbundled local distribution service shall—

"(1) consider adopting measures to—

"(A) ensure that every consumer of electric energy within such State shall have access to electric energy at reasonable and affordable rates, and

"(B) prevent the loss of service to rural, residential, or low-income consumers; and

"(2) report to the Commission on any measures adopted under paragraph (1).".

SEC. 6. NATIONAL ELECTRIC RELIABILITY STANDARDS.

Part II of the Federal Power Act is further amended by adding at the end the following:

"SEC. 217. NATIONAL ELECTRIC RELIABILITY STANDARDS.

"(a) RELIABILITY STANDARDS.—The Commission shall establish and enforce national electric reliability standards to ensure the reliability of the electric transmission system.

"(b) DESIGNATION OF NATIONAL AND REGIONAL COUNCILS.—

"(1) For purposes of establishing and enforcing national electric reliability standards under subsection (a), the Commission may designate an appropriate number of regional electric reliability councils composed of electric utilities or transmitting utilities, and one national electric reliability council composed of designated regional electric reliability councils, whose mission is to promote the reliability of electric transmission system.

"(2) The Commission shall not designate a regional electric reliability council unless the Commission determines that the council—

"(A) permits open access to membership from all entities engaged in the business of selling, generating, transmitting, or delivering electric energy within its region;

"(B) provides fair representation of its members in the selection of its directors and the management of its affairs, and

"(C) adopts and enforces appropriate standards of operation designed to promote the reliability of electric transmission system.

"(c) INCORPORATION OF COUNCIL STANDARDS.—The Commission may incorporate, in whole or in part, the standards of operation adopted by the regional and national electric reliability councils in the national electric reliability standards adopted by the Commission under subsection (a).

"(d) ENFORCEMENT.—The Commission may, by rule or order, require any public utility or transmitting utility to comply with any standard adopted by the Commission under this section.

SEC. 7. SITING NEW INTERSTATE TRANSMISSION FACILITIES.

Part II of the Federal Power Act is further amended by adding at the end the following:

"SEC. 218. SITING NEW INTERSTATE TRANSMISSION FACILITIES.

"(a) COMMISSION AUTHORITY.—Whenever the Commission, after notice and opportunity for hearing, finds such action necessary or desirable in the public interest, it may order a transmitting utility to enlarge, extend, or improve its facilities for the interstate transmission of electric energy.

"(b) PROCEDURE.—The Commission may commence a proceeding for the issuance of an order under subsection (a) upon the application of an electric utility, transmitting utility, or state regulatory authority, or upon its own motion.

"(c) COMPLIANCE WITH OTHER LAWS.—Commission action under this section shall be subject to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all other applicable state and federal laws.

"(d) USE OF JOINT BOARDS.—Before issuing an order under subsection (a), the Commission shall refer the matter to joint board appointed under section 209(a) for advice and recommendations on the need for, design of, and location of the proposed enlargement, extension, or improvement. The Commission shall consider the advice and recommendations of the Board before ordering such enlargement, extension, or improvement.

"(e) LIMITATION ON AUTHORITY.—The Commission shall have no authority to compel a transmitting utility to extend or improve its transmission facilities if such enlargement, extension, or improvement would unreasonably impair the ability of the transmitting utility to render adequate service to its customers.".

SEC. 8. REGIONAL INDEPENDENT SYSTEM OPERATORS.

Part II of the Federal Power Act is further amended by adding at the end the following:

"SEC. 219. REGIONAL INDEPENDENT SYSTEM OPERATORS.

"(a) Regional Transmission Systems.—Whenever the Commission finds such action necessary or desirable in the public interest to ensure the fair and non-discriminatory access to transmission services within a region, the Commission may order the formation of a regional transmission system and may order any transmitting utility operating within such region to participate in the regional transmission system.

"(b) OVERSIGHT BOARD.—The Commission shall appoint a regional oversight board to oversee the operation of the regional transmission system. Such oversight board shall be composed of a fair representation of all of the transmitting utilities participating in the regional transmission system, electric utilities and consumers served by the system, and State regulatory authorities within the region. The regional oversight board shall ensure that the independent system operator formulates policies, operates the system, and resolves disputes in a fair and non-discriminatory manner.

"(c) INDEPENDENT SYSTEM OPERATOR.—The regional oversight board shall appoint an independent system operator to operate the regional transmission system. No independent system operator shall—

"(1) own generating facilities or sell electric energy, or

"(2) be subject to the control of, or have a financial interest in, any electric utility or transmitting utility within the region served by the independent system operator.

"(d) COMMISSION RULES.—The Commission shall establish rules necessary to implement this section.".

SEC. 9. ENFORCEMENT.

(a) GENERAL PENALTIES.—Section 316(c) of the Federal Power Act (16 U.S.C. 825o(c)) is amended buy—

(1) striking "subsection" and inserting "section"; and

(2) striking "or 214" and inserting: "214, 217, 218, or 219".

(b) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended by striking "or 214" each place it appears and inserting: "214, 217, 218, or 219".

SEC. 10. AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.

Section 10 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

"(m) PROTECTION OF EXISTING WHOLESALE POWER PURCHASE CONTRACTS.—No State or State regulatory authority may bar a State regulated electric utility from recovering the cost of electric energy the utility is required to purchase from a qualifying cogeneration facility or qualifying small power production facility under this section.".

THE FEDERAL POWER ACT AMENDMENTS OF 1997

(Federal Legislation Focused on Federal Regulation of Interstate Transmission and Wholesale Sales)

SECTION-BY-SECTION SUMMARY

Section 1. Short Title

This act may be cited as the "Federal Power Act Amendments of 1997." This bill does not mandate retail competition. The purpose is to facilitate the transition to more competitive and efficient markets for bulk power and to foster the development of state-directed efforts to establish retail competition.

Section 2. Clarification of Federal and State Jurisdiction

This section resolves ambiguities in federal and state jurisdiction that have arisen with the implementation of Title VII of the Energy Policy Act of 1992 and the ensuing trend to state-implemented retail competition. Unless clarified, these ambiguities could spawn protracted litigation and frustrate federal and state efforts to expand competition. This section also extends FERC's jurisdiction over the remaining 22% of interstate transmission systems not currently covered.

(a)(1) Clarifies that transmission of electric energy in interstate commerce, which is under FERC jurisdiction, includes the unbundled transmission of electric energy sold at retail. FERC has proceeded under the assumption it has authority to order transmission necessary to implement state-ordered retail competition, and utilities have filed transmission tariffs required to implement retail competition. Paragraph (2) reinforces existing state jurisdiction over the bundled retail sale of electric energy and the unbundled local distribution of electric energy.

(b) In Order No. 888, FERC took the position that the transmission component of unbundled sales is subject to FERC jurisdiction. Paragraph (1) establishes FERC's authority under Part II of the Federal Power Act over the transmission in interstate commerce of electric power as part of an unbundled sale of energy sold at retail. Paragraph (2) authorizes FERC, in consultation with state regulators, to draw the line between interstate transmission, which is subject to FERC authority, and local distribution, which is subject to state jurisdiction. FERC's jurisdiction over unbundled transmission necessitates a process for determining where FERC jurisdiction ends and state jurisdiction over unbundled distribution begins.

(c) Extends FERC's jurisdiction over transmission of electric energy in interstate commerce if the energy will be consumed in a foreign country. The ambiguity in existing law was raised in FERC's October 4, 1996, order on complaint in Docket No. EL96–74–000.

(d) Adds definitions to Part II for "bundled retail sale of electric energy," "unbundled local distribution service," and "unbundled transmission of electric energy sold at retail."

(e) Redefines "public utility" so as to extend FERC's authority to regulate transmission services (and only transmission) of non-jurisdictional utilities, including TVA, Power Marketing agencies, municipal utilities, and rural electric cooperatives. Currently, FERC's FPA jurisdiction is limited primarily to investor-owned utilities. Non-jurisdictional utilities control a significant portion of the nation's existing transmission capacity. The full benefits of wholesale competition may not be realized unless all transmitting utilities are subject to the same regulatory policies.

(f) Continues exemption of TVA, PMAs, municipal utilities and rural electric cooperatives from FERC jurisdiction under Part II, except with respect to regulation of transmission. This section leaves intact the exemption from FERC jurisdiction for any wholesale sales of power made by non-jurisdictional utilities.

(g) Redefines "transmitting utility" to cover all transmission systems, including any electric utility, qualifying cogeneration facility, qualifying small power production facility, federal power marketing agency, public utility (as redefined by subsection (e)) that owns or operates transmission facilities used for the sale of electric energy.

Section 3. Limitations on Federal Wheeling Authority

Sections 211 and 212 of the FPA currently prohibit FERC from ordering retail wheeling. This section clarifies FERC's authority to order interstate transmission service for wholesale sales and as part of a retail sale, but the latter only if authorized by state law.

(a) Clarifies FERC's authority to order transmission access under sections 211 and 212 for transmission in interstate commerce for both wholesale sales for resale and unbundled transmission of electric energy sold at retail.

(b) Limits FERC's authority to order unbundled transmission of electric energy sold at retail under sections 211 and 212 only if such sales are permitted or required under applicable state law.

(c) Conforming amendment that broadens the definition of transmission services to include both wholesale transmission and

unbundled transmission of electric energy sold at retail.

Section 4. State Authority To Order Retail Access

Adds a new section 215 at the end of Part II to clarify and extend state authority over access to retail customers.

New subsection (a) recognizes state authority to require an electric utility to provide unbundled local distribution service to any consumer. The Energy Policy Act of 1992 included in the FPA a savings clause at the end of subsection 212(h) that preserves whatever state authority may exist to order retail wheeling; however, it does not affirm conclusively that the states do in fact have such authority. Because retail wheeling is in interstate commerce, it could be argued states lack authority to order retail wheeling. This subsection removes the statutory ambiguity.

New subsection (b) requires states that authorize utilities to provide unbundled local distribution service to assure the utilities provide distribution service on a nondiscriminatory basis. This subsection will help assure that local distribution companies do not use state-regulated monopolies to favor, for example, their un-regulated subsidiaries.

New subsection (c) provides for retail reciprocity. States may bar an electric utility from selling power at retail in the state unless the utility is itself providing unbundled local distribution service. Currently, a state may not condition access to its retail markets without facing a challenge as an unlawful burden on interstate commerce. This subsection eliminates the inequity of out-of-state utilities competing for retail customers in states with open access without having to provide similar access to their own customers. This provision may also create an incentive for utilities to open their markets to retail competition.

New subsection (d) assures state authority to impose a nondiscriminatory charge on the unbundled local distribution service, retail sale, or generation for consumption of electric energy. Such a charge might be used to fund, for example, competitive transition costs, universal and affordable service under section 216, demand side-management programs, etc.

Section 5. Universal and Affordable Service

Adds a new section 216 at the end of Part II that puts Congress on record that every consumer should have access to electric power at reasonable and affordable rates and that FERC and the states should assure that competition does not result in the loss of service to rural, residential, or low-income customers. Requires states that adopt retail competition to consider adopting measures to assure universal and affordable service and to report to FERC on the measures adopted. Funds to cover the cost of such measures may be assessed under new section 215(d).

Section 6. National Electric Reliability Standards

Adds a new section 217 at the end of Part II to establish national electric reliability standards under FERC jurisdiction. Competition is bringing many new players to the interstate transmission grid. Such competition will place new and conflicting requirements on NERC's existing voluntary system, which lacks enforcement powers. There is a clear and legitimate federal role in ensuring system reliability. This section is consistent with the draft recommendations of the Secretary of Energy Advisory Board Task Force on Electric-System Reliability.

New subsection (a) authorizes FERC to establish and enforce national electric reliability standards to ensure the reliability of the electric transmission system.

New subsection (b) authorizes FERC to designate an appropriate number of regional reliability councils composed of electric utilities and transmitting utilities, and one national electric reliability council composed of the regional councils. The mission of the councils is to promote the reliability of the electric transmission system. FERC shall not designate a regional council unless the commission determines the council permits open access to membership from all electric utilities (IOUs, NUGs, power marketers, municipal utilities or TVA) and transmitting utilities in the region, provides fair representation in the selection of its directors and management, and adopts and enforces appropriate standards of operation.

New subsection (c) authorizes FERC to incorporate standards of operation adopted by the councils into the standards adopted under subsection (a).

New subsection (d) authorizes FERC, by rule or order, to require any public utility (electric utility plus the PMAs) or any transmitting utility to comply with the standards.

Section 7. Siting New Interstate Transmission Facilities

Adds a new section 218 at the end of Part II to authorize FERC to work with the states on siting new interstate transmission facilities. An integrated and well planned national transmission grid is a critical element in the development of open and fair competition, maintaining system reliability, reducing market power, and mitigating stranded costs. This section does not preempt the states' exclusive authority over siting of transmission lines.

New subsection (a) gives FERC authority, after notice and opportunity for hearing, to order a transmitting utility to extend, enlarge or improve its facilities for the interstate transmission of electric energy.

New subsection (b) defines when FERC may commence a proceeding under subsection (a).

New subsection (c) requires FERC to comply with the National Environmental Policy Act of 1969 and all other applicable state and federal laws.

New subsection (d) requires FERC to refer the matter to a joint board appointed under subsection (a) of section 209 for advice on the need for, design of, and location of the proposed extension or improvement. The Commission shall consider the advice and recommendations of the board before ordering such extension or improvement.

New subsection (e) limits FERC's authority to compel a transmitting utility to extend or improve its interstate transmission facilities if it would impair the utility's ability to serve its existing customers.

Section 8. Regional Independent System Operators

Adds a new section 219 at the end of Part II to allow for the establishment of regional independent system operators. Formation of ISOs could be a valuable tool in limiting market power and maintaining reliability. FERC in order 888 strongly encouraged the formation of ISOs, but did not address the issue of its authority to compel participation. This section authorizes FERC to require participation in an ISO to assure nondiscriminatory access to the transmission grid for all parties. ISOs could also play a role in siting of new transmission lines under Section 7.

New subsection (a) authorizes the commission to order the formation of a regional independent transmission system and to compel utilities in the region to participate. The FERC may order the formation of an ISO if such action is necessary or desirable in the public interest to ensure the fair and non-discriminatory access to transmission services.

New subsection (b) authorizes FERC to appoint a regional oversight board to oversee the operation of the regional transmission system. The board shall have fair representation of all utilities, consumers, and state regulators in the region.

New subsection (c) authorizes the oversight board to appoint an independent system operator to operate the regional transmission system. The operator may not own generating facilities, sell electric energy, or be subject to the control, or have a financial interest in, any utility in the region served by the independent system operator.

New subsection (d) authorizes FERC to establish rules necessary to implement this section.

Section 9. Enforcement

(a) Extends the exemption from general penalties (section 316) to sections 217, 218, and 219.

(b) Extends the enforcement provisions for violations and civil penalties in section 316A to sections 217, 218, and 219.

Section 10. Amendment to PURPA

Adds new subsection (m) at the end of section 210 of PURPA to protect wholesale contracts entered into in accordance with federal legislation. States may not bar a regulated utility from recovering the cost of any PURPA contracts. Such costs may be recovered, for example, through rates, charges assessed under section 215(d), exit fees, etc.

ADDITIONAL COSPONSORS

S. 89

At the request of Ms. SNOWE, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 89, a bill to prohibit discrimination against individuals and their family members on the basis of genetic information, or a request for genetic services.

S. 358

At the request of Mr. DEWINE, the names of the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from North Carolina [Mr. FAIRCLOTH] were added as cosponsors of S. 358, a bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

S. 412

At the request of Mr. LAUTENBERG, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Hawaii [Mr. AKAKA], and the Senator from Utah [Mr. HATCH] were added as cosponsors of S. 412, a bill to provide for a national standard to prohibit the operation of motor vehicles by intoxicated individuals.

S. 621

At the request of Mr. D'AMATO, the name of the Senator from Wyoming

[Mr. THOMAS] was added as a cosponsor of S. 621, a bill to repeal the Public Utility Holding Company Act of 1935, to enact the Public Utility Holding Company Act of 1997, and for other purposes.

S. 657

At the request of Mr. DASCHLE, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 657, a bill to amend title 10, United States Code, to permit retired members of the Armed Forces who have a service-connected disability to receive military retired pay concurrently with veterans' disability compensation.

S. 803

At the request of Mr. THURMOND, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 803, a bill to permit the transportation of passengers between United States ports by certain foreign-flag vessels and to encourage United States-flag vessels to participate in such transportation.

S. 1096

At the request of Mr. GRASSLEY, the names of the Senator from Ohio [Mr. DEWINE], the Senator from Wyoming [Mr. ENZI], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Kansas [Mr. ROBERTS], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1133

At the request of Mr. COVERDELL, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1133, a bill to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses and to increase the maximum annual amount of contributions to such accounts.

S. 1180

At the request of Mr. KEMPTHORNE, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1180, a bill to reauthorize the Endangered Species Act.

S. 1215

At the request of Mr. ASHCROFT, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 1215, a bill to prohibit spending Federal education funds on national testing.

S. 1226

At the request of Mr. ABRAHAM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 1226, a bill to dismantle the Department of Commerce.

At the request of Mr. NICKLES, his name was withdrawn as a cosponsor of S. 1226, supra.

S. 1260

At the request of Mr. GRAMM, the names of the Senator from Utah [Mr. BENNETT] and the Senator from Minnesota [Mr. GRAMS] were added as cosponsors of S. 1260, a bill to amend the Securities Act of 1933 and the Securities Exchange Act of 1934 to limit the conduct of securities class actions under State law, and for other purposes.

S. 1264

At the request of Mr. HARKIN, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1264, a bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through enhanced enforcement.

SENATE CONCURRENT RESOLUTION 52

At the request of Mr. HOLLINGS, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Concurrent Resolution 52, a concurrent resolution relating to maintaining the current standard behind the "Made in USA" label, in order to protect consumers and jobs in the United States.

SENATE RESOLUTION 96

At the request of Mr. CRAIG, the names of the Senator from Tennessee [Mr. FRIST], the Senator from Nebraska [Mr. HAGEL], the Senator from New Hampshire [Mr. SMITH], the Senator from Colorado [Mr. ALLARD], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Arkansas [Mr. BUMPERS], the Senator from Hawaii [Mr. AKAKA], the Senator from Illinois [Mr. DURBIN], the Senator from Maryland [Ms. MIKULSKI], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from North Dakota [Mr. CONRAD], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Massachusetts [Mr. KERRY], the Senator from Michigan [Mr. LEVIN], the Senator from New York [Mr. MOYNIHAN], and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of Senate Resolution 96, a resolution proclaiming the week of March 15 through March 21, 1998, as "National Safe Place Week."

SENATE RESOLUTION 124

At the request of Mr. ROTH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Resolution 124, a resolution to state the sense of the Senate that members of the Khmer Rouge who participated in the Cambodian genocide should be brought to justice before an international tribunal for crimes against humanity.

AMENDMENTS SUBMITTED

THE INTERMODAL TRANSPORTATION ACT OF 1997

CHAFEE AMENDMENTS NOS. 1310–1311

Mr. CHAFEE proposed two amendments to the bill (S. 1173) to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes; as follows:

AMENDMENT NO. 1310

On page 195, line 1, strike "The" and insert "Other than for purposes of section 149 of the Internal Revenue Code of 1986, the".

On page 202, strike lines 13 through 15 and insert the following:

(4) DEDICATED REVENUE SOURCES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(B) USE OF PROCEEDS FROM TAX-EXEMPT FINANCING PROHIBITED.—For the purposes of this section and sections 1315 and 1316, the direct or indirect use of proceeds from the issuance by any State or local government of tax-exempt bonds for any portion of any project financing, prepayments, or repayments is prohibited.

On page 210, line 5, insert "taxable" before "project obligations".

AMENDMENT NO. 1311

On page 39, line 15, after "budget" insert the following: "(as specified in the letter from the Director of the Congressional Budget Office to the Chairman of the Senate Committee on Environment and Public Works dated October 6, 1997)".

CHAFEE (AND WARNER) AMENDMENTS NOS. 1312–1313

Mr. CHAFEE (for himself and Mr. WARNER) proposed two amendments to the bill, S. 1173, supra; as follows:

AMENDMENT NO. 1312

On page 250, between lines 18 and 19, insert the following:

"(6) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (2).

AMENDMENT NO. 1313

On page 9, line 21, after "139(a)", insert the following: "(as in effect on the day before the date of enactment)".

CHAFEE (AND WARNER) AMENDMENT NO. 1314

Mr. CHAFEE (for himself and Mr. WARNER) proposed an amendment to amendment No. 1313 proposed by Mr. CHAFEE to the bill, S. 1173, supra; as follows:

At the end of the amendment add the following: "of the Intermodal Surface Transportation Efficiency Act of 1997)".

THE BIPARTISAN CAMPAIGN REFORM ACT OF 1997

MURRAY AMENDMENTS NOS. 1315–1316

(Order to lie on the table.)

Mrs. MURRAY submitted two amendments intended to be proposed by her to the bill (S. 25) to reform the financing of Federal elections; as follows:

AMENDMENT NO. 1315

At the end of title III, insert the following:

SEC. . DISCLOSURE OF DONOR LISTS FOR CERTAIN TAX-EXEMPT ORGANIZATIONS.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"( ) REQUIRED DISCLOSURE.—An organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that is required to file a report under this Act with respect to independent expenditures shall include in such report the name and address of any donor whose aggregate donations to the organization during the calendar year and the preceding calendar year exceed $5,000. The organization does not need to disclose donors that have been disclosed in a previous report and have not made any donations since the last disclosure.".

AMENDMENT NO. 1316

On page 29, strike lines 9 through 20 and insert the following:

SEC. 304. REPORTING REQUIREMENTS FOR CONTRIBUTIONS IN ANY AMOUNT.

(a) SECTION 302.—Section 302 of the Federal Election Campaign Act of 1971 (2 U.S.C. 432) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "and if the amount of the contribution is in excess of $50"; and

(ii) by inserting a comma after "making a contribution" and

(B) in paragraph (2)(A), by inserting "and the name and address of the person making the contribution" after "such contribution"; and

(2) in subsection (c)(2), by striking "in excess of $50".

(b) SECTION 304.—Section 304(b)(93)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)(A)) is amended—

(1) by striking ", whose contribution" and all that follows through "together"; and

(2) by striking the semicolon at the end and inserting ", except that in the case of a person who makes contributions in an aggregate amount of $200 or less during the calendar year, the identification need include only the name and address of the person;".

THE INTERMODAL TRANSPORTATION ACT OF 1997

LOTT AMENDMENT NO. 1317

Mr. LOTT proposed an amendment to the instructions to the motion to recommit the bill, S. 1173, supra; as follows:

At the end of the instructions add the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intermodal Surface Transportation Efficiency Act of 1997".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definition.

TITLE I—SURFACE TRANSPORTATION

Sec. 1001. Short title.

Subtitle A—General Provisions

Sec. 1101. Authorizations.
Sec. 1102. Apportionments.
Sec. 1103. Obligation ceiling.
Sec. 1104. Obligation authority under surface transportation program.
Sec. 1105. Emergency relief.
Sec. 1106. Federal lands highways program.
Sec. 1107. Recreational trails program.
Sec. 1108. Value pricing pilot program.
Sec. 1109. Highway use tax evasion projects.
Sec. 1110. Bicycle transportation and pedestrian walkways.
Sec. 1111. Disadvantaged business enterprises.
Sec. 1112. Federal share payable.
Sec. 1113. Studies and reports.
Sec. 1114. Definitions.
Sec. 1115. Cooperative Federal Lands Transportation Program.
Sec. 1116. Trade corridor and border crossing planning and border infrastructure.
Sec. 1117. Appalachian development highway system.
Sec. 1118. Interstate 4R and bridge discretionary program.
Sec. 1119. Magnetic levitation transportation technology deployment program.
Sec. 1120. Woodrow Wilson Memorial Bridge.
Sec. 1121. National Highway System components.
Sec. 1122. Highway bridge replacement and rehabilitation.
Sec. 1123. Congestion mitigation and air quality improvement program.
Sec. 1124. Safety belt use law requirements.
Sec. 1125. Sense of the Senate concerning reliance on private enterprise.
Sec. 1126. Study of use of uniformed police officers on Federal-aid highway construction projects.
Sec. 1127. Contracting for engineering and design services.

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

Sec. 1201. Administrative expenses.
Sec. 1202. Real property acquisition and corridor preservation.
Sec. 1203. Availability of funds.
Sec. 1204. Payments to States for construction.
Sec. 1205. Proceeds from the sale or lease of real property.
Sec. 1206. Metric conversion at State option.
Sec. 1207. Report on obligations.
Sec. 1208. Terminations.
Sec. 1209. Interstate maintenance.

CHAPTER 2—PROJECT APPROVAL

Sec. 1221. Transfer of highway and transit funds.
Sec. 1222. Project approval and oversight.
Sec. 1223. Surface transportation program.
Sec. 1224. Design-build contracting.
Sec. 1225. Integrated decisionmaking process.

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

Sec. 1231. Definition of operational improvement.
Sec. 1232. Eligibility of ferry boats and ferry terminal facilities.
Sec. 1233. Flexibility of safety programs.
Sec. 1234. Eligibility of projects on the National Highway System.
Sec. 1235. Eligibility of projects under the surface transportation program.
Sec. 1236. Design flexibility.

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

Sec. 1301. State infrastructure bank program.

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

Sec. 1311. Short title.
Sec. 1312. Findings.
Sec. 1313. Definitions.
Sec. 1314. Determination of eligibility and project selection.
Sec. 1315. Secured loans.
Sec. 1316. Lines of credit.
Sec. 1317. Project servicing.
Sec. 1318. Office of Infrastructure Finance.
Sec. 1319. State and local permits.
Sec. 1320. Regulations.
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Subtitle D—Safety

Sec. 1401. Operation lifesaver.
Sec. 1402. Railway-highway crossing hazard elimination in high speed rail corridors.
Sec. 1403. Railway-highway crossings.
Sec. 1404. Hazard elimination program.
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Subtitle E—Environment

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Subtitle F—Planning

Sec. 1601. Metropolitan planning.
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Sec. 1801. Designation of portion of State Route 17 in New York and Pennsylvania as Interstate Route 86.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

Sec. 2001. Strategic research plan.
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Sec. 2010. International highway transportation outreach program.

Sec. 2011. National technology deployment initiatives and partnerships program.
Sec. 2012. Infrastructure investment needs report.
Sec. 2013. Innovative bridge research and construction program.
Sec. 2014. Use of Bureau of Indian Affairs administrative funds.
Sec. 2015. Study of future strategic highway research program.
Sec. 2016. Joint partnerships for advanced vehicles, components, and infrastructure program.
Sec. 2017. Transportation and environment cooperative research program.
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Subtitle B—Intelligent Transportation Systems

Sec. 2101. Short title.
Sec. 2102. Findings.
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Subtitle C—Funding

Sec. 2201. Funding.

SEC. 2. DEFINITION.

In this Act, the term "Secretary" means the Secretary of Transportation.

TITLE I—SURFACE TRANSPORTATION

SEC. 1001. SHORT TITLE.

This title may be cited as the "Surface Transportation Act of 1997".

Subtitle A—General Provisions

SEC. 1101. AUTHORIZATIONS.

For the purpose of carrying out title 23, United States Code, the following sums shall be available from the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—For the Interstate and National Highway System program under section 103 of that title $11,979,000,000 for fiscal year 1998, $11,808,000,000 for fiscal year 1999, $11,819,000,000 for fiscal year 2000, $11,916,000,000 for fiscal year 2001, $12,242,000,000 for fiscal year 2002, and $12,776,000,000 for fiscal year 2003, of which—

(A) $4,600,000,000 for fiscal year 1998, $4,609,000,000 for fiscal year 1999, $4,637,000,000 for fiscal year 2000, $4,674,000,000 for fiscal year 2001, $4,773,000,000 for fiscal year 2002, and $4,918,000,000 for fiscal year 2003 shall be available for the Interstate maintenance component; and

(B) $1,400,000,000 for fiscal year 1998, $1,403,000,000 for fiscal year 1999, $1,411,000,000 for fiscal year 2000, $1,423,000,000 for fiscal year 2001, $1,453,000,000 for fiscal year 2002, and $1,497,000,000 for fiscal year 2003 shall be available for the Interstate bridge component.

(2) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of that title $7,000,000,000 for fiscal year 1998, $7,014,000,000 for fiscal year 1999, $7,056,000,000 for fiscal year 2000, $7,113,000,000 for fiscal year 2001, $7,263,000,000 for fiscal year 2002, and $7,484,000,000 for fiscal year 2003.

(3) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of that title $1,150,000,000 for fiscal year 1998, $1,152,000,000 for fiscal year 1999, $1,159,000,000 for fiscal year 2000, $1,169,000,000 for fiscal year 2001, $1,193,000,000 for fiscal year 2002, and $1,230,000,000 for fiscal year 2003.

(4) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of that title $200,000,000 for each of fiscal years 1998 through 2003.

(B) PARKWAYS AND PARK ROADS.—For parkways and park roads under section 204 of that title $90,000,000 for each of fiscal years 1998 through 2003.

(C) PUBLIC LANDS HIGHWAYS.—For public lands highways under section 204 of that title $172,000,000 for each of fiscal years 1998 through 2003.

(D) COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.—For the Cooperative Federal Lands Transportation Program under section 207 of that title $74,000,000 for each of fiscal years 1998 through 2003.

SEC. 1102. APPORTIONMENTS.

(a) IN GENERAL.—Section 104 of title 23, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) and the set-asides authorized by subsection (f), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the National Highway System, the congestion mitigation and air quality improvement program, and the surface transportation program, for that fiscal year, among the States in the following manner:

"(1) INTERSTATE AND NATIONAL HIGHWAY SYSTEM PROGRAM.—

"(A) INTERSTATE MAINTENANCE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System—

"(i) 50 percent in the ratio that—

"(I) the total lane miles on Interstate System routes designated under—

"(aa) section 103;

"(bb) section 139(a) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997);

in each State; bears to

"(II) the total of all such lane miles in all States; and

"(ii) 50 percent in the ratio that—

"(I) the total vehicle miles traveled on lanes on Interstate System routes designated under—

"(aa) section 103;

"(bb) section 139(a) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

"(cc) section 139(c) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997);

in each State; bears to

"(II) the total of all such vehicle miles traveled in all States.

"(B) INTERSTATE BRIDGE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing bridges on the Interstate System, in the ratio that—

"(i) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in each State; bears to

"(ii) the total square footage of structurally deficient and functionally obsolete bridges on the Interstate System (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)) in all States.

"(C) OTHER NATIONAL HIGHWAY SYSTEM COMPONENT.—

"(i) IN GENERAL.—For the National Highway System (excluding funds apportioned under subparagraph (A) or (B)), $36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands and the remainder apportioned as follows:

"(I) 20 percent of the apportionments in the ratio that—

"(aa) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

"(bb) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

"(II) 29 percent of the apportionments in the ratio that—

"(aa) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

"(bb) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

"(III) 18 percent of the apportionments in the ratio that—

"(aa) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in each State; bears to

"(bb) the total square footage of structurally deficient and functionally obsolete bridges on principal arterial routes (excluding bridges on Interstate System routes (other than bridges on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692))) in all States.

"(IV) 24 percent of the apportionments in the ratio that—

"(aa) the total diesel fuel used on highways in each State; bears to

"(bb) the total diesel fuel used on highways in all States.

"(V) 9 percent of the apportionments in the ratio that—

"(aa) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

"(bb) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

"(ii) DATA.—Each calculation under clause (i) shall be based on the latest available data.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding subparagraphs (A) through (C), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

"(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

"(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

"(ii) the total of all weighted nonattainment and maintenance area populations in all States.

"(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—

Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

"(i) 0.8 if—

"(I) at the time of the apportionment, the area is a maintenance area; or

"(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

"(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under that subpart;

"(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under that subpart;

"(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under that subpart;

"(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under that subpart; or

"(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide.

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—

"(i) CARBON MONOXIDE NONATTAINMENT AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.2.

"(ii) CARBON MONOXIDE MAINTENANCE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was at one time also classified under subpart 3 of part D of title I of that Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide but has been redesignated as a maintenance area, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.1.

"(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.

"(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

"(3) SURFACE TRANSPORTATION PROGRAM.—

"(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

"(i) 20 percent of the apportionments in the ratio that—

"(I) the total lane miles of Federal-aid highways in each State; bears to

"(II) the total lane miles of Federal-aid highways in all States.

"(ii) 30 percent of the apportionments in the ratio that—

"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

"(iii) 25 percent of the apportionments in the ratio that—

"(I) the total square footage of structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in each State; bears to

"(II) the total square footage of structurally deficient and functionally obsolete bridges on Federal-aid highways (excluding bridges described in subparagraphs (B) and (C)(i)(III) of paragraph (1)) in all States.

"(iv) 25 percent of the apportionments in the ratio that—

"(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

"(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

"(B) DATA.—Each calculation under subparagraph (A) shall be based on the latest available data.

"(C) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.".

(b) EFFECT OF CERTAIN AMENDMENTS.—Section 104 of title 23, United States Code, is amended by striking subsection (h) and inserting the following:

"(h) EFFECT OF CERTAIN AMENDMENTS.—Notwithstanding any other provision of law, deposits into the Highway Trust Fund resulting from the amendments made by section 901 of the Taxpayer Relief Act of 1997 shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Intermodal Surface Transportation Efficiency Act of 1997 and this title .".

(c) ISTEA TRANSITION.—

(1) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall determine, with respect to each State—

(A) the total apportionments for the fiscal year under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program;

(B) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway programs (as defined in section 101 of title 23, United States Code), excluding apportionments for the Federal lands highways program under section 204 of that title;

(C) the annual average of the total apportionments during the period of fiscal years 1992 through 1997 for all Federal-aid highway programs (as defined in section 101 of title 23, United States Code), excluding—

(i) apportionments authorized under section 104 of that title for construction of the Interstate System;

(ii) apportionments for the Interstate substitute program under section 103(e)(4) of that title (as in effect on the day before the date of enactment of this Act);

(iii) apportionments for the Federal lands highways program under section 204 of that title; and

(iv) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943);

(D) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (B); by

(ii) the applicable percentage determined under paragraph (2); and

(E) the product obtained by multiplying—

(i) the annual average of the total apportionments determined under subparagraph (C); by

(ii) the applicable percentage determined under paragraph (2).

(2) APPLICABLE PERCENTAGES.—

(A) FISCAL YEAR 1998.—For fiscal year 1998—

(i) the applicable percentage referred to in paragraph (1)(D)(ii) shall be 145 percent; and

(ii) the applicable percentage referred to in paragraph (1)(E)(ii) shall be 107 percent.

(B) FISCAL YEARS THEREAFTER.—For each of fiscal years 1999 through 2003, the applicable percentage referred to in paragraph (1)(D)(ii) or (1)(E)(ii), respectively, shall be a percentage equal to the product obtained by multiplying—

(i) the percentage specified in clause (i) or (ii), respectively, of subparagraph (A); by

(ii) the percentage that—

(I) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for the fiscal year; bears to

(II) the total contract authority made available under this Act and title 23, United States Code, for Federal-aid highway programs for fiscal year 1998.

(3) MAXIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, in the case of each State with respect to which the total apportionments determined under paragraph (1)(A) is greater than the product determined under paragraph (1)(D), the Secretary shall reduce proportionately the apportionments to the State under section 104 of title 23, United States Code, for the National Highway System component of the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program so that the total of the apportionments is equal to the product determined under paragraph (1)(D).

(B) REDISTRIBUTION OF FUNDS.—

(i) IN GENERAL.—Subject to clause (ii), funds made available under subparagraph (A) shall be redistributed proportionately under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, and the congestion mitigation and air quality improvement program, to States not subject to a reduction under subparagraph (A).

(ii) LIMITATION.—The ratio that—

(I) the total apportionments to a State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program, after the application of clause (i); bears to

(II) the annual average of the total apportionments determined under paragraph (1)(B) with respect to the State;

may not exceed, in the case of fiscal year 1998, 145 percent, and, in the case of each of fiscal years 1999 through 2003, 145 percent as adjusted in the manner described in paragraph (2)(B).

(4) MINIMUM TRANSITION.—

(A) IN GENERAL.—For each of fiscal years 1998 through 2003, the Secretary shall apportion to each State such additional amounts as are necessary to ensure that—

(i) the total apportionments to the State under section 104 of title 23, United States Code, for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program, after the application of paragraph (3); is equal to

(ii) the greater of—

(I) the product determined with respect to the State under paragraph (1)(E); or

(II) the total apportionments to the State for fiscal year 1997 for all Federal-aid highway programs, excluding—

(aa) apportionments for the Federal lands highways program under section 204 of title 23, United States Code;

(bb) adjustments to sums apportioned under section 104 of that title due to the hold harmless adjustment under section 1015(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 104 note; 105 Stat. 1943); and

(cc) demonstration projects under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240).

(B) OBLIGATION.—Amounts apportioned under subparagraph (A)—

(i) shall be considered to be sums made available for expenditure on the surface transportation program, except that—

(I) the amounts shall not be subject to paragraphs (1) and (2) of section 133(d) of title 23, United States Code; and

(II) 50 percent of the amounts shall be subject to section 133(d)(3) of that title;

(ii) shall be available for any purpose eligible for funding under section 133 of that title; and

(iii) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are apportioned.

(C) AUTHORIZATION OF CONTRACT AUTHORITY.—

(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this paragraph.

(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

(d) MINIMUM GUARANTEE.—

(1) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

"§ 105. Minimum guarantee

"(a) ADJUSTMENT.—

"(1) IN GENERAL.—In fiscal year 1998 and each fiscal year thereafter on October 1, or as soon as practicable thereafter, the Secretary shall allocate among the States amounts sufficient to ensure that—

"(A) the ratio that—

"(i) each State's percentage of the total apportionments for the fiscal year—

"(I) under section 104 for the Interstate and National Highway System program, the surface transportation program, metropolitan planning, and the congestion mitigation and air quality improvement program; and

"(II) under this section and section 1102(c) of the Intermodal Surface Transportation Efficiency Act of 1997 for ISTEA transition;

bears to

"(ii) each State's percentage of estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available;

is not less than 0.90; and

"(B) in the case of a State specified in paragraph (2), the State's percentage of the total apportionments for the fiscal year described in subclauses (I) and (II) of subparagraph (A)(i) is—

"(i) not less than the percentage specified for the State in paragraph (2); but

"(ii) not greater than the product determined for the State under section 1102(c)(1)(D) of the Intermodal Surface Transportation Efficiency Act of 1997 for the fiscal year.

"(2) STATE PERCENTAGES.—The percentage referred to in paragraph (1)(B) for a specified State shall be determined in accordance with the following table:

"State	Percentage
Alaska	1.24
Arkansas	1.33
Delaware	0.47
Hawaii	0.55
Idaho	0.82
Montana	1.06
Nevada	0.73
New Hampshire	0.52
New Jersey	2.41
New Mexico	1.05
North Dakota	0.73
Rhode Island	0.58
South Dakota	0.78
Vermont	0.47
Wyoming	0.76.

"(b) TREATMENT OF ALLOCATIONS.—

"(1) OBLIGATION.—Amounts allocated under subsection (a)—

"(A) shall be available for obligation when allocated and shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the amounts are allocated; and

"(B) shall be available for any purpose eligible for funding under this title.

"(2) SET-ASIDE.—Fifty percent of the amounts allocated under subsection (a) shall be subject to section 133(d)(3).

"(c) TREATMENT OF WITHHELD APPORTIONMENTS.—For the purpose of subsection (a), any funds that, but for section 158(b) or any other provision of law under which Federal-aid highway funds are withheld from apportionment, would be apportioned to a State for a fiscal year under a section referred to in subsection (a) shall be treated as being apportioned in that fiscal year.

"(d) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 105 and inserting the following:

"105. Minimum guarantee.".

(e) AUDITS OF HIGHWAY TRUST FUND.—Section 104 of title 23, United States Code, is amended by striking subsection (i) and inserting the following:

"(i) AUDITS OF HIGHWAY TRUST FUND.—From available administrative funds deducted under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.".

(f) TECHNICAL AMENDMENTS.—Section 104 of title 23, United States Code, is amended—

(1) in subsection (e)—

(A) by inserting "NOTIFICATION TO STATES.—" after "(e)";

(B) in the first sentence—

(i) by striking "(other than under subsection (b)(5) of this section)"; and

(ii) by striking "and research";

(C) by striking the second sentence; and

(D) in the last sentence, by striking ", except that" and all that follows through "such funds"; and

(2) in subsection (f)—

(A) by striking "(f)(1) On" and inserting the following:

"(f) METROPOLITAN PLANNING.—

"(1) SET-ASIDE.—On";

(B) by striking "(2) These" and inserting the following:

"(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—These";

(C) by striking "(3) The" and inserting the following:

"(3) USE OF FUNDS.—The"; and

(D) by striking "(4) The" and inserting the following:

"(4) DISTRIBUTION OF FUNDS WITHIN STATES.—The".

(g) CONFORMING AMENDMENTS.—

(1) Section 146(a) of title 23, United States Code, is amended in the first sentence by striking ", 104(b)(2), and 104(b)(6)" and inserting "and 104(b)(2)".

(2)(A) Section 150 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 150.

(3) Section 158 of title 23, United States Code, is amended—

(A) in subsection (a)—

(i) by striking paragraph (1);

(ii) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(iii) in paragraph (1) (as so redesignated)—

(I) by striking "AFTER THE FIRST YEAR" and inserting "IN GENERAL"; and

(II) by striking ", 104(b)(2), 104(b)(5), and 104(b)(6)" and inserting "and 104(b)(2)"; and

(iv) in paragraph (2) (as redesignated by clause (ii)), by striking "paragraphs (1) and (2) of this subsection" and inserting "paragraph (1)"; and

(B) by striking subsection (b) and inserting the following:

"(b) EFFECT OF WITHHOLDING OF FUNDS.—No funds withheld under this section from apportionment to any State after September 30, 1988, shall be available for apportionment to that State.".

(4)(A) Section 157 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 157.

(5)(A) Section 115(b)(1) of title 23, United States Code, is amended by striking "or 104(b)(5), as the case may be,".

(B) Section 137(f)(1) of title 23, United States Code, is amended by striking "section 104(b)(5)(B) of this title" and inserting "section 104(b)(1)(A)".

(C) Section 141(c) of title 23, United States Code, is amended by striking "section 104(b)(5) of this title" each place it appears and inserting "section 104(b)(1)(A)".

(D) Section 142(c) of title 23, United States Code, is amended by striking "(other than section 104(b)(5)(A))".

(E) Section 159 of title 23, United States Code, is amended—

(i) by striking "(5) of" each place it appears and inserting "(5) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997) of"; and

(ii) in subsection (b)—

(I) in paragraphs (1)(A)(i) and (3)(A), by striking "section 104(b)(5)(A)" each place it appears and inserting "section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)";

(II) in paragraph (1)(A)(ii), by striking "section 104(b)(5)(B)" and inserting "section 104(b)(5)(B) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)";

(III) in paragraph (3)(B), by striking "(5)(B)" and inserting "(5)(B) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)"; and

(IV) in paragraphs (3) and (4), by striking "section 104(b)(5)" each place it appears and inserting "section 104(b)(5) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997)".

(F) Section 161(a) of title 23, United States Code, is amended by striking "paragraphs (1), (3), and (5)(B) of section 104(b)" each place it appears and inserting "paragraphs (1) and (3) of section 104(b)".

(6)(A) Section 104(g) of title 23, United States Code, is amended—

(i) in the first sentence, by striking "sections 130, 144, and 152 of this title" and inserting "subsection (b)(1)(B) and sections 130 and 152";

(ii) in the first and second sentences—

(I) by striking "section" and inserting "provision"; and

(II) by striking "such sections" and inserting "those provisions"; and

(iii) in the third sentence—

(I) by striking "section 144" and inserting "subsection (b)(1)(B)"; and

(II) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(C)".

(B) Section 115 of title 23, United States Code, is amended—

(i) in subsection (a)(1)(A)(i), by striking "104(b)(2), 104(b)(3), 104(f), 144," and inserting "104(b)(1)(B), 104(b)(2), 104(b)(3), 104(f),"; and

(ii) in subsection (c), by striking "144,,".

(C) Section 120(e) of title 23, United States Code, is amended in the last sentence by striking "and in section 144 of this title".

(D) Section 151(d) of title 23, United States Code, is amended by striking "section 104(a), section 307(a), and section 144 of this title" and inserting "subsections (a) and (b)(1)(B) of section 104 and section 307(a)".

(E) Section 204(c) of title 23, United States Code, is amended in the first sentence by striking "or section 144 of this title".

(F) Section 303(g) of title 23, United States Code, is amended by striking "section 144 of this title" and inserting "section 104(b)(1)(B)".

SEC. 1103. OBLIGATION CEILING.

(a) GENERAL LIMITATIONS.—Subject to the other provisions of this section and notwithstanding any other provision of law, the total amount of all obligations for Federal-aid highways and highway safety construction programs shall not exceed—

(1) $21,800,000,000 for fiscal year 1998;

(2) $22,802,000,000 for fiscal year 1999;

(3) $22,939,000,000 for fiscal year 2000;

(4) $23,183,000,000 for fiscal year 2001;

(5) $23,699,000,000 for fiscal year 2002; and

(6) $24,548,000,000 for fiscal year 2003.

(b) EXCEPTIONS.—

(1) IN GENERAL.—The limitations under subsection (a) shall not apply to obligations of funds under—

(A) section 105(a) of title 23, United States Code (but, for each of fiscal years 1998 through 2003, only in an amount equal to the amount included for section 157 of title 23, United States Code, in the baseline determined by the Congressional Budget Office for the fiscal year 1998 budget), excluding amounts allocated under section 105(a)(1)(B) of that title;

(B) section 125 of that title;

(C) section 157 of that title (as in effect on the day before the date of enactment of this Act);

(D) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);

(E) section 9 of the Federal-Aid Highway Act of 1981 (95 Stat. 1701);

(F) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (96 Stat. 2119);

(G) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 198); and

(H) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027).

(2) EFFECT OF OTHER LAW.—A provision of law establishing a limitation on obligations for Federal-aid highways and highway safety construction programs may not amend or limit the applicability of this subsection, unless the provision specifically amends or limits that applicability.

(c) APPLICABILITY TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations for Federal-aid highways and highway safety construction programs established by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code.

(d) OBLIGATION AUTHORITY.—Section 118 of title 23, United States Code, is amended by adding at the end the following:

"(g) OBLIGATION AUTHORITY.—

"(1) DISTRIBUTION.—For each fiscal year, the Secretary shall—

"(A) distribute the total amount of obligation authority for Federal-aid highways and highway safety construction programs made available for the fiscal year by allocation in the ratio that—

"(i) the total of the sums made available for Federal-aid highways and highway safety construction programs that are apportioned or allocated to each State for the fiscal year; bears to

"(ii) the total of the sums made available for Federal-aid highways and highway safety construction programs that are apportioned or allocated to all States for the fiscal year;

"(B) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways that have been apportioned to a State; and

"(C) notwithstanding subparagraphs (A) and (B), not distribute—

"(i) amounts deducted under section 104(a) for administrative expenses;

"(ii) amounts set aside under section 104(k) for Interstate 4R and bridge projects;

"(iii) amounts made available under sections 143, 164, 165, 204, 206, 207, and 322;

"(iv) amounts made available under section 111 of title 49;

"(v) amounts made available under section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.);

"(vi) amounts made available under section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938);

"(vii) amounts made available under sections 1503, 1603, and 1604 of the Intermodal Surface Transportation Efficiency Act of 1997;

"(viii) amounts made available under section 149(d) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (101 Stat. 201);

"(ix) amounts made available under section 105(a)(1)(A) to the extent that the amounts are subject to any obligation limitation under section 1103(a) of the Intermodal Surface Transportation Efficiency Act of 1997;

"(x) amounts made available for implementation of programs under chapter 5 of this title and sections 5222, 5232, and 5241 of title 49; and

"(xi) amounts made available under section 412 of the Woodrow Wilson Memorial Bridge Authority Act of 1995.

"(2) REDISTRIBUTION.—Notwithstanding paragraph (1), the Secretary shall, after August 1 of each of fiscal years 1998 through 2003—

"(A) revise a distribution of the funds made available under paragraph (1) for the fiscal year if a State will not obligate the amount distributed during the fiscal year; and

"(B) redistribute sufficient amounts to those States able to obligate amounts in addition to the amounts previously distributed during the fiscal year, giving priority to those States that have large unobligated balances of funds apportioned under section 104 and under section 144 (as in effect on the day before the date of enactment of this subparagraph).".

(e) APPLICABILITY OF OBLIGATION LIMITATIONS.—An obligation limitation established by a provision of any other Act shall not apply to obligations under a program funded under this Act or title 23, United States Code, unless—

(1) the provision specifically amends or limits the applicability of this subsection; or

(2) an obligation limitation is specified in this Act with respect to the program.

SEC. 1104. OBLIGATION AUTHORITY UNDER SURFACE TRANSPORTATION PROGRAM.

Section 133 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) OBLIGATION AUTHORITY.—

"(1) IN GENERAL.—A State that is required to obligate in an urbanized area with an urbanized area population of over 200,000 individuals under subsection (d) funds apportioned to the State under section 104(b)(3) shall make available during the 3-fiscal year period of 1998 through 2000, and the 3-fiscal year period of 2001 through 2003, an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs for use in the area that is equal to the amount obtained by multiplying—

"(A) the aggregate amount of funds that the State is required to obligate in the area under subsection (d) during each such period; by

"(B) the ratio that—

"(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

"(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding

sums not subject to an obligation limitation) during the period.

"(2) JOINT RESPONSIBILITY.—Each State, each affected metropolitan planning organization, and the Secretary shall jointly ensure compliance with paragraph (1).".

SEC. 1105. EMERGENCY RELIEF.

(a) FEDERAL SHARE.—Section 120(e) of title 23, United States Code, is amended in the first sentence by striking "highway system" and inserting "highway".

(b) ELIGIBILITY AND FUNDING.—Section 125 of title 23, United States Code, is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b), (c), and (d) as subsections (d), (e), and (f), respectively;

(3) by inserting after the section heading the following:

"(a) GENERAL ELIGIBILITY.—Subject to this section and section 120, an emergency fund is authorized for expenditure by the Secretary for the repair or reconstruction of highways, roads, and trails, in any part of the United States, including Indian reservations, that the Secretary finds have suffered serious damage as a result of—

"(1) natural disaster over a wide area, such as by a flood, hurricane, tidal wave, earthquake, severe storm, or landslide; or

"(2) catastrophic failure from any external cause.

"(b) RESTRICTION ON ELIGIBILITY.—In no event shall funds be used pursuant to this section for the repair or reconstruction of bridges that have been permanently closed to all vehicular traffic by the State or responsible local official because of imminent danger of collapse due to a structural deficiency or physical deterioration.

"(c) FUNDING.—Subject to the following limitations, there are hereby authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to establish the fund authorized by this section and to replenish it on an annual basis:

"(1) Not more than $100,000,000 is authorized to be obligated in any 1 fiscal year commencing after September 30, 1980, to carry out the provisions of this section, except that, if in any fiscal year the total of all obligations under this section is less than the amount authorized to be obligated in such fiscal year, the unobligated balance of such amount shall remain available until expended and shall be in addition to amounts otherwise available to carry out this section each year.

"(2) Pending such appropriation or replenishment, the Secretary may obligate from any funds heretofore or hereafter appropriated for obligation in accordance with this title, including existing Federal-aid appropriations, such sums as may be necessary for the immediate prosecution of the work herein authorized, provided that such funds are reimbursed from the appropriations authorized in paragraph (1) of this subsection when such appropriations are made.";

(4) in subsection (d) (as so redesignated), by striking "subsection (c)" both places it appears and inserting "subsection (e)"; and

(5) in subsection (e) (as so redesignated), by striking "on any of the Federal-aid highway systems" and inserting "Federal-aid highways".

(c) SAN MATEO COUNTY, CALIFORNIA.—Notwithstanding any other provision of law, a project to repair or reconstruct any portion of a Federal-aid primary route in San Mateo County, California, that—

(1) was destroyed as a result of a combination of storms in the winter of 1982–1983 and a mountain slide; and

(2) until its destruction, served as the only reasonable access route between 2 cities and as the designated emergency evacuation route of 1 of the cities;

shall be eligible for assistance under section 125(a) of title 23, United States Code, if the project complies with the local coastal plan.

SEC. 1106. FEDERAL LANDS HIGHWAYS PROGRAM.

(a) FEDERAL SHARE PAYABLE.—Section 120 of title 23, United States Code, is amended by adding at the end the following:

"(j) USE OF FEDERAL LAND MANAGEMENT AGENCY FUNDS.—Notwithstanding any other provision of law, the funds appropriated to any Federal land management agency may be used to pay the non-Federal share of the cost of any Federal-aid highway project the Federal share of which is funded under section 104.

"(k) USE OF FEDERAL LANDS HIGHWAYS PROGRAM FUNDS.—Notwithstanding any other provision of law, the funds made available to carry out the Federal lands highways program under section 204 may be used to pay the non-Federal share of the cost of any project that is funded under section 104 and that provides access to or within Federal or Indian lands.".

(b) AVAILABILITY OF FUNDS.—Section 203 of title 23, United States Code, is amended by adding at the end the following: "Notwithstanding any other provision of law, the authorization by the Secretary of engineering and related work for a Federal lands highways program project, or the approval by the Secretary of plans, specifications, and estimates for construction of a Federal lands highways program project, shall be deemed to constitute a contractual obligation of the Federal Government to the pay the Federal share of the cost of the project.".

(c) PLANNING AND AGENCY COORDINATION.—Section 204 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Recognizing the need for all Federal roads that are public roads to be treated under uniform policies similar to the policies that apply to Federal-aid highways, there is established a coordinated Federal lands highways program that shall apply to public lands highways, park roads and parkways, and Indian reservation roads and bridges.

"(2) TRANSPORTATION PLANNING PROCEDURES.—In consultation with the Secretary of each appropriate Federal land management agency, the Secretary shall develop, by rule, transportation planning procedures that are consistent with the metropolitan and statewide planning processes required under sections 134 and 135.

"(3) APPROVAL OF TRANSPORTATION IMPROVEMENT PROGRAM.—The transportation improvement program developed as a part of the transportation planning process under this section shall be approved by the Secretary.

"(4) INCLUSION IN OTHER PLANS.—All regionally significant Federal lands highways program projects—

"(A) shall be developed in cooperation with States and metropolitan planning organizations; and

"(B) shall be included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

"(5) INCLUSION IN STATE PROGRAMS.—The approved Federal lands highways program transportation improvement program shall be included in appropriate State and metropolitan planning organization plans and programs without further action on the transportation improvement program.

"(6) DEVELOPMENT OF SYSTEMS.—The Secretary and the Secretary of each appropriate Federal land management agency shall, to the extent appropriate, develop safety, bridge, pavement, and congestion management systems for roads funded under the Federal lands highways program.";

(2) in subsection (b), by striking the first 3 sentences and inserting the following: "Funds available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay for the cost of transportation planning, research, engineering, and construction of the highways, roads, and parkways, or of transit facilities within public lands, national parks, and Indian reservations. In connection with activities under the preceding sentence, the Secretary and the Secretary of the appropriate Federal land management agency may enter into construction contracts and other appropriate contracts with a State or civil subdivision of a State or Indian tribe.";

(3) in the first sentence of subsection (e), by striking "Secretary of the Interior" and inserting "Secretary of the appropriate Federal land management agency";

(4) in subsection (h), by adding at the end the following:

"(8) A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona.";

(5) by striking subsection (i) and inserting the following:

"(i) TRANSFERS OF COSTS TO SECRETARIES OF FEDERAL LAND MANAGEMENT AGENCIES.—

"(1) ADMINISTRATIVE COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay necessary administrative costs of the agency in connection with public lands highways.

"(2) TRANSPORTATION PLANNING COSTS.—The Secretary shall transfer to the appropriate Federal land management agency from amounts made available for public lands highways such amounts as are necessary to pay the cost to the agency to conduct necessary transportation planning for Federal lands, if funding for the planning is not otherwise provided under this section.";

and

(6) in subsection (j), by striking the second sentence and inserting the following: "The Indian tribal government, in cooperation with the Secretary of the Interior, and as appropriate, with a State, local government, or metropolitan planning organization, shall carry out a transportation planning process in accordance with subsection (a).".

SEC. 1107. RECREATIONAL TRAILS PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by inserting after section 205 the following:

"§ 206. Recreational trails program

"(a) DEFINITIONS.—

"(1) MOTORIZED RECREATION.—The term 'motorized recreation' means off-road recreation using any motor-powered vehicle, except for a motorized wheelchair.

"(2) RECREATIONAL TRAIL; TRAIL.—The term 'recreational trail' or 'trail' means a thoroughfare or track across land or snow, used for recreational purposes such as—

"(A) pedestrian activities, including wheelchair use;

"(B) skating or skateboarding;

"(C) equestrian activities, including carriage driving;

"(D) nonmotorized snow trail activities, including skiing;

"(E) bicycling or use of other human-powered vehicles;

"(F) aquatic or water activities; and

"(G) motorized vehicular activities, including all-terrain vehicle riding, motorcycling, snowmobiling, use of off-road light trucks, or use of other off-road motorized vehicles.

"(b) PROGRAM.—In accordance with this section, the Secretary, in consultation with the Secretary of the Interior and the Secretary of Agriculture, shall carry out a program to provide and maintain recreational trails (referred to in this section as the 'program').

"(c) STATE RESPONSIBILITIES.—To be eligible for apportionments under this section—

"(1) a State may use apportionments received under this section for construction of new trails crossing Federal lands only if the construction is—

"(A) permissible under other law;

"(B) necessary and required by a statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.);

"(C) approved by the administering agency of the State designated under paragraph (2); and

"(D) approved by each Federal agency charged with management of the affected lands, which approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(2) the Governor of a State shall designate the State agency or agencies that will be responsible for administering apportionments received under this section; and

"(3) the State shall establish within the State a State trail advisory committee that represents both motorized and nonmotorized trail users.

"(d) USE OF APPORTIONED FUNDS.—

"(1) IN GENERAL.—Funds made available under this section shall be obligated for trails and trail-related projects that—

"(A) have been planned and developed under the laws, policies, and administrative procedures of each State; and

"(B) are identified in, or further a specific goal of, a trail plan or trail plan element included or referenced in a metropolitan transportation plan required under section 134 or a statewide transportation plan required under section 135, consistent with the statewide comprehensive outdoor recreation plan required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–4 et seq.).

"(2) PERMISSIBLE USES.—Permissible uses of funds made available under this section include—

"(A) maintenance and restoration of existing trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages;

"(C) purchase and lease of trail construction and maintenance equipment;

"(D) construction of new trails;

"(E) acquisition of easements and fee simple title to property for trails or trail corridors;

"(F) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment received by the State for a fiscal year; and

"(G) operation of educational programs to promote safety and environmental protection as these objectives relate to the use of trails.

"(3) USE OF APPORTIONMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B), (C), and (D), of the apportionments received for a fiscal year by a State under this section—

"(i) 40 percent shall be used for trail or trail-related projects that facilitate diverse recreational trail use within a trail corridor, trailside, or trailhead, regardless of whether the project is for diverse motorized use, for diverse nonmotorized use, or to accommodate both motorized and nonmotorized recreational trail use;

"(ii) 30 percent shall be used for uses relating to motorized recreation; and

"(iii) 30 percent shall be used for uses relating to nonmotorized recreation.

"(B) SMALL STATE EXCLUSION.—Any State with a total land area of less than 3,500,000 acres, and in which nonhighway recreational fuel use accounts for less than 1 percent of all such fuel use in the United States, shall be exempted from the requirements of subparagraph (A) upon application to the Secretary by the State demonstrating that the State meets the conditions of this subparagraph.

"(C) WAIVER AUTHORITY.—Upon the request of a State trail advisory committee established under subsection (c)(3), the Secretary may waive, in whole or in part, the requirements of subparagraph (A) with respect to the State if the State certifies to the Secretary that the State does not have sufficient projects to meet the requirements of subparagraph (A).

"(D) STATE ADMINISTRATIVE COSTS.—State administrative costs eligible for funding under paragraph (2)(F) shall be exempt from the requirements of subparagraph (A).

"(e) ENVIRONMENTAL BENEFIT OR MITIGATION.—To the extent practicable and consistent with the other requirements of this section, a State should give consideration to project proposals that provide for the redesign, reconstruction, nonroutine maintenance, or relocation of trails to benefit the natural environment or to mitigate and minimize the impact to the natural environment.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—Subject to the other provisions of this subsection, the Federal share of the cost of a project under this section shall not exceed 80 percent.

"(2) FEDERAL AGENCY PROJECT SPONSOR.—Notwithstanding any other provision of law, a Federal agency that sponsors a project under this section may contribute additional Federal funds toward the cost of a project, except that—

"(A) the share attributable to the Secretary of Transportation may not exceed 80 percent; and

"(B) the share attributable to the Secretary and the Federal agency jointly may not exceed 95 percent.

"(3) USE OF FUNDS FROM FEDERAL PROGRAMS TO PROVIDE NON-FEDERAL SHARE.—Notwithstanding any other provision of law, amounts made available by the Federal Government under any Federal program that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section;

may be credited toward the non-Federal share of the cost of the project.

"(4) PROGRAMMATIC NON-FEDERAL SHARE.—A State may allow adjustments to the non-Federal share of an individual project under this section if the Federal share of the cost of all projects carried out by the State under the program (excluding projects funded under paragraph (2) or (3)) using funds apportioned to the State for a fiscal year does not exceed 80 percent.

"(5) STATE ADMINISTRATIVE COSTS.—The Federal share of the administrative costs of a State under this subsection shall be determined in accordance with section 120(b).

"(g) USES NOT PERMITTED.—A State may not obligate funds apportioned under this section for—

"(1) condemnation of any kind of interest in property;

"(2) construction of any recreational trail on National Forest System land for any motorized use unless—

"(A) the land has been apportioned for uses other than wilderness by an approved forest land and resource management plan or has been released to uses other than wilderness by an Act of Congress; and

"(B) the construction is otherwise consistent with the management direction in the approved forest land and resource management plan;

"(3) construction of any recreational trail on Bureau of Land Management land for any motorized use unless the land—

"(A) has been apportioned for uses other than wilderness by an approved Bureau of Land Management resource management plan or has been released to uses other than wilderness by an Act of Congress; and

"(B) the construction is otherwise consistent with the management direction in the approved management plan; or

"(4) upgrading, expanding, or otherwise facilitating motorized use or access to trails predominantly used by nonmotorized trail users and on which, as of May 1, 1991, motorized use is prohibited or has not occurred.

"(h) PROJECT ADMINISTRATION.—

"(1) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, SERVICES, OR NEW RIGHT-OF-WAY.—

"(A) IN GENERAL.—Nothing in this title or other law shall prevent a project sponsor from offering to donate funds, materials, services, or a new right-of-way for the purposes of a project eligible for assistance under this section. Any funds, or the fair market value of any materials, services, or new right-of-way, may be donated by any project sponsor and shall be credited to the non-Federal share in accordance with subsection (f).

"(B) FEDERAL PROJECT SPONSORS.—Any funds or the fair market value of any materials or services may be provided by a Federal project sponsor and shall be credited to the Federal agency's share in accordance with subsection (f).

"(2) RECREATIONAL PURPOSE.—A project funded under this section is intended to enhance recreational opportunity and is not subject to section 138 of this title or section 303 of title 49.

"(3) CONTINUING RECREATIONAL USE.—At the option of each State, funds made available under this section may be treated as Land and Water Conservation Fund apportionments for the purposes of section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–8(f)(3)).

"(4) COOPERATION BY PRIVATE PERSONS.—

"(A) WRITTEN ASSURANCES.—As a condition of making available apportionments for

work on recreational trails that would affect privately owned land, a State shall obtain written assurances that the owner of the land will cooperate with the State and participate as necessary in the activities to be conducted.

"(B) PUBLIC ACCESS.—Any use of the apportionments to a State under this section on privately owned land must be accompanied by an easement or other legally binding agreement that ensures public access to the recreational trail improvements funded by the apportionments.

"(i) APPORTIONMENT.—

"(1) DEFINITION OF ELIGIBLE STATE.—In this subsection, the term 'eligible State' means a State that meets the requirements of subsection (c).

"(2) APPORTIONMENT.—Subject to subsection (j), for each fiscal year, the Secretary shall apportion—

"(A) 50 percent of the amounts made available to carry out this section equally among eligible States; and

"(B) 50 percent of the amounts made available to carry out this section among eligible States in proportion to the quantity of nonhighway recreational fuel used in each eligible State during the preceding year.

"(j) ADMINISTRATIVE COSTS.—

"(1) IN GENERAL.—Whenever an apportionment is made under subsection (i) of the amounts made available to carry out this section, the Secretary shall first deduct an amount, not to exceed 1 percent of the authorized amounts, to pay the costs to the Secretary for administration of, and research authorized under, the program.

"(2) USE OF CONTRACTS.—To carry out research funded under paragraph (1), the Secretary may—

"(A) enter into contracts with for-profit organizations; and

"(B) enter into contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or nonprofit organizations.

"(k) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $20,000,000 for fiscal year 1999, $22,000,000 for fiscal year 2000, $23,000,000 for fiscal year 2001, $24,000,000 for fiscal year 2002, and $25,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

(b) CONFORMING AMENDMENTS.—

(1) The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title I (16 U.S.C. 1261 et seq.).

(2) The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 206 and inserting the following:

"206. Recreational trails program.".

SEC. 1108. VALUE PRICING PILOT PROGRAM.

(a) IN GENERAL.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in the subsection heading, by striking "CONGESTION" and inserting "VALUE"; and

(2) in paragraph (1), by striking "congestion" each place it appears and inserting "value".

(b) INCREASED NUMBER OF PROJECTS.—Section 1012(b)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence by striking "5" and inserting "15".

(c) ELIGIBILITY OF PREIMPLEMENTATION COSTS.— Section 1012(b)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended in the second sentence—

(1) by inserting after "Secretary shall fund" the following: "all preimplementation costs and project design, and"; and

(2) by inserting after "Secretary may not fund" the following: "the implementation costs of".

(d) TOLLING.—Section 1012(b)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking "a pilot program under this section, but not on more than 3 of such programs" and inserting "any value pricing pilot program under this subsection".

(e) HOV PASSENGER REQUIREMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by striking paragraph (6) and inserting the following:

"(6) HOV PASSENGER REQUIREMENTS.—Notwithstanding section 146(c) of title 23, United States Code, a State may permit vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes if the vehicles are part of a value pricing pilot program under this subsection.".

(f) FUNDING.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended by adding at the end the following:

"(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $8,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY.—

"(i) IN GENERAL.—Funds allocated by the Secretary to a State under this subsection shall remain available for obligation by the State for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this subsection but not allocated exceeds $8,000,000 as of September 30 of any year, the excess amount—

"(I) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

"(II) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

"(III) shall be available for any purpose eligible for funding under section 133 of that title.

"(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of any project under this subsection and the availability of funds authorized by this paragraph shall be determined in accordance with this subsection.".

(g) CONFORMING AMENDMENTS.—Section 1012(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—

(1) in paragraph (1), by striking "projects" each place it appears and inserting "programs"; and

(2) in paragraph (5)—

(A) by striking "projects" and inserting "programs"; and

(B) by striking "traffic, volume" and inserting "traffic volume".

SEC. 1109. HIGHWAY USE TAX EVASION PROJECTS.

(a) IN GENERAL.—Section 143 of title 23, United States Code, is amended to read as follows:

"§ 143. Highway use tax evasion projects

"(a) DEFINITION OF STATE.—In this section, the term 'State' means the 50 States and the District of Columbia.

"(b) PROJECTS.—

"(1) IN GENERAL.—The Secretary shall use funds made available under paragraph (7) to carry out highway use tax evasion projects in accordance with this subsection.

"(2) ALLOCATION OF FUNDS.—The funds may be allocated to the Internal Revenue Service and the States at the discretion of the Secretary.

"(3) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—The Secretary shall not impose any condition on the use of funds allocated to the Internal Revenue Service under this subsection.

"(4) LIMITATION ON USE OF FUNDS.—Funds made available under paragraph (7) shall be used only—

"(A) to expand efforts to enhance motor fuel tax enforcement;

"(B) to fund additional Internal Revenue Service staff, but only to carry out functions described in this paragraph;

"(C) to supplement motor fuel tax examinations and criminal investigations;

"(D) to develop automated data processing tools to monitor motor fuel production and sales;

"(E) to evaluate and implement registration and reporting requirements for motor fuel taxpayers;

"(F) to reimburse State expenses that supplement existing fuel tax compliance efforts; and

"(G) to analyze and implement programs to reduce tax evasion associated with other highway use taxes.

"(5) MAINTENANCE OF EFFORT.—The Secretary may not make an allocation to a State under this subsection for a fiscal year unless the State certifies that the aggregate expenditure of funds of the State, exclusive of Federal funds, for motor fuel tax enforcement activities will be maintained at a level that does not fall below the average level of such expenditure for the preceding 2 fiscal years of the State.

"(6) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this subsection shall be 100 percent.

"(7) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for each of fiscal years 1998 through 2003.

"(B) AVAILABILITY OF FUNDS.—Funds authorized under this paragraph shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(c) EXCISE FUEL REPORTING SYSTEM.—

"(1) IN GENERAL.—Not later than April 1, 1998, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of the development and maintenance by the Internal Revenue Service of an

excise fuel reporting system (referred to in this subsection as the 'system').

"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall develop and maintain the system through contracts;

"(B) the system shall be under the control of the Internal Revenue Service; and

"(C) the system shall be made available for use by appropriate State and Federal revenue, tax, or law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) AUTHORIZATION OF APPROPRIATIONS FROM HIGHWAY TRUST FUND.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—

"(A) $8,000,000 for development of the system; and

"(B) $2,000,000 for each of fiscal years 1998 through 2003 for operation and maintenance of the system.".

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 143 and inserting the following:

"143. Highway use tax evasion projects.".

(2) Section 1040 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 1992) is repealed.

(3) Section 8002 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 101 note; 105 Stat. 2203) is amended—

(A) in the first sentence of subsection (g), by striking "section 1040 of this Act" and inserting "section 143 of title 23, United States Code,"; and

(B) by striking subsection (h).

SEC. 1110. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by inserting "pedestrian walkways and" after "construction of"; and

(B) by striking "(other than the Interstate System)";

(2) in subsection (e), by striking ", other than a highway access to which is fully controlled,";

(3) by striking subsection (g) and inserting the following:

"(g) PLANNING AND DESIGN.—

"(1) IN GENERAL.—Bicyclists and pedestrians shall be given consideration in the comprehensive transportation plans developed by each metropolitan planning organization and State in accordance with sections 134 and 135, respectively.

"(2) CONSTRUCTION.—Bicycle transportation facilities and pedestrian walkways shall be considered, where appropriate, in conjunction with all new construction and reconstruction of transportation facilities, except where bicycle and pedestrian use are not permitted.

"(3) SAFETY AND CONTIGUOUS ROUTES.—Transportation plans and projects shall provide consideration for safety and contiguous routes for bicyclists and pedestrians.";

(4) in subsection (h)—

(A) by striking "No motorized vehicles shall" and inserting "Motorized vehicles may not"; and

(B) by striking paragraph (3) and inserting the following:

"(3) wheelchairs that are powered; and"; and

(5) by striking subsection (j) and inserting the following:

"(j) DEFINITIONS.—In this section:

"(1) BICYCLE TRANSPORTATION FACILITY.—The term 'bicycle transportation facility' means a new or improved lane, path, or shoulder for use by bicyclists or a traffic control device, shelter, or parking facility for bicycles.

"(2) PEDESTRIAN.—The term 'pedestrian' means any person traveling by foot or any mobility impaired person using a wheelchair.

"(3) WHEELCHAIR.—The term 'wheelchair' means a mobility aid, usable indoors, and designed for and used by individuals with mobility impairments, whether operated manually or powered.".

SEC. 1111. DISADVANTAGED BUSINESS ENTERPRISES.

(a) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I and II of this Act shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

(b) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $16,600,000, as adjusted by the Secretary for inflation.

(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this section.

(c) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually survey and compile a list of the small business concerns referred to in subsection (a) and the location of such concerns in the State and notify the Secretary, in writing, of the percentage of such concerns which are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.

(d) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this section. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.

SEC. 1112. FEDERAL SHARE PAYABLE.

Section 120 of title 23, United States Code (as amended by section 1106(a)), is amended—

(1) in each of subsections (a) and (b), by adding at the end the following: "In the case of any project subject to this subsection, a State may determine a lower Federal share than the Federal share determined under the preceding sentences of this subsection."; and

(2) by adding at the end the following:

"(l) CREDIT FOR NON-FEDERAL SHARE.—

"(1) ELIGIBILITY.—A State may use as a credit toward the non-Federal share requirement for any program under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240) or this title, other than the emergency relief program authorized by section 125, toll revenues that are generated and used by public, quasi-public, and private agencies to build, improve, or maintain, without the use of Federal funds, highways, bridges, or tunnels that serve the public purpose of interstate commerce.

"(2) MAINTENANCE OF EFFORT.—

"(A) IN GENERAL.—The credit toward any non-Federal share under paragraph (1) shall not reduce nor replace State funds required to match Federal funds for any program under this title.

"(B) CONDITIONS ON RECEIPT OF CREDIT.—

"(i) AGREEMENT WITH THE SECRETARY.—To receive a credit under paragraph (1) for a fiscal year, a State shall enter into such agreements as the Secretary may require to ensure that the State will maintain its non-Federal transportation capital expenditures at or above the average level of such expenditures for the preceding 3 fiscal years.

"(ii) EXCEPTION.—Notwithstanding clause (i), a State may receive a credit under paragraph (1) for a fiscal year if, for any 1 of the preceding 3 fiscal years, the non-Federal transportation capital expenditures of the State were at a level that was greater than 30 percent of the average level of such expenditures for the other 2 of the preceding 3 fiscal years.

"(3) TREATMENT.—

"(A) IN GENERAL.—Use of the credit toward a non-Federal share under paragraph (1) shall not expose the agencies from which the credit is received to additional liability, additional regulation, or additional administrative oversight.

"(B) CHARTERED MULTISTATE AGENCIES.—When credit is applied from a chartered multistate agency under paragraph (1), the credit shall be applied equally to all charter States.

"(C) NO ADDITIONAL STANDARDS.—A public, quasi-public, or private agency from which the credit for which the non-Federal share is calculated under paragraph (1) shall not be subject to any additional Federal design standards or laws (including regulations) as a result of providing the credit beyond the standards and laws to which the agency is already subject.".

SEC. 1113. STUDIES AND REPORTS.

(a) HIGHWAY ECONOMIC REQUIREMENT SYSTEM.—

(1) METHODOLOGY.—

(A) EVALUATION.—The Comptroller General of the United States shall conduct an evaluation of the methodology used by the Department of Transportation to determine highway needs using the highway economic requirement system (referred to in this subsection as the "model").

(B) REQUIRED ELEMENT.—The evaluation shall include an assessment of the extent to which the model estimates an optimal level of highway infrastructure investment, including an assessment as to when the model may be overestimating or underestimating investment requirements.

(C) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the evaluation.

(2) STATE INVESTMENT PLANS.—

(A) STUDY.—In consultation with State transportation departments and other appropriate State and local officials, the Comptroller General of the United States shall conduct a study on the extent to which the highway economic requirement system of the Federal Highway Administration can be used to provide States with useful information for developing State transportation investment plans and State infrastructure investment projections.

(B) REQUIRED ELEMENTS.—The study shall—

(i) identify any additional data that may need to be collected beyond the data submitted, prior to the date of enactment of this Act, to the Federal Highway Administration through the highway performance monitoring system; and

(ii) identify what additional work, if any, would be required of the Federal Highway Administration and the States to make the model useful at the State level.

(C) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(b) INTERNATIONAL ROUGHNESS INDEX.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the international roughness index that is used as an indicator of pavement quality on the Federal-aid highway system.

(2) REQUIRED ELEMENTS.—The study shall specify the extent of usage of the index and the extent to which the international roughness index measurement is reliable across different manufacturers and types of pavement.

(3) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Comptroller General shall submit a report to Congress on the results of the study.

(c) REPORTING OF RATES OF OBLIGATION.—Section 104 of title 23, United States Code, is amended—

(1) by redesignating subsection (j) as subsection (m); and

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

"(j) REPORTING OF RATES OF OBLIGATION.—On an annual basis, the Secretary shall publish or otherwise report rates of obligation of funds apportioned or set aside under this section and sections 103 and 133 according to—

"(1) program;

"(2) funding category or subcategory;

"(3) type of improvement;

"(4) State; and

"(5) sub-State geographic area, including urbanized and rural areas, on the basis of the population of each such area.".

SEC. 1114. DEFINITIONS.

(a) FEDERAL-AID HIGHWAY FUNDS AND PROGRAM.—

(1) IN GENERAL.—Section 101(a) of title 23, United States Code, is amended by inserting before the undesignated paragraph defining "Federal-aid highways" the following:

"The term 'Federal-aid highway funds' means funds made available to carry out the Federal-aid highway program.

"The term 'Federal-aid highway program' means all programs authorized under chapters 1, 3, and 5.".

(2) CONFORMING AMENDMENTS.—

(A) Section 101(d) of title 23, United States Code, is amended by striking "the construction of Federal-aid highways or highway planning, research, or development" and inserting "the Federal-aid highway program".

(B) Section 104(m)(1) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended by striking "Federal-aid highways and the highway safety construction programs" and inserting "the Federal-aid highway program".

(C) Section 107(b) of title 23, United States Code, is amended in the second sentence by striking "Federal-aid highways" and inserting "the Federal-aid highway program".

(b) ALPHABETIZATION OF DEFINITIONS.—Section 101(a) of title 23, United States Code, is amended by reordering the undesignated paragraphs so that they are in alphabetical order.

SEC. 1115. COOPERATIVE FEDERAL LANDS TRANSPORTATION PROGRAM.

(a) IN GENERAL.—Chapter 2 of title 23, United States Code (as amended by section 1107(a)), is amended by inserting after section 206 the following:

"§ 207. Cooperative Federal Lands Transportation Program

"(a) IN GENERAL.—There is established the Cooperative Federal Lands Transportation Program (referred to in this section as the 'program'). Funds available for the program may be used for projects, or portions of projects, on highways that are owned or maintained by States or political subdivisions of States and that cross, are adjacent to, or lead to federally owned land or Indian reservations (including Army Corps of Engineers reservoirs), as determined by the State. Such projects shall be proposed by a State and selected by the Secretary. A project proposed by a State under this section shall be on a highway or bridge owned or maintained by the State, or 1 or more political subdivisions of the State, and may be a highway or bridge construction or maintenance project eligible under this title or any project of a type described in section 204(h).

"(b) DISTRIBUTION OF FUNDS FOR PROJECTS.—

"(1) IN GENERAL.—

"(A) IN GENERAL.—The Secretary—

"(i) after consultation with the Administrator of General Services, the Secretary of the Interior, and other agencies as appropriate (including the Army Corps of Engineers), shall determine the percentage of the total land in each State that is owned by the Federal Government or that is held by the Federal Government in trust;

"(ii) shall determine the sum of the percentages determined under clause (i) for States with respect to which the percentage is 4.5 or greater; and

"(iii) shall determine for each State included in the determination under clause (ii) the percentage obtained by dividing—

"(I) the percentage for the State determined under clause (i); by

"(II) the sum determined under clause (ii).

"(B) ADJUSTMENT.—The Secretary shall—

"(i) reduce any percentage determined under subparagraph (A)(iii) that is greater than 7.5 percent to 7.5 percent; and

"(ii) redistribute the percentage points equal to any reduction under clause (i) among other States included in the determination under subparagraph (A)(ii) in proportion to the percentages for those States determined under subparagraph (A)(iii).

"(2) AVAILABILITY TO STATES.—Except as provided in paragraph (3), for each fiscal year, the Secretary shall make funds available to carry out eligible projects in a State in an amount equal to the amount obtained by multiplying—

"(A) the percentage for the State, if any, determined under paragraph (1); by

"(B) the funds made available for the program for the fiscal year.

"(3) SELECTION OF PROJECTS.—The Secretary may establish deadlines for States to submit proposed projects for funding under this section, except that in the case of fiscal year 1998 the deadline may not be earlier than January 1, 1998. For each fiscal year, if a State does not have pending, by that deadline, applications for projects with an estimated cost equal to at least 3 times the amount for the State determined under paragraph (2), the Secretary may distribute, to 1 or more other States, at the Secretary's discretion, ⅓ of the amount by which the estimated cost of the State's applications is less than 3 times the amount for the State determined under paragraph (2).

"(c) TRANSFERS.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a State and the Secretary may agree to transfer amounts made available to a State under this section to the allocations of the State under section 202 for use in carrying out projects on any Federal lands highway that is located in the State.

"(2) SPECIAL RULE.—This paragraph applies to a State that contains a national park that was visited by more than 2,500,000 people in 1996 and comprises more than 3,000 square miles of land area, including surface water, that is located in the State. For such a State, 50 percent of the amount that would otherwise be made available to the State for each fiscal year under the program shall be made available only for eligible highway uses in the national park and within the borders of the State. For the purpose of making allocations under section 202(c), the Secretary may not take into account the past or future availability, for use on park roads and parkways in a national park, of funds made available for use in a national park by this paragraph.

"(d) RIGHTS-OF-WAY ACROSS FEDERAL LAND.—Nothing in this section affects any claim for a right-of-way across Federal land.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $74,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 2 of title 23, United States Code, is amended by striking the item relating to section 207 and inserting the following:

"207. Cooperative Federal Lands Transportation Program.".

SEC. 1116. TRADE CORRIDOR AND BORDER CROSSING PLANNING AND BORDER INFRASTRUCTURE.

(a) DEFINITIONS.—In this section:

(1) BORDER REGION.—The term "border region" means—

(A) the region located within 60 miles of the United States border with Mexico; and

(B) the region located within 60 miles of the United States border with Canada.

(2) BORDER STATE.—The term "border State" means a State of the United States that—

(A) is located along the border with Mexico; or

(B) is located along the border with Canada.

(3) BORDER STATION.—The term "border station" means a controlled port of entry into the United States located in the United States at the border with Mexico or Canada, consisting of land occupied by the station and the buildings, roadways, and parking lots on the land.

(4) FEDERAL INSPECTION AGENCY.—The term "Federal inspection agency" means a Federal agency responsible for the enforcement of immigration laws (including regulations), customs laws (including regulations), and agriculture import restrictions, including the United States Customs Service, the Immigration and Naturalization Service, the Animal and Plant Health Inspection Service, the Food and Drug Administration, the United States Fish and Wildlife Service, and the Department of State.

(5) GATEWAY.—The term "gateway" means a grouping of border stations defined by proximity and similarity of trade.

(6) NON-FEDERAL GOVERNMENTAL JURISDICTION.—The term "non-Federal governmental jurisdiction" means a regional, State, or local authority involved in the planning, development, provision, or funding of transportation infrastructure needs.

(b) BORDER CROSSING PLANNING INCENTIVE GRANTS.—

(1) IN GENERAL.—The Secretary shall make incentive grants to States and to metropolitan planning organizations designated under section 134 of title 23, United States Code.

(2) USE OF GRANTS.—The grants shall be used to encourage joint transportation planning activities and to improve people and vehicle movement into and through international gateways as a supplement to statewide and metropolitan transportation planning funding made available under other provisions of this Act and under title 23, United States Code.

(3) CONDITION OF GRANTS.—As a condition of receiving a grant under paragraph (1), a State transportation department or a metropolitan planning organization shall certify to the Secretary that it commits to be engaged in joint planning with its counterpart agency in Mexico or Canada.

(4) LIMITATION ON AMOUNT.—Each State transportation department or metropolitan planning organization may receive not more than $100,000 under this subsection for any fiscal year.

(5) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $1,400,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project under this subsection shall be determined in accordance with subsection (f).

(c) TRADE CORRIDOR PLANNING INCENTIVE GRANTS.—

(1) GRANTS.—

(A) IN GENERAL.—The Secretary shall make grants to States to encourage, within the framework of the statewide transportation planning process of the State under section 135 of title 23, United States Code, cooperative multistate corridor analysis of, and planning for, the safe and efficient movement of goods along and within international or interstate trade corridors of national importance.

(B) IDENTIFICATION OF CORRIDORS.—Each corridor referred to in subparagraph (A) shall be cooperatively identified by the States along the corridor.

(2) CORRIDOR PLANS.—

(A) IN GENERAL.—As a condition of receiving a grant under paragraph (1), a State shall enter into an agreement with the Secretary that specifies that, in cooperation with the other States along the corridor, the State will submit a plan for corridor improvements to the Secretary not later than 2 years after receipt of the grant.

(B) COORDINATION OF PLANNING.—Planning with respect to a corridor under this subsection shall be coordinated with transportation planning being carried out by the States and metropolitan planning organizations along the corridor and, to the extent appropriate, with transportation planning being carried out by Federal land management agencies, by tribal governments, or by government agencies in Mexico or Canada.

(3) MULTISTATE AGREEMENTS FOR TRADE CORRIDOR PLANNING.—The consent of Congress is granted to any 2 or more States—

(A) to enter into multistate agreements, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of interstate trade corridor planning activities; and

(B) to establish such agencies, joint or otherwise, as the States may determine desirable to make the agreements effective.

(4) AUTHORIZATION OF CONTRACT AUTHORITY.—

(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $3,000,000 for each of fiscal years 1998 through 2003.

(B) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of a project under this subsection shall be determined in accordance with subsection (f).

(d) FEDERAL ASSISTANCE FOR TRADE CORRIDORS AND BORDER INFRASTRUCTURE SAFETY AND CONGESTION RELIEF.—

(1) APPLICATIONS FOR GRANTS.—The Secretary shall make grants to States or metropolitan planning organizations that submit an application that—

(A) demonstrates need for assistance in carrying out transportation projects that are necessary to relieve traffic congestion or improve enforcement of motor carrier safety laws; and

(B) includes strategies to involve both the public and private sectors in the proposed project.

(2) SELECTION OF STATES, METROPOLITAN PLANNING ORGANIZATIONS, AND PROJECTS TO RECEIVE GRANTS.—In selecting States, metropolitan planning organizations, and projects to receive grants under this subsection, the Secretary shall consider—

(A) the annual volume of commercial vehicle traffic at the border stations or ports of entry of each State as compared to the annual volume of commercial vehicle traffic at the border stations or ports of entry of all States;

(B) the extent to which commercial vehicle traffic in each State has grown since the date of enactment of the North American Free Trade Agreement Implementation Act (Public Law 103-182) as compared to the extent to which that traffic has grown in each other State;

(C) the extent of border transportation improvements carried out by each State since the date of enactment of that Act;

(D) the reduction in commercial and other travel time through a major international gateway expected as a result of the project;

(E) the extent of leveraging of Federal funds provided under this subsection, including—

(i) use of innovative financing;

(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and

(iii) combination with other sources of Federal, State, local, or private funding;

(F) improvements in vehicle and highway safety and cargo security in and through the gateway concerned;

(G) the degree of demonstrated coordination with Federal inspection agencies;

(H) the extent to which the innovative and problem solving techniques of the proposed project would be applicable to other border stations or ports of entry;

(I) demonstrated local commitment to implement and sustain continuing comprehensive border planning processes and improvement programs; and

(J) other factors to promote transport efficiency and safety, as determined by the Secretary.

(3) USE OF GRANTS.—

(A) IN GENERAL.—A grant under this subsection shall be used to develop project plans, and implement coordinated and comprehensive programs of projects, to improve efficiency and safety.

(B) TYPE OF PLANS AND PROGRAMS.—The plans and programs may include—

(i) improvements to transport and supporting infrastructure;

(ii) improvements in operational strategies, including electronic data interchange and use of telecommunications to expedite vehicle and cargo movement;

(iii) modifications to regulatory procedures to expedite vehicle and cargo flow;

(iv) new infrastructure construction;

(v) purchase, installation, and maintenance of weigh-in-motion devices and associated electronic equipment in Mexico or Canada if real time data from the devices is provided to the nearest border station and to State commercial vehicle enforcement facilities that serve the border station; and

(vi) other institutional improvements, such as coordination of binational planning, programming, and border operation, with special emphasis on coordination with—

(I) Federal inspection agencies; and

(II) their counterpart agencies in Mexico and Canada.

(4) CONSTRUCTION OF TRANSPORTATION INFRASTRUCTURE FOR LAW ENFORCEMENT PURPOSES.—At the request of the Administrator of General Services, in consultation with the Attorney General, the Secretary may transfer, during the period of fiscal years 1998 through 2001, not more than $10,000,000 of the amounts made available under paragraph (5) to the Administrator of General Services for the construction of transportation infrastructure necessary for law enforcement in border States.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $125,000,000 for each of fiscal years 1998 through 2003.

(e) COORDINATION OF PLANNING.—

(1) PLANNING AND DEVELOPMENT OF BORDER STATIONS.—The General Services Administration shall be the coordinating Federal agency in the planning and development of new or expanded border stations.

(2) COOPERATIVE ACTIVITIES.—In carrying out paragraph (1), the Administrator of General Services shall cooperate with Federal inspection agencies and non-Federal governmental jurisdictions to ensure that—

(A) improvements to border station facilities take into account regional and local conditions, including the alignment of highway systems and connecting roadways; and

(B) all facility requirements, associated costs, and economic impacts are identified.

(f) COST SHARING.—A grant under this section shall be used to pay the Federal share of the cost of a project. The Federal share shall not exceed 80 percent.

(g) USE OF UNALLOCATED FUNDS.—If the total amount of funds made available from the Highway Trust Fund under this section but not allocated exceeds $4,000,000 as of September 30 of any year, the excess amount—

(1) shall be apportioned in the following fiscal year by the Secretary to all States in accordance with section 104(b)(3) of title 23, United States Code;

(2) shall be considered to be a sum made available for expenditure on the surface transportation program, except that the amount shall not be subject to section 133(d) of that title; and

(3) shall be available for any purpose eligible for funding under section 133 of that title.

SEC. 1117. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) AVAILABILITY, RELEASE, AND REALLOCATION OF FUNDS.—Section 201(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the second sentence, by inserting before the period at the end the following: ", except that each allocation to a State shall remain available for expenditure in the State for the fiscal year in which the allocation is allocated and for the 3 following fiscal years"; and

(2) by inserting after the second sentence the following: "Funds authorized under this section for fiscal year 1998 or a fiscal year thereafter, and not expended by a State during the 4 fiscal years referred to in the preceding sentence, shall be released to the Commission for reallocation and shall remain available until expended.".

(b) SUBSTITUTE CORRIDOR.—Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) by striking "(b) The Commission" and inserting the following:

"(b) DESIGNATIONS.—

"(1) IN GENERAL.—The Commission"; and

(3) by adding at the end the following:

"(2) SUBSTITUTE CORRIDOR.—In lieu of Corridor H in Virginia, the Appalachian development highway system shall include the Virginia portion of the segment identified in section 1105(c)(29) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597).".

(c) FEDERAL SHARE FOR PREFINANCED PROJECTS.—Section 201(h)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking "70 per centum" and inserting "80 percent".

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking subsection (g) and inserting the following:

"(g) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—

"(A) FISCAL YEARS 1998 THROUGH 2003.—For the continued construction of the Appalachian development highway system approved as of September 30, 1996, in accordance with this section, there shall be available from the Highway Trust Fund (other than the Mass Transit Account) $40,000,000 for each of fiscal years 1998 through 2000, $50,000,000 for fiscal year 2001, $60,000,000 for fiscal year 2002, and $70,000,000 for fiscal year 2003.

"(B) OBLIGATION AUTHORITY.—The Secretary shall provide equivalent amounts of obligation authority for the funds authorized under subparagraph (A).

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be determined in accordance with this section and the funds shall remain available in accordance with subsection (a).".

SEC. 1118. INTERSTATE 4R AND BRIDGE DISCRETIONARY PROGRAM.

(a) IN GENERAL.—Section 104 of title 23, United States Code (as amended by section 1113(c)(1)), is amended by inserting after subsection (j) the following:

"(k) SET-ASIDE FOR INTERSTATE 4R AND BRIDGE PROJECTS.—

"(1) IN GENERAL.—For each of fiscal years 1998 through 2003, before any apportionment is made under subsection (b)(1), the Secretary shall set aside $70,000,000 from amounts to be apportioned under subsection (b)(1)(A), and $70,000,000 from amounts to be apportioned under subsection (b)(1)(B), for allocation by the Secretary—

"(A) for projects for resurfacing, restoring, rehabilitating, or reconstructing any route or portion of a route on the Interstate System (other than any highway designated as a part of the Interstate System under section 103(c)(4) and any toll road on the Interstate System that is not subject to an agreement under section 119(e) (as in effect on December 17, 1991) or an agreement under section 129(a));

"(B) for projects for a highway bridge the replacement, rehabilitation, or seismic retrofit cost of which is more than $10,000,000; and

"(C) for projects for a highway bridge the replacement, rehabilitation, or seismic retrofit cost of which is less than $10,000,000 if the cost is at least twice the amount reserved under section 144(c) by the State in which the bridge is located for the fiscal year in which application is made for an allocation for the bridge under this subsection.

"(2) REQUIRED ALLOCATION.—

"(A) IN GENERAL.—Subject to subparagraph (B), for each of fiscal years 1998 through 2003, the Secretary shall allocate on October 1, for use for highway bridge projects, at least $20,000,000 of the amounts set aside under paragraph (1) to any State that—

"(i) is apportioned for fiscal year 1998 under paragraphs (1)(B), (1)(C)(i)(III), and (3)(A)(iii) of subsection (b) an amount that is less than the amount apportioned to the State for the highway bridge replacement and rehabilitation program under section 144 for fiscal year 1997; and

"(ii) was apportioned for that program for fiscal year 1997 an amount greater than $125,000,000.

"(B) EXCEPTION.—A State that transferred funds from the highway bridge replacement and rehabilitation program during any of fiscal years 1995 through 1997 in an amount greater than 10 percent of the apportionments for that program for the fiscal year shall not be eligible for an allocation under subparagraph (A).

"(C) ADDITIONAL ALLOCATION.—An allocation to a State under subparagraph (A) shall be in addition to any allocation to the State under paragraph (1).

"(3) AVAILABILITY TO STATES OF INTERSTATE 4R FUNDS.—The Secretary may grant the application of a State for funds made available for a fiscal year for a project described in paragraph (1)(A) if the Secretary determines that—

"(A) the State has obligated or demonstrates that it will obligate for the fiscal year all of the apportionments to the State under subparagraphs (A) and (B) of subsection (b)(1) other than an amount that, by itself, is insufficient to pay the Federal share of the cost of a project described in paragraph (1)(A) that has been submitted by the State to the Secretary for approval; and

"(B) the State is willing and able to—

"(i) obligate the funds within 1 year after the date on which the funds are made available;

"(ii) apply the funds to a project that is ready to be commenced; and

"(iii) in the case of construction work, begin work within 90 days after the date of obligation of the funds.

"(4) ELIGIBILITY OF CERTAIN BRIDGES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, any bridge that is owned and operated by an agency that does not have taxing powers and whose functions include operating a federally assisted public transit system subsidized by toll revenues shall be eligible for assistance under this subsection.

"(B) LIMITATION.—The amount of assistance under subparagraph (A) shall not exceed the cumulative amount that the agency has expended for capital and operating costs to subsidize the transit system.

"(C) DETERMINATION BY THE SECRETARY.—Before authorizing an expenditure of funds under this paragraph, the Secretary shall make a determination that the applicant agency has insufficient reserves, surpluses, and projected revenues (over and above those required for bridge and transit capital and operating costs) to fund the necessary bridge replacement, seismic retrofitting, or rehabilitation project.

"(D) CREDITING OF NON-FEDERAL FUNDS.—Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of expenditure.

"(5) PERIOD OF AVAILABILITY OF DISCRETIONARY FUNDS.—Amounts made available under this subsection shall remain available until expended.".

(b) CONFORMING AMENDMENT.—Section 118 of title 23, United States Code, is amended by striking subsection (c).

SEC. 1119. MAGNETIC LEVITATION TRANSPORTATION TECHNOLOGY DEPLOYMENT PROGRAM.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 321 the following:

"§ 322. Magnetic levitation transportation technology deployment program

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROJECT COSTS.—The term 'eligible project costs' means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station.

"(2) FULL PROJECT COSTS.—The term 'full project costs' means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

"(3) MAGLEV.—The term 'MAGLEV' means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

"(4) PARTNERSHIP POTENTIAL.—The term 'partnership potential' has the meaning given the term in the commercial feasibility study of high-speed ground transportation conducted under section 1036 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1978).

"(b) ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make available financial assistance to provide the Federal share of full project costs of eligible projects selected under this section.

"(2) FEDERAL SHARE.—The Federal share of full project costs under paragraph (1) shall be not more than ⅔.

"(3) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects selected under this section.

"(c) SOLICITATION OF APPLICATIONS FOR ASSISTANCE.—Not later than 180 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, the Secretary shall solicit applications from States, or authorities designated by 1 or more States, for financial assistance authorized by subsection (b) for planning, design, and construction of eligible MAGLEV projects.

"(d) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

"(1) involve a segment or segments of a high-speed ground transportation corridor that exhibit partnership potential;

"(2) require an amount of Federal funds for project financing that will not exceed the sum of—

"(A) the amounts made available under subsection (h)(1)(A); and

"(B) the amounts made available by States under subsection (h)(4);

"(3) result in an operating transportation facility that provides a revenue producing service;

"(4) be undertaken through a public and private partnership, with at least ⅓ of full project costs paid using non-Federal funds;

"(5) satisfy applicable statewide and metropolitan planning requirements;

"(6) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States;

"(7) to the extent that non-United States MAGLEV technology is used within the United States, be carried out as a technology transfer project; and

"(8) be carried out using materials at least 70 percent of which are manufactured in the United States.

"(e) PROJECT SELECTION CRITERIA.—Prior to soliciting applications, the Secretary shall establish criteria for selecting which eligible projects under subsection (d) will receive financial assistance under subsection (b). The criteria shall include the extent to which—

"(1) a project is nationally significant, including the extent to which the project will demonstrate the feasibility of deployment of MAGLEV technology throughout the United States;

"(2) timely implementation of the project will reduce congestion in other modes of transportation and reduce the need for additional highway or airport construction;

"(3) States, regions, and localities financially contribute to the project;

"(4) implementation of the project will create new jobs in traditional and emerging industries;

"(5) the project will augment MAGLEV networks identified as having partnership potential;

"(6) financial assistance would foster public and private partnerships for infrastructure development and attract private debt or equity investment;

"(7) financial assistance would foster the timely implementation of a project; and

"(8) life-cycle costs in design and engineering are considered and enhanced.

"(f) PROJECT SELECTION.—Not later than 90 days after a deadline established by the Secretary for the receipt of applications, the Secretary shall evaluate the eligible projects in accordance with the selection criteria and select 1 eligible project for financial assistance.

"(g) JOINT VENTURES.—A project undertaken by a joint venture of United States and non-United States persons (including a project involving the deployment of non-United States MAGLEV technology in the United States) shall be eligible for financial assistance under this section if the project is eligible under subsection (d) and selected under subsection (f).

"(h) FUNDING.—

"(1) IN GENERAL.—

"(A) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(i) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1999 and $20,000,000 for fiscal year 2000.

"(ii) CONTRACT AUTHORITY.—Funds authorized under this subparagraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(I) the Federal share of the cost of a project carried out under this section shall be determined in accordance with subsection (b); and

"(II) the availability of the funds shall be determined in accordance with paragraph (2).

"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $200,000,000 for each of fiscal years 2000 and 2001, $250,000,000 for fiscal year 2002, and $300,000,000 for fiscal year 2003.

"(2) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.

"(3) OTHER FEDERAL FUNDS.—Notwithstanding any other provision of law, funds made available to a State to carry out the surface transportation program under section 133 and the congestion mitigation and air quality improvement program under section 149 may be used by the State to pay a portion of the full project costs of an eligible project selected under this section, without requirement for non-Federal funds.

"(4) OTHER ASSISTANCE.—Notwithstanding any other provision of law, an eligible project selected under this section shall be eligible for other forms of financial assistance provided under this title and the Transportation Infrastructure Finance and Innovation Act of 1997, including loans, loan guarantees, and lines of credit.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by inserting after the item relating to section 321 the following:

"322. Magnetic levitation transportation technology deployment program.".

SEC. 1120. WOODROW WILSON MEMORIAL BRIDGE.

(a) DEFINITIONS.—Section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 628) is amended—

(1) in paragraph (3), by striking ", including approaches thereto"; and

(2) in paragraph (5), by striking "to be determined under section 407. Such" and all that follows and inserting the following: "as described in the record of decision executed by the Secretary in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The term includes ongoing short-term rehabilitation and repairs to the Bridge.".

(b) OWNERSHIP OF BRIDGE.—

(1) CONVEYANCE BY THE SECRETARY.—Section 407(a)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by inserting "or any Capital Region jurisdiction" after "Authority" each place it appears.

(2) AGREEMENT.—Section 407 of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 630) is amended by striking subsection (c) and inserting the following:

"(c) AGREEMENT.—

"(1) IN GENERAL.—The agreement referred to in subsection (a) is an agreement concerning the Project that is executed by the Secretary and the Authority or any Capital Region jurisdiction that accepts ownership of the Bridge.

"(2) TERMS OF THE AGREEMENT.—The agreement shall—

"(A) identify whether the Authority or a Capital Region jurisdiction will accept ownership of the Bridge;

"(B) contain a financial plan satisfactory to the Secretary, which shall be prepared before the execution of the agreement, that specifies—

"(i) the total cost of the Project, including any cost-saving measures;

"(ii) a schedule for implementation of the Project, including whether any expedited design and construction techniques will be used; and

"(iii) the sources of funding that will be used to cover any costs of the Project not funded from funds made available under section 412; and

"(C) contain such other terms and conditions as the Secretary determines to be appropriate.".

(c) FEDERAL CONTRIBUTION.—The Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 627) is amended by adding at the end the following:

"SEC. 412. FEDERAL CONTRIBUTION.

"(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $100,000,000 for fiscal year 1998, $100,000,000 for fiscal year 1999, $125,000,000 for fiscal year 2000, $175,000,000 for fiscal year 2001, $200,000,000 for fiscal year 2002, and $200,000,000 for fiscal year 2003, to pay the costs of planning, preliminary engineering and design, final engineering, acquisition of rights-of-way, and construction of the Project, except that the costs associated with the Bridge shall be given priority over other eligible costs, other than design costs, of the Project.

"(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that—

"(A) the funds shall remain available until expended;

"(B) the Federal share of the cost of the Bridge component of the Project shall not exceed 100 percent; and

"(C) the Federal share of the cost of any other component of the Project shall not exceed 80 percent.

"(b) USE OF APPORTIONED FUNDS.—Nothing in this title limits the authority of any Capital Region jurisdiction to use funds apportioned to the jurisdiction under paragraph (1) or (3) of section 104(b) of title 23, United States Code, in accordance with the requirements for such funds, to pay any costs of the Project.

"(c) AVAILABILITY OF APPORTIONED FUNDS.—None of the funds made available under this section shall be available before the execution of the agreement described in section 407(c), except that the Secretary may fund the maintenance and rehabilitation of the Bridge and the design of the Project.".

(d) CONFORMING AMENDMENT.—Section 405(b)(1) of the Woodrow Wilson Memorial Bridge Authority Act of 1995 (109 Stat. 629) is amended by striking "the Signatories as to the Federal share of the cost of the Project and the terms and conditions related to the timing of the transfer of the Bridge to".

SEC. 1121. NATIONAL HIGHWAY SYSTEM COMPONENTS.

The National Highway System consists of the routes and transportation facilities depicted on the map submitted by the Secretary to Congress with the report entitled "Pulling Together: The National Highway System and its Connections to Major Intermodal Terminals" and dated May 24, 1996.

SEC. 1122. HIGHWAY BRIDGE REPLACEMENT AND REHABILITATION.

(a) IN GENERAL.—Section 144 of title 23, United States Code, is amended—

(1) in the section heading, by striking "**program**";

(2) by striking subsections (a) through (n), (p), and (q);

(3) by inserting after the section heading the following:

"(a) DEFINITION OF REHABILITATE.—In this section, the term 'rehabilitate' (in any of its forms), with respect to a bridge, means to carry out major work necessary—

"(1) to address the structural deficiencies, functional obsolescence, or physical deterioration of the bridge; or

"(2) to correct a major safety defect of the bridge, including seismic retrofitting.

"(b) BRIDGE INVENTORY.—

"(1) IN GENERAL.—In consultation with the States, the Secretary shall—

"(A) annually inventory all highway bridges on public roads that cross waterways, other topographical barriers, other highways, and railroads;

"(B) classify each such bridge according to serviceability, safety, and essentiality for public use; and

"(C) assign each such bridge a priority for replacement or rehabilitation based on the classification under subparagraph (B).

"(2) CONSULTATION.—In preparing an inventory of highway bridges on Indian reservation roads and park roads under paragraph (1), the Secretary shall consult with the Secretary of the Interior and the States.

"(3) INVENTORY OF HISTORICAL BRIDGES.—At the request of a State, the Secretary may inventory highway bridges on public roads for historical significance.

"(c) CERTIFICATION BY THE STATE.—Not later than 180 days after the end of each fiscal year beginning with fiscal year 1998, each State shall certify to the Secretary, either that—

"(1) the State has reserved, from funds apportioned to the State for the preceding fiscal year, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), an amount that is not less than the amount apportioned to the State under this section for fiscal year 1997; or

"(2) the amount that the State will reserve, from funds apportioned to the State for the period consisting of fiscal years 1998 through 2001, to carry out bridge projects eligible under sections 103(b)(5), 119, and 133(b), will be not less than 4 times the amount apportioned to the State under this section for fiscal year 1997.

"(d) USE OF RESERVED FUNDS.—A State may use funds reserved under subsection (c) to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures on a highway bridge on a public road that crosses a waterway, other topographical barrier, other highway, or railroad.

"(e) OFF-SYSTEM BRIDGES.—

"(1) REQUIRED EXPENDITURE.—For each fiscal year, an amount equal to not less than 15 percent of the amount apportioned to a State under this section for fiscal year 1997 shall be expended by the State for projects to replace, rehabilitate, reconstruct, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures on highway bridges located on public roads that are functionally classified as local roads or rural minor collectors.

"(2) USE OF FUNDS TO MEET REQUIRED EXPENDITURE.—Funds reserved under subsection (c) and funds made available under section 104(b)(1) for the National Highway System or under section 104(b)(3) for the surface transportation program may be used to meet the requirement for expenditure under paragraph (1).

"(3) REDUCTION OF REQUIRED EXPENDITURE.—After consultation with local and State officials in a State, the Secretary may, with respect to the State, reduce the requirement for expenditure under paragraph (1) if the Secretary determines that the State has inadequate needs to justify the expenditure.

"(f) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be as determined under section 120(b).

"(g) BRIDGE PERMIT EXEMPTION.—

"(1) IN GENERAL.—Subject to paragraph (2), notwithstanding any other provision of law, the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) shall apply to each bridge authorized to be replaced, in whole or in part, under this section.

"(2) EXCEPTION.—Section 502(b) of the General Bridge Act of 1946 (33 U.S.C. 525(b)) and section 9 of the Act of March 3, 1899 (30 Stat. 1151, chapter 425; 33 U.S.C. 401), shall not apply to any bridge constructed, reconstructed, rehabilitated, or replaced with assistance under this title if the bridge is over waters that are—

"(A) not used and not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce; and

"(B)(i) not tidal; or

"(ii) tidal but used only by recreational boating, fishing, and other small vessels that are less than 21 feet in length.

"(h) INDIAN RESERVATION ROAD BRIDGES.—

"(1) NATIONWIDE PRIORITY PROGRAM.—The Secretary shall establish a nationwide priority program for improving deficient Indian reservation road bridges.

"(2) RESERVATION OF FUNDS.—

"(A) IN GENERAL.—Of the amounts authorized for Indian reservation roads for each fiscal year, the Secretary, in cooperation with the Secretary of the Interior, shall reserve not less than $9,000,000 for projects to replace, rehabilitate, seismically retrofit, paint, apply calcium magnesium acetate to, apply sodium acetate/formate deicer to, or install scour countermeasures for deficient Indian reservation road bridges, including multiple-pipe culverts.

"(B) ELIGIBLE BRIDGES.—To be eligible to receive funding under this subsection, a bridge described in subparagraph (A) must—

"(i) have an opening of 20 feet or more;

"(ii) be on an Indian reservation road;

"(iii) be unsafe because of structural deficiencies, physical deterioration, or functional obsolescence; and

"(iv) be recorded in the national bridge inventory administered by the Secretary under subsection (b).

"(3) APPROVAL REQUIREMENT.—Funds to carry out Indian reservation road bridge projects under this subsection shall be made available only on approval of plans, specifications, and estimates by the Secretary.";

(4) by redesignating subsection (o) as subsection (i); and

(5) in subsection (i) (as so redesignated)—

(A) in paragraph (1), by inserting "for alternative transportation purposes (including bikeway and walkway projects eligible for funding under this title)" after "adaptive reuse";

(B) in paragraph (3)—

(i) by inserting "(regardless of whether the intended use is for motorized vehicular traffic or for alternative public transportation purposes)" after "intended use"; and

(ii) by inserting "or for alternative public transportation purposes" after "no longer used for motorized vehicular traffic"; and

(C) in the second sentence of paragraph (4)—

(i) by inserting "for motorized vehicles, alternative vehicular traffic, or alternative public transportation" after "historic bridge"; and

(ii) by striking "up to an amount not to exceed the cost of demolition".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 144 and inserting the following:

"144. Highway bridge replacement and rehabilitation.".

SEC. 1123. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) ESTABLISHED PROGRAM.—Section 149(a) of title 23, United States Code, is amended by striking "ESTABLISHMENT.—The Secretary shall establish" and inserting "IN GENERAL.—The Secretary shall carry out".

(b) ELIGIBLE PROJECTS.—Section 149(b) of title 23, United States Code, is amended in the first sentence—

(1) by striking "that was designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) during any part of fiscal year 1994" and inserting "that is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)) or classified as a submarginal ozone nonattainment area under that Act, or if the project or program is for a maintenance area,";

(2) in paragraph (1)—

(A) in subparagraph (A), by striking "clauses (xii) and" and inserting "clause"; and

(B) in subparagraph (B), by striking "such section" and inserting "section 108(f)(1)(A) (other than clause (xvi)) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A))";

(3) in paragraph (2), by inserting "or maintenance" after "State implementation";

(4) in paragraph (3), by inserting "or maintenance of the standard" after "standard"; and

(5) in paragraph (4), by inserting "or maintenance" after "attainment".

(c) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) STATES RECEIVING MINIMUM APPORTIONMENT.—

"(1) STATES WITHOUT A NONATTAINMENT AREA.—If a State does not have, and never has had, a nonattainment area designated under the Clean Air Act (42 U.S.C. 7401 et seq.), the State may use funds apportioned to the State under section 104(b)(2) for any project eligible under the surface transportation program under section 133.

"(2) STATES WITH A NONATTAINMENT AREA.—If a State has a nonattainment area or maintenance area and receives funds under section 104(b)(2)(D) above the amount of funds that the State would have received based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2), the State may use that portion of the funds not based on its nonattainment and maintenance area population under subparagraphs (B) and (C) of section 104(b)(2) for any project in the State eligible under section 133.".

(d) FEDERAL SHARE.—Section 120(c) of title 23, United States Code, is amended in the first sentence by striking "The" and inserting "Except in the case of a project funded from sums apportioned under section 104(b)(2), the".

(e) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended by inserting after the undesignated paragraph defining "maintenance" the following:

"The term 'maintenance area' means an area that was designated as a nonattainment area, but was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area, under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).".

(2) Section 149(b)(1)(A)(ii) of title 23, United States Code, is amended by striking "an area" and all that follows and inserting "a maintenance area; or".

SEC. 1124. SAFETY BELT USE LAW REQUIREMENTS.

Section 355 of the National Highway System Designation Act of 1995 (109 Stat. 624) is amended—

(1) in the section heading, by striking "**AND MAINE**";

(2) in subsection (a)—

(A) by striking "States of New Hampshire and Maine shall each" and inserting "State of New Hampshire shall"; and

(B) in paragraph (1), by striking "and 1996" and inserting "through 2000"; and

(3) by striking "or Maine" each place it appears.

SEC. 1125. SENSE OF THE SENATE CONCERNING RELIANCE ON PRIVATE ENTERPRISE.

(a) IN GENERAL.—It is the sense of the Senate that each agency authorized to expend funds made available under this Act, or an amendment made by this Act, or a recipient of any form of a grant or other Federal assistance under this Act, or an amendment made by this Act—

(1) should, in expending the funds or assistance, rely on entities in the private enterprise system to provide such goods and services as are reasonably and expeditiously available through ordinary business channels; and

(2) shall not duplicate or compete with entities in the private enterprise system.

(b) PROCEDURES.—The Secretary should provide procedures to inform each agency that administers this Act and each recipient of a grant or other Federal assistance of the sense of the Senate expressed in subsection (a).

SEC. 1126. STUDY OF USE OF UNIFORMED POLICE OFFICERS ON FEDERAL-AID HIGHWAY CONSTRUCTION PROJECTS.

(a) IN GENERAL.—In consultation with the States and State transportation departments, the Secretary shall conduct a study on the extent and effectiveness of use by States of uniformed police officers on Federal-aid highway construction projects.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under subsection (a), including any legislative and administrative recommendations of the Secretary.

SEC. 1127. CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.

Section 112(b)(2) of title 23, United States Code, is amended—

(1) in subparagraph (B)(i), by striking ", except to" and all that follows through "services";

(2) by striking subparagraph (C) and inserting the following:

"(C) SELECTION, PERFORMANCE, AND AUDITS.—

"(i) IN GENERAL.—All requirements for architectural, engineering, and related services at any phase of a highway project funded in whole or in part with Federal-aid highway funds shall be performed by a contract awarded in accordance with subparagraph (A).

"(ii) PROHIBITION ON STATE RESTRICTION.—A State shall not impose any overhead restriction that would preclude any qualified firm from being eligible to compete for contracts awarded in accordance with subparagraph (A).

"(iii) COMPLIANCE WITH FEDERAL ACQUISITION REGULATIONS.—The process for selection, award, performance, administration, and audit of the resulting contracts shall comply with the cost principles and cost accounting principles of the Federal Acquisition Regulations, including parts 30, 31, and 36 of the Regulations."; and

(3) by adding at the end the following:

"(H) COMPLIANCE.—

"(i) IN GENERAL.—A State shall comply with the qualifications-based selection process, contracting based on the Federal Acquisition Regulations, and the single audit procedures required under this paragraph, or with an existing State law or a statute enacted in accordance with the legislative session exemption under subparagraph (G), with respect to any architecture, engineering, or related service contract for any phase of a Federal-aid highway project.

"(ii) STATES WITH ALTERNATIVE PROCESS.—Any State that, after November 28, 1995, enacted legislation to establish an alternative State process as a substitute for the contract administration and audit procedures required under this paragraph or was granted a waiver under subparagraph (G) shall submit the legislation to the Secretary, not later than 60 days after the date of enactment of this subparagraph, for certification that the State legislation is in compliance with the statutory timetable and substantive criteria specified in subparagraph (G).".

Subtitle B—Program Streamlining and Flexibility

CHAPTER 1—GENERAL PROVISIONS

SEC. 1201. ADMINISTRATIVE EXPENSES.

Section 104 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—Whenever an apportionment is made of the sums made available for expenditure on the surface transportation program under section 133, the congestion mitigation and air quality improvement program under section 149, or the Interstate and National Highway System program under section 103, the Secretary shall deduct a sum, in an amount not to exceed 1½ percent of all sums so made available, as the Secretary determines necessary to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2.

"(2) CONSIDERATION OF UNOBLIGATED BALANCES.—In making the determination described in paragraph (1), the Secretary shall take into account the unobligated balance of any sums deducted under this subsection in prior fiscal years.

"(3) AVAILABILITY.—The sum deducted under paragraph (1) shall remain available until expended.".

SEC. 1202. REAL PROPERTY ACQUISITION AND CORRIDOR PRESERVATION.

(a) ADVANCE ACQUISITION OF REAL PROPERTY.—Section 108 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 108. Advance acquisition of real property";

and

(2) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—For the purpose of facilitating the timely and economical acquisition of real property for a transportation improvement eligible for funding under this title, the Secretary, upon the request of a State, may make available, for the acquisition of real property, such funds apportioned to the State as may be expended on the transportation improvement, under such rules and regulations as the Secretary may issue.

"(2) CONSTRUCTION.—The agreement between the Secretary and the State for the reimbursement of the cost of the real property shall provide for the actual construction of the transportation improvement within a period not to exceed 20 years following the fiscal year for which the request is made, unless the Secretary determines that a longer period is reasonable.".

(b) CREDIT FOR ACQUIRED LANDS.—Section 323(b) of title 23, United States Code, is amended—

(1) in the subsection heading, by striking "DONATED" and inserting "ACQUIRED";

(2) by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—Notwithstanding any other provision of this title, the State share of the cost of a project with respect to which Federal assistance is provided from the Highway Trust Fund (other than the Mass Transit Account) may be credited in an amount equal to the fair market value of any land that—

"(A) is obtained by the State, without violation of Federal law; and

"(B) is incorporated into the project.

"(2) ESTABLISHMENT OF FAIR MARKET VALUE.—The fair market value of land incorporated into a project and credited under paragraph (1) shall be established in the manner determined by the Secretary, except that—

"(A) the fair market value shall not include any increase or decrease in the value of donated property caused by the project; and

"(B) the fair market value of donated land shall be established as of the earlier of—

"(i) the date on which the donation becomes effective; or

"(ii) the date on which equitable title to the land vests in the State.";

(3) by striking paragraph (3);

(4) in paragraph (4), by striking "to which the donation is applied"; and

(5) by redesignating paragraph (4) as paragraph (3).

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 108 and inserting the following:

"108. Advance acquisition of real property.".

SEC. 1203. AVAILABILITY OF FUNDS.

Section 118 of title 23, United States Code, is amended by striking subsection (e) and inserting the following:

"(e) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Any Federal-aid highway funds released by the final payment on a project, or by the modification of a project agreement, shall be credited to the same program funding category for which the funds were previously apportioned and shall be immediately available for obligation.

"(2) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—Any Federal-aid highway funds apportioned to a State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of this paragraph) and credited under paragraph (1) may be transferred by the Secretary in accordance with section 103(d).".

SEC. 1204. PAYMENTS TO STATES FOR CONSTRUCTION.

Section 121 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second and third sentences and inserting the following: "The payments may also be made for the value of such materials as—

"(1) have been stockpiled in the vicinity of the construction in conformity to plans and specifications for the projects; and

"(2) are not in the vicinity of the construction if the Secretary determines that because of required fabrication at an off-site location the materials cannot be stockpiled in the vicinity.";

(2) by striking subsection (b) and inserting the following:

"(b) PROJECT AGREEMENTS.—

"(1) PAYMENTS.—A payment under this chapter may be made only for a project covered by a project agreement.

"(2) SOURCE OF PAYMENTS.—After completion of a project in accordance with the project agreement, a State shall be entitled to payment, out of the appropriate sums apportioned or allocated to the State, of the unpaid balance of the Federal share of the cost of the project.";

(3) by striking subsections (c) and (d); and

(4) by redesignating subsection (e) as subsection (c).

SEC. 1205. PROCEEDS FROM THE SALE OR LEASE OF REAL PROPERTY.

(a) IN GENERAL.—Section 156 of title 23, United States Code, is amended to read as follows:

"§ 156. Proceeds from the sale or lease of real property

"(a) MINIMUM CHARGE.—Subject to section 142(f), a State shall charge, at a minimum, fair market value for the sale, use, lease, or lease renewal (other than for utility use and occupancy or for a transportation project eligible for assistance under this title) of real property acquired with Federal assistance made available from the Highway Trust Fund (other than the Mass Transit Account).

"(b) EXCEPTIONS.—The Secretary may grant an exception to the requirement of subsection (a) for a social, environmental, or economic purpose.

"(c) USE OF FEDERAL SHARE OF INCOME.—The Federal share of net income from the revenues obtained by a State under subsection (a) shall be used by the State for projects eligible under this title.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 156 and inserting the following:

"156. Proceeds from the sale or lease of real property.".

SEC. 1206. METRIC CONVERSION AT STATE OPTION.

Section 205(c)(2) of the National Highway System Designation Act of 1995 (23 U.S.C. 109 note; 109 Stat. 577) is amended by striking "Before September 30, 2000, the" and inserting "The".

SEC. 1207. REPORT ON OBLIGATIONS.

Section 104(m) of title 23, United States Code (as redesignated by section 1113(c)(1)), is amended—

(1) by inserting "REPORT TO CONGRESS.—" before "The Secretary";

(2) by striking "not later than" and all that follows through "a report" and inserting "a report for each fiscal year";

(3) in paragraph (1), by striking "preceding calendar month" and inserting "preceding fiscal year";

(4) by striking paragraph (2);

(5) in paragraph (3), by striking "such preceding month" and inserting "that preceding fiscal year"; and

(6) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 1208. TERMINATIONS.

(a) RIGHT-OF-WAY REVOLVING FUND.—Section 108 of title 23, United States Code, is amended by striking subsection (c) and inserting the following:

"(c) TERMINATION OF RIGHT-OF-WAY REVOLVING FUND.—

"(1) IN GENERAL.—Funds apportioned and advanced to a State by the Secretary from the right-of-way revolving fund established by this section prior to the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997 shall remain available to the State for use on the projects for which the funds were advanced for a period of 20 years from the date on which the funds were advanced.

"(2) CREDIT TO HIGHWAY TRUST FUND.—With respect to a project for which funds have been advanced from the right-of-way revolving fund, upon the termination of the 20-year period referred to in paragraph (1), when actual construction is commenced, or upon approval by the Secretary of the plans, specifications, and estimates for the actual construction of the project on the right-of-way, whichever occurs first—

"(A) the Highway Trust Fund shall be credited with an amount equal to the Federal share of the funds advanced, as provided in section 120, out of any Federal-aid highway funds apportioned to the State in which the project is located and available for obligation for projects of the type funded; and

"(B) the State shall reimburse the Secretary in an amount equal to the non-Federal share of the funds advanced for deposit in, and credit to, the Highway Trust Fund.".

(b) PILOT TOLL COLLECTION PROGRAM.—Section 129 of title 23, United States Code, is amended by striking subsection (d).

(c) NATIONAL RECREATIONAL TRAILS ADVISORY COMMITTEE.—As soon as practicable after the date of enactment of this Act, the Secretary shall take such action as is necessary for the termination of the National Recreational Trails Advisory Committee established by section 1303 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1262) (as in effect on the day before the date of enactment of this Act).

(d) CONGRESSIONAL BRIDGE COMMISSIONS.—Public Law 87–441 (76 Stat. 59) is repealed.

SEC. 1209. INTERSTATE MAINTENANCE.

(a) INTERSTATE FUNDS.—Section 119 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (d); and

(3) by striking subsection (f) and inserting the following:

"(f) TRANSFERABILITY OF FUNDS.—

"(1) UNCONDITIONAL.—A State may transfer an amount not to exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).

"(2) UPON ACCEPTANCE OF CERTIFICATION.—If a State certifies to the Secretary that any part of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) is in excess of the needs of the State for resurfacing, restoring, rehabilitating, or reconstructing routes and bridges on the Interstate System in the State and that the State is adequately maintaining the routes and bridges, and the Secretary accepts the certification, the State may transfer, in addition to the amount authorized to be transferred under paragraph (1), an amount not to exceed 20 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1) to the apportionment of the State under paragraphs (1)(C) and (3) of section 104(b).".

(b) ELIGIBILITY.—Section 119 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a), by striking "and rehabilitating" and inserting ", rehabilitating, and reconstructing";

(2) by striking subsections (b), (c), (e), and (g);

(3) by inserting after subsection (a) the following:

"(b) ELIGIBLE ACTIVITIES.—

"(1) IN GENERAL.—A State—

"(A) may use funds apportioned under subparagraph (A) or (B) of section 104(b)(1) for resurfacing, restoring, rehabilitating, and reconstructing routes on the Interstate System, including—

"(i) resurfacing, restoring, rehabilitating, and reconstructing bridges, interchanges, and overcrossings;

"(ii) acquiring rights-of-way; and

"(iii) intelligent transportation system capital improvements that are infrastructure-based to the extent that they improve the performance of the Interstate System; but

"(B) may not use the funds for construction of new travel lanes other than high-occupancy vehicle lanes or auxiliary lanes.

"(2) EXPANSION OF CAPACITY.—

"(A) USING TRANSFERRED FUNDS.—Notwithstanding paragraph (1), funds transferred

under subsection (c)(1) may be used for construction to provide for expansion of the capacity of an Interstate System highway (including a bridge).

"(B) USING FUNDS NOT TRANSFERRED.—

"(i) IN GENERAL.—In lieu of transferring funds under subsection (c)(1) and using the transferred funds for the purpose described in subparagraph (A), a State may use an amount of the sums apportioned to the State under subparagraph (A) or (B) of section 104(b)(1) for the purpose described in subparagraph (A).

"(ii) LIMITATION.—The sum of the amount used under clause (i) and any amount transferred under subsection (c)(1) by a State may not exceed 30 percent of the sums apportioned to the State under subparagraphs (A) and (B) of section 104(b)(1).''; and

(4) by redesignating subsection (f) as subsection (c).

(c) CONFORMING AMENDMENTS.—

(1) Section 119(a) of title 23, United States Code, is amended in the first sentence by striking ''; except that the Secretary may only approve a project pursuant to this subsection on a toll road if such road is subject to a Secretarial agreement provided for in subsection (e)''.

(2) Section 1009(c)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 119 note; 105 Stat. 1934) is amended by striking ''section 119(f)(1)'' and inserting ''section 119(c)(1)''.

CHAPTER 2—PROJECT APPROVAL

SEC. 1221. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104 of title 23, United States Code (as amended by section 1118), is amended by inserting after subsection (k) the following:

''(l) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

''(1) TRANSFER OF HIGHWAY FUNDS.—Funds made available under this title and transferred for transit projects shall be administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

''(2) TRANSFER OF TRANSIT FUNDS.—Funds made available under chapter 53 of title 49 and transferred for highway projects shall be administered by the Secretary in accordance with this title, except that the provisions of that chapter relating to the non-Federal share shall apply to the transferred funds.

''(3) TRANSFER TO AMTRAK AND PUBLICLY-OWNED PASSENGER RAIL LINES.—Funds made available under this title or chapter 53 of title 49 and transferred to the National Railroad Passenger Corporation or to any publicly-owned intercity or intracity passenger rail line shall be administered by the Secretary in accordance with subtitle V of title 49, except that the provisions of this title or chapter 53 of title 49, as applicable, relating to the non-Federal share shall apply to the transferred funds.

''(4) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority provided for projects described in paragraphs (1) through (3) shall be transferred in the same manner and amount as the funds for the projects are transferred.''.

SEC. 1222. PROJECT APPROVAL AND OVERSIGHT.

(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

''§ 106. Project approval and oversight'';

(2) by redesignating subsections (e) and (f) as subsections (g) and (h), respectively;

(3) by striking subsections (a) through (d) and inserting the following:

''(a) IN GENERAL.—Except as otherwise provided in this section, the State transportation department shall submit to the Secretary for approval such plans, specifications, and estimates for each proposed project as the Secretary may require. The Secretary shall act upon such plans, specifications, and estimates as soon as practicable after they have been submitted, and shall enter into a formal project agreement with the State transportation department formalizing the conditions of the project approval. The execution of such project agreement shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto. In taking such action, the Secretary shall be guided by the provisions of section 109 of this title.

''(b) PROJECT AGREEMENT.—The project agreement shall make provision for State funds required for the State's pro rata share of the cost of construction of the project and for the maintenance of the project after completion of construction. The Secretary may rely upon representations made by the State transportation department with respect to the arrangements or agreements made by the State transportation department and appropriate local officials where a part of the project is to be constructed at the expense of, or in cooperation with, local subdivisions of the State.

''(c) SPECIAL RULES FOR PROJECT OVERSIGHT.—

''(1) NHS PROJECTS.—Except as otherwise provided in subsection (d) of this section, the Secretary may discharge to the State any of the Secretary's responsibilities for the design, plans, specifications, estimates, contract awards, and inspection of projects under this title on the National Highway System. Before discharging responsibilities to the State, the Secretary shall reach agreement with the State as to the extent to which the State may assume the responsibilities of the Secretary under this subsection. The Secretary may not assume any greater responsibility than the Secretary is permitted under this title as of September 30, 1997, except upon agreement by the Secretary and the State.

''(2) NON-NHS PROJECTS.—For all projects under this title that are off the National Highway System, the State may request that the Secretary no longer review and approve the design, plans, specifications, estimates, contract awards, and inspection of projects under this title. After receiving any such request, the Secretary shall undertake project review only as requested by the State.

''(d) RESPONSIBILITIES OF THE SECRETARY.—

''(1) IN GENERAL.—Subject to paragraph (2), nothing in this section, section 133, or section 149 shall affect or discharge any responsibility or obligation of the Secretary under any Federal law other than this title.

''(2) LIMITATION.—Any responsibility or obligation of the Secretary under sections 113 and 114 of this title shall not be affected and may not be discharged under this section, section 133, or section 149.

''(e) VALUE ENGINEERING ANALYSIS.—In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid highway shall be accompanied by a value engineering or other cost reduction analysis.

''(f) FINANCIAL PLAN.—The Secretary shall require a financial plan to be prepared for any project with an estimated total cost of $1,000,000,000 or more.''.

(b) STANDARDS.—

(1) ELIMINATION OF GUIDELINES AND ANNUAL CERTIFICATION REQUIREMENTS.—Section 109 of title 23, United States Code, is amended—

(A) by striking subsection (m); and

(B) by redesignating subsections (n) through (q) as subsections (m) through (p), respectively.

(2) SAFETY STANDARDS.—Section 109 of title 23, United States Code (as amended by paragraph (1)), is amended by adding at the end the following:

''(q) PHASE CONSTRUCTION.—Safety considerations for a project under this title may be met by phase construction.''.

(c) PROGRAMS; PROJECT AGREEMENTS; CERTIFICATION ACCEPTANCE.—Sections 110 and 117 of title 23, United States Code, are repealed.

(d) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23 is amended—

(A) by striking the item relating to section 106 and inserting the following:

''106. Project approval and oversight.''; and

(B) by striking the items relating to sections 110 and 117.

(2) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining ''project agreement'' by striking ''the provisions of subsection (a) of section 110 of this title'' and inserting ''section 106''.

(3) Section 114(a) of title 23, United States Code, is amended in the second sentence by striking ''section 117 of this title'' and inserting ''section 106''.

SEC. 1223. SURFACE TRANSPORTATION PROGRAM.

(a) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Section 133 of title 23, United States Code, is amended—

(1) in subsection (d)—

(A) in paragraph (2), by striking ''10'' and inserting ''8''; and

(B) in the first sentence of paragraph (3)(A), by striking ''80'' and inserting ''82''; and

(2) in subsection (e)—

(A) in paragraph (3)(B)(i), by striking ''if the Secretary'' and all that follows through ''activities''; and

(B) in paragraph (5), by adding at the end the following:

''(C) INNOVATIVE FINANCING.—

''(i) IN GENERAL.—For each fiscal year, the average annual non-Federal share of the total cost of all projects to carry out transportation enhancement activities in a State shall be not less than the non-Federal share authorized for the State under section 120(b).

''(ii) EXCEPTION.—Subject to clause (i), notwithstanding section 120, in the case of projects to carry out transportation enhancement activities—

''(I) funds from other Federal agencies, and other contributions that the Secretary determines are of value, may be credited toward the non-Federal share of project costs;

''(II) the non-Federal share may be calculated on a project, multiple-project, or program basis; and

''(III) the Federal share of the cost of an individual project subject to subclause (I) or (II) may be equal to 100 percent.''.

(b) PROGRAM APPROVAL.—Section 133(e) of title 23, United States Code, is amended by striking paragraph (2) and inserting the following:

''(2) PROGRAM APPROVAL.—

''(A) SUBMISSION OF PROJECT AGREEMENT.—For each fiscal year, each State shall submit a project agreement that—

''(i) certifies that the State will meet all the requirements of this section; and

"(ii) notifies the Secretary of the amount of obligations needed to carry out the program under this section.

"(B) REQUEST FOR ADJUSTMENTS OF AMOUNTS.—As necessary, each State shall request from the Secretary adjustments to the amount of obligations referred to in subparagraph (A)(ii).

"(C) EFFECT OF APPROVAL BY THE SECRETARY.—Approval by the Secretary of a project agreement under subparagraph (A) shall be deemed a contractual obligation of the United States to pay surface transportation program funds made available under this title.".

(c) PAYMENTS.—Section 133(e)(3)(A) of title 23, United States Code, is amended by striking the second sentence.

SEC. 1224. DESIGN-BUILD CONTRACTING.

(a) AUTHORITY.—Section 112(b) of title 23, United States Code, is amended—

(1) in the first sentence of paragraph (1), by striking "paragraph (2)" and inserting "paragraphs (2) and (3)";

(2) in paragraph (2)(A), by striking "Each" and inserting "Subject to paragraph (3), each"; and

(3) by adding at the end the following:

"(3) DESIGN-BUILD CONTRACTING.—

"(A) IN GENERAL.—A State transportation department may award a contract for the design and construction of a qualified project described in subparagraph (B) using competitive selection procedures approved by the Secretary.

"(B) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter that involves installation of an intelligent transportation system or that consists of a usable project segment and for which—

"(i) the Secretary has approved the use of design-build contracting described in subparagraph (A) under criteria specified in regulations promulgated by the Secretary; and

"(ii) the total costs are estimated to exceed—

"(I) in the case of a project that involves installation of an intelligent transportation system, $5,000,000; and

"(II) in the case of a usable project segment, $50,000,000.".

(b) COMPETITIVE BIDDING DEFINED.—Section 112 of title 23, United States Code, is amended by striking subsection (f) and inserting the following:

"(f) COMPETITIVE BIDDING DEFINED.—In this section, the term 'competitive bidding' means the procedures used to award contracts for engineering and design services under subsection (b)(2) and design-build contracts under subsection (b)(3).".

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than the effective date specified in subsection (e), the Secretary shall promulgate regulations to carry out the amendments made by this section.

(2) CONTENTS.—The regulations shall—

(A) identify the criteria to be used by the Secretary in approving the use by a State transportation department of design-build contracting; and

(B) establish the procedures to be followed by a State transportation department for obtaining the Secretary's approval of the use of design-build contracting by the department and the selection procedures used by the department.

(d) EFFECT ON EXPERIMENTAL PROGRAM.—Nothing in this section or the amendments made by this section affects the authority to carry out, or any project carried out under, any experimental program concerning design-build contracting that is being carried out by the Secretary as of the date of enactment of this Act.

(e) EFFECTIVE DATE FOR AMENDMENTS.—The amendments made by this section take effect 2 years after the date of enactment of this Act.

SEC. 1225. INTEGRATED DECISIONMAKING PROCESS.

(a) IN GENERAL.—Subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"§ 354. Integrated decisionmaking process

"(a) DEFINITIONS.—In this section:

"(1) INTEGRATED DECISIONMAKING PROCESS.—The term 'integrated decisionmaking process' means the integrated decisionmaking process established with respect to a surface transportation project under subsection (b).

"(2) NEPA PROCESS.—The term 'NEPA process' means the process of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to a surface transportation project.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"(4) SURFACE TRANSPORTATION PROJECT.—The term 'surface transportation project' means—

"(A) a highway construction project that is subject to the approval of the Secretary under title 23; and

"(B) a capital project (as defined in section 5302(a)(1)).

"(b) ESTABLISHMENT OF INTEGRATED DECISIONMAKING PROCESSES FOR SURFACE TRANSPORTATION PROJECTS.—The Secretary shall—

"(1) establish an integrated decisionmaking process for surface transportation projects that designates major decision points likely to have significant environmental effects and conflicts; and

"(2) integrate the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with the requirements established by the Secretary for transportation planning and decisionmaking.

"(c) INTEGRATED DECISIONMAKING GOALS.—The integrated decisionmaking process for surface transportation projects should, to the maximum extent practicable, accomplish the following major goals:

"(1) Integrate the NEPA process with the planning, predesign stage, and decisionmaking for surface transportation projects at the earliest possible time.

"(2) Integrate all applicable Federal, State, tribal, and local permitting requirements.

"(3) Integrate national transportation, social, safety, economic, and environmental goals with State, tribal, and local land use and growth management initiatives.

"(4) Consolidate Federal, State, tribal, and local decisionmaking to achieve the best overall public interest according to an agreed schedule.

"(d) STREAMLINING.—

"(1) AVOIDANCE OF DELAYS, PREVENTION OF CONFLICTS, AND ELIMINATION OF UNNECESSARY DUPLICATION.—The Secretary shall design the integrated decisionmaking process to avoid delays in decisionmaking, prevent conflicts between cooperating agencies and members of the public, and eliminate unnecessary duplication of review and decisionmaking relating to surface transportation projects.

"(2) INTEGRATION; COMPREHENSIVE PROCESS.—The NEPA process—

"(A) shall be integrated with the transportation planning and decisionmaking of the Federal, State, tribal, and local transportation agencies; and

"(B) serve as a comprehensive decisionmaking process.

"(3) OTHER REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall—

"(i) establish a concurrent transportation and environmental coordination process to reduce paperwork, combine review documents, and eliminate duplicative reviews;

"(ii) develop interagency agreements to streamline and improve interagency coordination and processing time;

"(iii) apply strategic and programmatic approaches to better integrate and expedite the NEPA process and transportation decisionmaking; and

"(iv) ensure, in appropriate cases, by conducting concurrent reviews whenever possible, that any analyses and reviews conducted by the Secretary consider the needs of other reviewing agencies.

"(B) TIME SCHEDULES.—To comply with subparagraph (A)(ii), time schedules shall be consistent with sections 1501.8 and 1506.10 of title 40, Code of Federal Regulations (or any successor regulations).

"(4) CONCURRENT PROCESSING.—

"(A) IN GENERAL.—The integrated decisionmaking process shall, to the extent practicable, include a procedure to provide for concurrent (rather than sequential) processing of all Federal, State, tribal, and local reviews and decisions emanating from those reviews.

"(B) INCONSISTENCY WITH OTHER REQUIREMENTS.—Subparagraph (A) does not require concurrent review if concurrent review would be inconsistent with other statutory or regulatory requirements.

"(e) INTERAGENCY COOPERATION.—

"(1) LEAD AND COOPERATING AGENCY CONCEPTS.—The lead and cooperating agency concepts of section 1501 of title 40, Code of Federal Regulations (or any successor regulation), shall be considered essential elements to ensure integration of transportation decisionmaking.

"(2) RESPONSIBILITIES.—The Secretary shall—

"(A) not later than 60 days after the date on which a surface transportation project is selected for study by a State, identify each Federal agency that may be required to participate in the integrated decisionmaking process relating to the surface transportation project and notify the agency of the surface transportation project;

"(B) afford State, regional, tribal, and local governments with decisionmaking authority on surface transportation projects the opportunity to serve as cooperating agencies;

"(C) provide cooperating agencies the results of any analysis or other information related to a surface transportation project;

"(D) host an early scoping meeting for Federal agencies and, when appropriate, conduct field reviews, as soon as practicable in the environmental review process;

"(E) solicit from each cooperating agency as early as practicable the data and analyses necessary to facilitate execution of the duties of each cooperating agency;

"(F) use, to the maximum extent possible, scientific, technical, and environmental data and analyses previously prepared by or for other Federal, State, tribal, or local agencies, after an independent evaluation by the Secretary of the data and analyses;

"(G) jointly, with the cooperating agencies, host public meetings and other community participation processes; and

"(H) ensure that the NEPA process and documentation provide all necessary information for the cooperating agency to—

"(i) discharge the responsibilities of the cooperating agency under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other law; and

"(ii) grant approvals, permits, licenses, and clearances.

"(f) ENHANCED SCOPING PROCESS.—During the scoping process for a surface transportation project, in addition to other statutory and regulatory requirements, the Secretary shall, to the extent practicable—

"(1) provide the public with clearly understandable milestones that occur during an integrated decisionmaking process;

"(2) ensure that all agencies with jurisdiction by law or with special expertise have sufficient information and data to discharge their responsibilities;

"(3) ensure that all agencies with jurisdiction by law or with special expertise, and the public, are invited to participate in the initial scoping process;

"(4) coordinate with other agencies to ensure that the agencies provide to the Secretary, not later than 30 days after the first interagency scoping meeting, any preliminary concerns about how the proposed project may affect matters within their jurisdiction or special expertise based on information available at the time of the scoping meeting; and

"(5) in cooperation with all cooperating agencies, develop a schedule for conducting all necessary environmental and other review processes.

"(g) USE OF TITLE 23 FUNDS.—

"(1) USE BY STATES.—A State may use funds made available under section 104(b) or 105 of title 23 or section 1102(c) of the Intermodal Surface Transportation Efficiency Act of 1997 to provide resources to Federal or State agencies involved in the review or permitting process for a surface transportation project in order to meet a time schedule established under this section.

"(2) USE AT SECRETARY'S DISCRETION.—At the request of another Federal agency involved in the review or permitting process for a surface transportation project, the Secretary may provide funds under chapter 1 of title 23 to the agency to provide resources necessary to meet the time schedules established under this section.

"(2) AMOUNT.—Funds may be provided under paragraph (1) in the amount by which the cost to complete a environmental review in accordance with a time schedule established under this section exceeds the cost that would be incurred if there were no such time schedule.

"(3) NOT FINAL AGENCY ACTION.—The provision of funds under paragraph (1) does not constitute a final agency action.

"(h) STATE ROLE.—

"(1) IN GENERAL.—For any project eligible for assistance under chapter 1 of title 23, a State may require, by law or agreement coordinating with all related State agencies, that all State agencies that—

"(A) have jurisdiction by Federal or State law over environmental, growth management, or land-use related issues that may be affected by a surface transportation project; or

"(B) have responsibility for issuing any environment related reviews, analyses, opinions, or determinations;

be subject to the coordinated environmental review process provided under this section in issuing any analyses or approvals or taking any other action relating to the project.

"(2) ALL AGENCIES.—If a State requires that any State agency participate in a coordinated environmental review process, the State shall require all affected State agencies to participate.

"(i) EARLY ACTION REGARDING POTENTIALLY INSURMOUNTABLE OBSTACLES.—If, at any time during the integrated decisionmaking process for a proposed surface transportation project, a cooperating agency determines that there is any potentially insurmountable obstacle associated with any of the alternative transportation projects that might be undertaken to address the obstacle, the Secretary shall—

"(1) convene a meeting among the cooperating agencies to address the obstacle;

"(2) initiate conflict resolution efforts under subsection (j); or

"(3) eliminate from consideration the alternative transportation project with which the obstacle is associated.

"(j) CONFLICT RESOLUTION.—

"(1) FORUM.—The NEPA process shall be used as a forum to coordinate the actions of Federal, State, regional, tribal, and local agencies, the private sector, and the public to develop and shape surface transportation projects.

"(2) APPROACHES.—Collaborative, problem solving, and consensus building approaches shall be used (and, when appropriate, mediation may be used) to implement the integrated decisionmaking process with a goal of appropriately considering factors relating to transportation development, economic prosperity, protection of public health and the environment, community and neighborhood preservation, and quality of life for present and future generations.

"(3) UNRESOLVED ISSUES.—

"(A) NOTIFICATION.—If, before the final transportation NEPA document is approved—

"(i) an issue remains unresolved between the lead Federal agency and the cooperating agency; and

"(ii) efforts have been exhausted to resolve the issue at the field levels of each agency—

"(I) within the applicable timeframe of the interagency schedule established under subsection (f)(5); or

"(II) if no timeframe is established, within 90 days;

the field level officer of the lead agency shall notify the field level officer of the cooperating agency that the field level officer of the lead agency intends to bring the issue to the personal attention of the heads of the agencies.

"(B) EFFORTS BY THE AGENCY HEADS.—The head of the lead agency shall contact the head of the cooperating agency and attempt to resolve the issue within 30 days after notification by the field level officer of the unresolved issue.

"(C) CONSULTATION WITH CEQ.—The heads of the agencies are encouraged to consult with the Chair of the Council on Environmental Quality during the 30-day period under subparagraph (B).

"(D) FAILURE TO RESOLVE.—If the heads of the agencies do not resolve the issue within the time specified in subparagraph (B), the referral process under part 1504 of title 40, Code of Federal Regulations (or any successor regulation), shall be initiated with respect to the issue.

"(k) JUDICIAL REVIEW.—Nothing in this section affects the reviewability of any final agency action in a district court of the United States or any State court.

"(l) STATUTORY CONSTRUCTION.—Nothing in this section affects—

"(1) the applicability of the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) or any other statute; or

"(2) the responsibility of any Federal, State, tribal, or local officer to comply with or enforce any statute or regulation.".

(b) TIMETABLE; REPORT TO CONGRESS.—The Secretary, in consultation with the Chair of the Council on Environmental Quality and after notice and opportunity for public comment—

(1) not later than 180 days after the date of enactment of this Act, shall design the integrated decisionmaking process required by the amendment made by subsection (a);

(2) not later than 1 year after the date of enactment of this Act, shall promulgate a regulation governing implementation of an integrated decisionmaking process in accordance with the amendment made by subsection (a); and

(3) not later than 2 years after the date of enactment of this Act, shall submit to Congress a report identifying any additional legislative or other solutions that would further enhance the integrated decisionmaking process.

(c) CONFORMING AMENDMENT.—The analysis for subchapter III of chapter 3 of title 49, United States Code, is amended by adding at the end the following:

"354. Integrated decisionmaking process.".

CHAPTER 3—ELIGIBILITY AND FLEXIBILITY

SEC. 1231. DEFINITION OF OPERATIONAL IMPROVEMENT.

Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining "operational improvement" and inserting the following:

"The term 'operational improvement' means the installation, operation, or maintenance, in accordance with subchapter II of chapter 5, of public infrastructure to support intelligent transportation systems and includes the installation or operation of any traffic management activity, communication system, or roadway weather information and prediction system, and any other improvement that the Secretary may designate that enhances roadway safety and mobility during adverse weather.".

SEC. 1232. ELIGIBILITY OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—Section 129(c) of title 23, United States Code, is amended by inserting "in accordance with sections 103, 133, and 149," after "toll or free,".

(b) NATIONAL HIGHWAY SYSTEM.—Section 103(b)(5) of title 23, United States Code (as amended by section 1234), is amended by adding at the end the following:

"(R) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.".

(c) SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, United States Code, is amended by adding at the end the following:

"(12) Construction of ferry boats and ferry terminal facilities, if the conditions described in section 129(c) are met.".

(d) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (3), by striking "or" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by inserting after paragraph (4) the following:

"(5) if the project or program is to construct a ferry boat or ferry terminal facility and if the conditions described in section 129(c) are met.".

SEC. 1233. FLEXIBILITY OF SAFETY PROGRAMS.

Section 133(d) of title 23, United States Code, is amended by striking paragraph (1) and inserting the following:

"(1) SAFETY PROGRAMS.—

"(A) IN GENERAL.—With respect to funds apportioned for each of fiscal years 1998 through 2003—

"(i) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 130;

"(ii) an amount equal to 2 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 152; and

"(iii) an amount equal to 6 percent of the amount apportioned to a State under section 104(b)(3) shall be available only to carry out activities eligible under section 130 or 152.

"(B) TRANSFER OF FUNDS.—If a State certifies to the Secretary that any part of the amount set aside by the State under subparagraph (A)(i) is in excess of the needs of the State for activities under section 130 and the Secretary accepts the certification, the State may transfer that excess part to the set-aside of the State under subparagraph (A)(ii).

"(C) TRANSFERS TO OTHER SAFETY PROGRAMS.—A State may transfer funds set aside under subparagraph (A)(iii) to the apportionment of the State under section 402 or the allocation of the State under section 31104 of title 49.".

SEC. 1234. ELIGIBILITY OF PROJECTS ON THE NATIONAL HIGHWAY SYSTEM.

Section 103(b) of title 23, United States Code (as amended by section 1701(a)), is amended by adding at the end the following:

"(5) ELIGIBLE PROJECTS FOR NHS.—Subject to approval by the Secretary, funds apportioned to a State under section 104(b)(1)(C) for the National Highway System may be obligated for any of the following:

"(A) Construction, reconstruction, resurfacing, restoration, and rehabilitation of segments of the National Highway System.

"(B) Operational improvements for segments of the National Highway System.

"(C) Construction of, and operational improvements for, a Federal-aid highway not on the National Highway System, construction of a transit project eligible for assistance under chapter 53 of title 49, and capital improvements to any National Railroad Passenger Corporation passenger rail line or any publicly-owned intercity passenger rail line, if—

"(i) the highway, transit, or rail project is in the same corridor as, and in proximity to, a fully access-controlled highway designated as a part of the National Highway System;

"(ii) the construction or improvements will improve the level of service on the fully access-controlled highway described in clause (i) and improve regional traffic flow; and

"(iii) the construction or improvements are more cost-effective than an improvement to the fully access-controlled highway described in clause (i).

"(D) Highway safety improvements for segments of the National Highway System.

"(E) Transportation planning in accordance with sections 134 and 135.

"(F) Highway research and planning in accordance with chapter 5.

"(G) Highway-related technology transfer activities.

"(H) Capital and operating costs for traffic monitoring, management, and control facilities and programs.

"(I) Fringe and corridor parking facilities.

"(J) Carpool and vanpool projects.

"(K) Bicycle transportation and pedestrian walkways in accordance with section 217.

"(L) Development, establishment, and implementation of management systems under section 303.

"(M) In accordance with all applicable Federal law (including regulations), participation in natural habitat and wetland mitigation efforts related to projects funded under this title, which may include participation in natural habitat and wetland mitigation banks, contributions to statewide and regional efforts to conserve, restore, enhance, and create natural habitats and wetland, and development of statewide and regional natural habitat and wetland conservation and mitigation plans, including any such banks, efforts, and plans authorized under the Water Resources Development Act of 1990 (Public Law 101-640) (including crediting provisions). Contributions to the mitigation efforts described in the preceding sentence may take place concurrent with or in advance of project construction, except that contributions in advance of project construction may occur only if the efforts are consistent with all applicable requirements of Federal law (including regulations) and State transportation planning processes.

"(N) Publicly-owned intracity or intercity passenger rail or bus terminals, including terminals of the National Railroad Passenger Corporation and publicly-owned intermodal surface freight transfer facilities, other than seaports and airports, if the terminals and facilities are located on or adjacent to National Highway System routes or connections to the National Highway System selected in accordance with paragraph (2).

"(O) Infrastructure-based intelligent transportation systems capital improvements.

"(P) In the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, any project eligible for funding under section 133, any airport, and any seaport.

"(Q) Publicly owned components of magnetic levitation transportation systems.".

SEC. 1235. ELIGIBILITY OF PROJECTS UNDER THE SURFACE TRANSPORTATION PROGRAM.

Section 133(b) of title 23, United States Code (as amended by section 1232(c)), is amended—

(1) in paragraph (2), by striking "and publicly owned intracity or intercity bus terminals and facilities" and inserting ", including vehicles and facilities, whether publicly or privately owned, that are used to provide intercity passenger service by bus or rail";

(2) in paragraph (3)—

(A) by striking "and bicycle" and inserting "bicycle"; and

(B) by inserting before the period at the end the following: ", and the modification of public sidewalks to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.)";

(3) in paragraph (4)—

(A) by inserting ", publicly owned passenger rail," after "Highway";

(B) by inserting "infrastructure" after "safety"; and

(C) by inserting before the period at the end the following: ", and any other noninfrastructure highway safety improvements";

(4) in the first sentence of paragraph (11)—

(A) by inserting "natural habitat and" after "participation in" each place it appears;

(B) by striking "enhance and create" and inserting "enhance, and create natural habitats and"; and

(C) by inserting "natural habitat and" before "wetlands conservation"; and

(5) by adding at the end the following:

"(13) Publicly owned intercity passenger rail infrastructure, including infrastructure owned by the National Railroad Passenger Corporation.

"(14) Publicly owned passenger rail vehicles, including vehicles owned by the National Railroad Passenger Corporation.

"(15) Infrastructure-based intelligent transportation systems capital improvements.

"(16) Publicly owned components of magnetic levitation transportation systems.

"(17) Environmental restoration and pollution abatement projects (including the retrofit or construction of storm water treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities, which projects shall be carried out when the transportation facilities are undergoing reconstruction, rehabilitation, resurfacing, or restoration; except that the expenditure of funds under this section for any such environmental restoration or pollution abatement project shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration project.".

SEC. 1236. DESIGN FLEXIBILITY.

Section 109 of title 23, United States Code, is amended by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—

"(1) REQUIREMENTS FOR FACILITIES.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

"(A) adequately serve the existing traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

"(B) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in subparagraph (A) and to conform to the particular needs of each locality.

"(2) CONSIDERATION OF PLANNED FUTURE TRAFFIC DEMANDS.—In carrying out paragraph (1), the Secretary shall ensure the consideration of the planned future traffic demands of the facility.".

Subtitle C—Finance

CHAPTER 1—GENERAL PROVISIONS

SEC. 1301. STATE INFRASTRUCTURE BANK PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 162. State infrastructure bank program

"(a) DEFINITIONS.—In this section:

"(1) OTHER ASSISTANCE.—The term 'other assistance' includes any use of funds in an infrastructure bank—

"(A) to provide credit enhancements;

"(B) to serve as a capital reserve for bond or debt instrument financing;

"(C) to subsidize interest rates;

"(D) to ensure the issuance of letters of credit and credit instruments;

"(E) to finance purchase and lease agreements with respect to transit projects;

"(F) to provide bond or debt financing instrument security; and

"(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which the assistance is being provided.

"(2) STATE.—The term 'State' has the meaning given the term under section 401.

"(b) COOPERATIVE AGREEMENTS.—

"(1) IN GENERAL.—

"(A) PURPOSE OF AGREEMENTS.—Subject to this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks and multistate infrastructure banks for making loans and providing other assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.

"(B) CONTENTS OF AGREEMENTS.—Each cooperative agreement shall specify procedures and guidelines for establishing, operating, and providing assistance from the infrastructure bank.

"(2) INTERSTATE COMPACTS.—If 2 or more States enter into a cooperative agreement under paragraph (1) with the Secretary for the establishment of a multistate infrastructure bank, Congress grants consent to those States to enter into an interstate compact establishing the bank in accordance with this section.

"(c) FUNDING.—

"(1) CONTRIBUTION.—Notwithstanding any other provision of law, the Secretary may allow, subject to subsection (h)(1), a State that enters into a cooperative agreement under this section to contribute to the infrastructure bank established by the State not to exceed—

"(A)(i) the total amount of funds apportioned to the State under each of paragraphs (1) and (3) of section 104(b), excluding funds set aside under paragraphs (1) and (2) of section 133(d); and

"(ii) the total amount of funds allocated to the State under section 105 and under section 1102 of the Intermodal Surface Transportation Efficiency Act of 1997;

"(B) the total amount of funds made available to the State or other Federal transit grant recipient for capital projects (as defined in section 5302 of title 49) under sections 5307, 5309, and 5311 of title 49; and

"(C) the total amount of funds made available to the State under subtitle V of title 49.

"(2) CAPITALIZATION GRANT.—For the purposes of this section, Federal funds contributed to the infrastructure bank under this subsection shall constitute a capitalization grant for the infrastructure bank.

"(3) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds that are apportioned or allocated to a State under section 104(b)(3) and attributed to urbanized areas of a State with a population of over 200,000 individuals under section 133(d)(2) may be used to provide assistance from an infrastructure bank under this section with respect to a project only if the metropolitan planning organization designated for the area concurs, in writing, with the provision of the assistance.

"(d) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—

"(1) IN GENERAL.—An infrastructure bank established under this section may make loans or provide other assistance to a public or private entity in an amount equal to all or part of the cost of carrying out a project eligible for assistance under this section.

"(2) SUBORDINATION OF LOANS.—The amount of any loan or other assistance provided for the project may be subordinated to any other debt financing for the project.

"(3) INITIAL ASSISTANCE.—Initial assistance provided with respect to a project from Federal funds contributed to an infrastructure bank under this section shall not be made in the form of a grant.

"(e) QUALIFYING PROJECTS.—

"(1) IN GENERAL.—Subject to paragraph (2), funds in an infrastructure bank established under this section may be used only to provide assistance with respect to projects eligible for assistance under this title, for capital projects (as defined in section 5302 of title 49), or for any other project that the Secretary determines to be appropriate.

"(2) INTERSTATE FUNDS.—Funds contributed to an infrastructure bank from funds apportioned to a State under subparagraph (A) or (B) of section 104(b)(1) may be used only to provide assistance with respect to projects eligible for assistance under those subparagraphs.

"(3) RAIL PROGRAM FUNDS.—Funds contributed to an infrastructure bank from funds made available to a State under subtitle V of title 49 shall be used in a manner consistent with any project description specified under the law making the funds available to the State.

"(f) INFRASTRUCTURE BANK REQUIREMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), in order to establish an infrastructure bank under this section, each State establishing such a bank shall—

"(A) contribute, at a minimum, to the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and contributed to the bank under subsection (c);

"(B) ensure that the bank maintains on a continuing basis an investment grade rating on its debt issuances and its ability to pay claims under credit enhancement programs of the bank;

"(C) ensure that investment income generated by funds contributed to the bank will be—

"(i) credited to the bank;

"(ii) available for use in providing loans and other assistance to projects eligible for assistance from the bank; and

"(iii) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;

"(D) ensure that any loan from the bank will bear interest at or below market rates, as determined by the State, to make the project that is the subject of the loan feasible;

"(E) ensure that repayment of the loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;

"(F) ensure that the term for repaying any loan will not exceed the lesser of—

"(i) 35 years after the date of the first payment on the loan under subparagraph (E); or

"(ii) the useful life of the investment; and

"(G) require the bank to make a biennial report to the Secretary and to make such other reports as the Secretary may require in guidelines.

"(2) WAIVERS BY THE SECRETARY.—The Secretary may waive a requirement of any of subparagraphs (C) through (G) of paragraph (1) with respect to an infrastructure bank if the Secretary determines that the waiver is consistent with the objectives of this section.

"(g) LIMITATION ON REPAYMENTS.—Notwithstanding any other provision of law, the repayment of a loan or other assistance provided from an infrastructure bank under this section may not be credited toward the non-Federal share of the cost of any project.

"(h) SECRETARIAL REQUIREMENTS.—In administering this section, the Secretary shall—

"(1) ensure that Federal disbursements shall be at an annual rate of not more than 20 percent of the amount designated by the State for State infrastructure bank capitalization under subsection (c)(1), except that the Secretary may disburse funds to a State in an amount needed to finance a specific project; and

"(2) revise cooperative agreements entered into with States under section 350 of the National Highway System Designation Act of 1995 (Public Law 104–59) to comply with this section.

"(i) APPLICABILITY OF FEDERAL LAW.—

"(1) IN GENERAL.—The requirements of this title or title 49 that would otherwise apply to funds made available under that title and projects assisted with those funds shall apply to—

"(A) funds made available under that title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under section (f); and

"(B) projects assisted by the bank through the use of the funds;

except to the extent that the Secretary determines that any requirement of that title (other than sections 113 and 114 of this title and section 5333 of title 49) is not consistent with the objectives of this section.

"(2) REPAYMENTS.—The requirements of this title or title 49 shall not apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall not be considered to be Federal funds.

"(j) UNITED STATES NOT OBLIGATED.—

"(1) IN GENERAL.—The contribution of Federal funds to an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party. No third party shall have any right against the United States for payment solely by virtue of the contribution.

"(2) STATEMENT.—Any security or debt financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.

"(k) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31, United States Code, shall not apply to funds contributed under this section.

"(l) PROGRAM ADMINISTRATION.—

"(1) IN GENERAL.—A State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.

"(2) NON-FEDERAL FUNDS.—The limitation described in paragraph (1) shall not apply to non-Federal funds.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"162. State infrastructure bank program.".

CHAPTER 2—TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION

SEC. 1311. SHORT TITLE.

This chapter may be cited as the "Transportation Infrastructure Finance and Innovation Act of 1997".

SEC. 1312. FINDINGS.

Congress finds that—

(1) a well-developed system of transportation infrastructure is critical to the economic well-being, health, and welfare of the people of the United States;

(2) traditional public funding techniques such as grant programs are unable to keep pace with the infrastructure investment needs of the United States because of budgetary constraints at the Federal, State, and local levels of government;

(3) major transportation infrastructure facilities that address critical national needs, such as intermodal facilities, border crossings, and multistate trade corridors, are of a scale that exceeds the capacity of Federal and State assistance programs in effect on the date of enactment of this Act;

(4) new investment capital can be attracted to infrastructure projects that are capable of generating their own revenue streams through user charges or other dedicated funding sources; and

(5) a Federal credit program for projects of national significance can complement existing funding resources by filling market gaps, thereby leveraging substantial private co-investment.

SEC. 1313. DEFINITIONS.

In this chapter:

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means amounts substantially all of which are paid by, or for the account of, an obligor in connection with a project, including the cost of—

(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other preconstruction activities;

(B) construction, reconstruction, rehabilitation, replacement, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(C) interest during construction, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

(2) FEDERAL CREDIT INSTRUMENT.—The term "Federal credit instrument" means a secured loan, loan guarantee, or line of credit authorized to be made available under this chapter with respect to a project.

(3) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulations (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)), including—

(A) a qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986) that is a qualified institutional buyer; and

(B) a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) that is a qualified institutional buyer.

(4) LINE OF CREDIT.—The term "line of credit" means an agreement entered into by the Secretary with an obligor under section 1316 to provide a direct loan at a future date upon the occurrence of certain events.

(5) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee or other pledge by the Secretary to pay all or part of the principal of and interest on a loan or other debt obligation issued by an obligor and funded by a lender.

(6) LOCAL SERVICER.—The term "local servicer" means—

(A) a State infrastructure bank established under title 23, United States Code; or

(B) a State or local government or any agency of a State or local government that is responsible for servicing a Federal credit instrument on behalf of the Secretary.

(7) OBLIGOR.—The term "obligor" means a party primarily liable for payment of the principal of or interest on a Federal credit instrument, which party may be a corporation, partnership, joint venture, trust, or governmental entity, agency, or instrumentality.

(8) PROJECT.—The term "project" means any surface transportation project eligible for Federal assistance under title 23 or chapter 53 of title 49, United States Code.

(9) PROJECT OBLIGATION.—The term "project obligation" means any note, bond, debenture, or other debt obligation issued by an obligor in connection with the financing of a project, other than a Federal credit instrument.

(10) SECURED LOAN.—The term "secured loan" means a direct loan or other debt obligation issued by an obligor and funded by the Secretary in connection with the financing of a project under section 1315.

(11) STATE.—The term "State" has the meaning given the term in section 101 of title 23, United States Code.

(12) SUBSTANTIAL COMPLETION.—The term "substantial completion" means the opening of a project to vehicular or passenger traffic.

SEC. 1314. DETERMINATION OF ELIGIBILITY AND PROJECT SELECTION.

(a) ELIGIBILITY.—To be eligible to receive financial assistance under this chapter, a project shall meet the following criteria:

(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project—

(A) shall be included in the State transportation plan required under section 135 of title 23, United States Code; and

(B) at such time as an agreement to make available a Federal credit instrument is entered into under this chapter, shall be included in the approved State transportation improvement program required under section 134 of that title.

(2) APPLICATION.—A State, a local servicer identified under section 1317(a), or the entity undertaking the project shall submit a project application to the Secretary.

(3) ELIGIBLE PROJECT COSTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), to be eligible for assistance under this chapter, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—

(i) $100,000,000; or

(ii) 50 percent of the amount of Federal-aid highway funds apportioned for the most recently-completed fiscal year under title 23, United States Code, to the State in which the project is located.

(B) INTELLIGENT TRANSPORTATION SYSTEM PROJECTS.—In the case of a project involving the installation of an intelligent transportation system, eligible project costs shall be reasonably anticipated to equal or exceed $30,000,000.

(4) DEDICATED REVENUE SOURCES.—Project financing shall be repayable in whole or in part by user charges or other dedicated revenue sources.

(5) PUBLIC SPONSORSHIP OF PRIVATE ENTITIES.—In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, the project that the entity is undertaking shall be publicly sponsored as provided in paragraphs (1) and (2).

(b) SELECTION AMONG ELIGIBLE PROJECTS.—

(1) ESTABLISHMENT.—The Secretary shall establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (a).

(2) SELECTION CRITERIA.—The selection criteria shall include the following:

(A) The extent to which the project is nationally or regionally significant, in terms of generating economic benefits, supporting international commerce, or otherwise enhancing the national transportation system.

(B) The creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features, such as a rate covenant, to ensure repayment. The Secretary shall require each project applicant to provide a preliminary rating opinion letter from a nationally recognized bond rating agency.

(C) The extent to which assistance under this chapter would foster innovative public-private partnerships and attract private debt or equity investment.

(D) The likelihood that assistance under this chapter would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

(E) The extent to which the project uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project.

(F) The amount of budget authority required to fund the Federal credit instrument made available under this chapter.

(c) FEDERAL REQUIREMENTS.—The following provisions of law shall apply to funds made available under this chapter and projects assisted with the funds:

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.).

(2) The National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

SEC. 1315. SECURED LOANS.

(a) IN GENERAL.—

(1) AGREEMENTS.—Subject to paragraphs (2) and (3), the Secretary may enter into agreements with 1 or more obligors to make secured loans, the proceeds of which shall be used—

(A) to finance eligible project costs; or

(B) to refinance interim construction financing of eligible project costs;

of any project selected under section 1314.

(2) LIMITATION ON REFINANCING OF INTERIM CONSTRUCTION FINANCING.—A loan under paragraph (1) shall not refinance interim construction financing under paragraph (1)(B) later than 1 year after the date of substantial completion of the project.

(3) AUTHORIZATION PERIOD.—The Secretary may enter into a loan agreement during any of fiscal years 1998 through 2003.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A secured loan under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNT.—The amount of the secured loan shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(3) PAYMENT.—The secured loan—

(A) shall be payable, in whole or in part, from revenues generated by any rate covenant, coverage requirement, or similar security feature supporting the project obligations or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(4) INTEREST RATE.—The interest rate on the secured loan shall be equal to the yield

on marketable United States Treasury securities of a similar maturity to the maturity of the secured loan on the date of execution of the loan agreement.

(5) MATURITY DATE.—The final maturity date of the secured loan shall be not later than 35 years after the date of substantial completion of the project.

(6) NONSUBORDINATION.—The secured loan shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(7) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of making a secured loan under this section.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each secured loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) COMMENCEMENT.—Scheduled loan repayments of principal or interest on a secured loan under this section shall commence not later than 5 years after the date of substantial completion of the project.

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

(4) DEFERRED PAYMENTS.—

(A) AUTHORIZATION.—If, at any time during the 10 years after the date of substantial completion of the project, the project is unable to generate sufficient revenues to pay scheduled principal and interest on the secured loan, the Secretary may, pursuant to established criteria for the project agreed to by the entity undertaking the project and the Secretary, allow the obligor to add unpaid principal and interest to the outstanding balance of the secured loan.

(B) INTEREST.—Any payment deferred under subparagraph (A) shall—

(i) continue to accrue interest in accordance with subsection (b)(4) until fully repaid; and

(ii) be scheduled to be amortized over the remaining term of the loan beginning not later than 10 years after the date of substantial completion of the project in accordance with paragraph (1).

(5) PREPAYMENT.—

(A) USE OF EXCESS REVENUES.—Any excess revenues that remain after satisfying scheduled debt service requirements on the project obligations and secured loan and all deposit requirements under the terms of any trust agreement, bond resolution, or similar agreement securing project obligations may be applied annually to prepay the secured loan without penalty.

(B) USE OF PROCEEDS OF REFINANCING.—The secured loan may be prepaid at any time without penalty from the proceeds of refinancing from non-Federal funding sources.

(d) SALE OF SECURED LOANS.—As soon as practicable after substantial completion of a project, the Secretary shall sell to another entity or reoffer into the capital markets a secured loan for the project if the Secretary determines that the sale or reoffering can be made on favorable terms.

(e) LOAN GUARANTEES.—

(1) IN GENERAL.—The Secretary may provide a loan guarantee to a lender in lieu of making a secured loan if the Secretary determines that the budgetary cost of the loan guarantee is substantially the same as that of a secured loan.

(2) TERMS.—The terms of a guaranteed loan shall be consistent with the terms set forth in this section for a secured loan, except that the rate on the guaranteed loan and any prepayment features shall be negotiated between the obligor and the lender, with the consent of the Secretary.

SEC. 1316. LINES OF CREDIT.

(a) IN GENERAL.—

(1) AGREEMENTS.—The Secretary may enter into agreements to make available lines of credit to 1 or more obligors in the form of direct loans to be made by the Secretary at future dates on the occurrence of certain events for any project selected under section 1314.

(2) USE OF PROCEEDS.—The proceeds of a line of credit made available under this section shall be available to pay debt service on project obligations issued to finance eligible project costs, extraordinary repair and replacement costs, operation and maintenance expenses, and costs associated with unexpected Federal or State environmental restrictions.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—A line of credit under this section with respect to a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements (including requirements for audits) as the Secretary determines appropriate.

(2) MAXIMUM AMOUNTS.—

(A) TOTAL AMOUNT.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.

(B) ONE-YEAR DRAWS.—The amount drawn in any 1 year shall not exceed 20 percent of the total amount of the line of credit.

(3) DRAWS.—Any draw on the line of credit shall represent a direct loan and shall be made only if net revenues from the project (including capitalized interest, any debt service reserve fund, and any other available reserve) are insufficient to pay the costs specified in subsection (a)(2).

(4) INTEREST RATE.—The interest rate on a direct loan resulting from a draw on the line of credit shall be not less than the yield on 30-year marketable United States Treasury securities as of the date on which the line of credit is obligated.

(5) SECURITY.—The line of credit—

(A) shall be made available only in connection with a project obligation secured, in whole or in part, by a rate covenant, coverage requirement, or similar security feature or from a dedicated revenue stream; and

(B) may have a lien on revenues described in subparagraph (A) subject to any lien securing project obligations.

(6) PERIOD OF AVAILABILITY.—The line of credit shall be available during the period beginning on the date of substantial completion of the project and ending not later than 10 years after that date.

(7) RIGHTS OF THIRD PARTY CREDITORS.—

(A) AGAINST FEDERAL GOVERNMENT.—A third party creditor of the obligor shall not have any right against the Federal Government with respect to any draw on the line of credit.

(B) ASSIGNMENT.—An obligor may assign the line of credit to 1 or more lenders or to a trustee on the lenders' behalf.

(8) NONSUBORDINATION.—A direct loan under this section shall not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the obligor.

(9) FEES.—The Secretary may establish fees at a level sufficient to cover the costs to the Federal Government of providing a line of credit under this section.

(10) RELATIONSHIP TO OTHER CREDIT INSTRUMENTS.—A line of credit under this section shall not be issued for a project with respect to which another Federal credit instrument under this chapter is made available.

(c) REPAYMENT.—

(1) SCHEDULE.—The Secretary shall establish a repayment schedule for each direct loan under this section based on the projected cash flow from project revenues and other repayment sources.

(2) TIMING.—All scheduled repayments of principal or interest on a direct loan under this section shall commence not later than 5 years after the end of the period of availability specified in subsection (b)(6) and be fully repaid, with interest, by the date that is 25 years after the end of the period of availability specified in subsection (b)(6).

(3) SOURCES OF REPAYMENT FUNDS.—The sources of funds for scheduled loan repayments under this section shall include tolls, user fees, or other dedicated revenue sources.

SEC. 1317. PROJECT SERVICING.

(a) REQUIREMENT.—The State in which a project that receives financial assistance under this chapter is located may identify a local servicer to assist the Secretary in servicing the Federal credit instrument made available under this chapter.

(b) AGENCY; FEES.—If a State identifies a local servicer under subsection (a), the local servicer—

(1) shall act as the agent for the Secretary; and

(2) may receive a servicing fee, subject to approval by the Secretary.

(c) LIABILITY.—A local servicer identified under subsection (a) shall not be liable for the obligations of the obligor to the Secretary or any lender.

(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.

SEC. 1318. OFFICE OF INFRASTRUCTURE FINANCE.

(a) DUTIES OF THE SECRETARY.—Section 301 of title 49, United States Code, is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) develop and coordinate Federal policy on financing transportation infrastructure, including the provision of direct Federal credit assistance and other techniques used to leverage Federal transportation funds.".

(b) OFFICE OF INFRASTRUCTURE FINANCE.—

(1) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"§ 113. Office of Infrastructure Finance

"(a) ESTABLISHMENT.—The Secretary of Transportation shall establish within the Office of the Secretary an Office of Infrastructure Finance.

"(b) DIRECTOR.—The Office shall be headed by a Director who shall be appointed by the Secretary not later than 180 days after the date of enactment of this section.

"(c) FUNCTIONS.—The Director shall be responsible for—

"(1) carrying out the responsibilities of the Secretary described in section 301(9);

"(2) carrying out research on financing transportation infrastructure, including educational programs and other initiatives to support Federal, State, and local government efforts; and

"(3) providing technical assistance to Federal, State, and local government agencies

and officials to facilitate the development and use of alternative techniques for financing transportation infrastructure.".

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

"113. Office of Infrastructure Finance.".

SEC. 1319. STATE AND LOCAL PERMITS.

The provision of financial assistance under this chapter with respect to a project shall not—

(1) relieve any recipient of the assistance of any obligation to obtain any required State or local permit or approval with respect to the project;

(2) limit the right of any unit of State or local government to approve or regulate any rate of return on private equity invested in the project; or

(3) otherwise supersede any State or local law (including any regulation) applicable to the construction or operation of the project.

SEC. 1320. REGULATIONS.

The Secretary may issue such regulations as the Secretary determines appropriate to carry out this chapter and the amendments made by this chapter.

SEC. 1321. FUNDING.

(a) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this chapter—

(A) $60,000,000 for fiscal year 1998;

(B) $60,000,000 for fiscal year 1999;

(C) $90,000,000 for fiscal year 2000;

(D) $90,000,000 for fiscal year 2001;

(E) $115,000,000 for fiscal year 2002; and

(F) $115,000,000 for fiscal year 2003.

(2) ADMINISTRATIVE COSTS.—From funds made available under paragraph (1), the Secretary may use, for the administration of this chapter, not more than $2,000,000 for each of fiscal years 1998 through 2003.

(3) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

(b) CONTRACT AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this chapter shall be deemed to be acceptance by the United States of a contractual obligation to fund the Federal credit instrument.

(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.

(c) LIMITATIONS ON CREDIT AMOUNTS.—For each of fiscal years 1998 through 2003, principal amounts of Federal credit instruments made available under this chapter shall be limited to the amounts specified in the following table:

Fiscal year:	Maximum amount of credit:
1998	$1,200,000,000
1999	$1,200,000,000
2000	$1,800,000,000
2001	$1,800,000,000
2002	$2,000,000,000
2003	$2,000,000,000.

(d) LIMITATIONS ON OBLIGATIONS.—Notwithstanding any other provision of law, the total amount of all obligations under subsection (a) shall not exceed—

(1) $60,000,000 for fiscal year 1998;

(2) $60,000,000 for fiscal year 1999;

(3) $90,000,000 for fiscal year 2000;

(4) $90,000,000 for fiscal year 2001;

(5) $115,000,000 for fiscal year 2002; and

(6) $115,000,000 for fiscal year 2003.

SEC. 1322. REPORT TO CONGRESS.

Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report summarizing the financial performance of the projects that are receiving, or have received, assistance under this chapter, including a recommendation as to whether the objectives of this chapter are best served—

(1) by continuing the program under the authority of the Secretary;

(2) by establishing a Government corporation or Government-sponsored enterprise to administer the program; or

(3) by phasing out the program and relying on the capital markets to fund the types of infrastructure investments assisted by this chapter without Federal participation.

Subtitle D—Safety

SEC. 1401. OPERATION LIFESAVER.

Section 104 of title 23, United States Code (as amended by section 1102(a)), is amended—

(1) in the matter preceding paragraph (1) of subsection (b), by striking "subsection (f)" and inserting "subsections (d) and (f)"; and

(2) in subsection (d), by striking paragraph (1) and inserting the following:

"(1) OPERATION LIFESAVER.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $500,000 of the funds authorized to be appropriated for the surface transportation program for the fiscal year to carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.".

SEC. 1402. RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.

Section 104(d) of title 23, United States Code, is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

"(A) IN GENERAL.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside $5,000,000 of the funds authorized to be appropriated for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings.

"(B) ELIGIBLE CORRIDORS.—Funds made available under subparagraph (A) shall be expended for projects in—

"(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause); and

"(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D).

"(C) REQUIRED INCLUSION OF HIGH SPEED RAIL LINES.—A corridor selected by the Secretary under subparagraph (B) shall include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.

"(D) CONSIDERATIONS IN CORRIDOR SELECTION.—In selecting corridors under subparagraph (B), the Secretary shall consider—

"(i) projected rail ridership volume in each corridor;

"(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

"(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

"(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

"(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.".

SEC. 1403. RAILWAY-HIGHWAY CROSSINGS.

Section 130 of title 23, United States Code, is amended—

(1) in the first sentence of subsection (a)—

(A) by striking "structures, and" and inserting "structures,"; and

(B) by inserting after "grade crossings," the following: "trespassing countermeasures in the immediate vicinity of a public railway-highway grade crossing, railway-highway crossing safety education, enforcement of traffic laws relating to railway-highway crossing safety, and projects at privately owned railway-highway crossings if each such project is publicly sponsored and the Secretary determines that the project would serve a public benefit,";

(2) in subsection (d), by adding at the end the following: "In a manner established by the Secretary, each State shall submit a report that describes completed railway-highway crossing projects funded under this section to the Department of Transportation for inclusion in the National Grade Crossing Inventory prepared by the Department of Transportation and the Association of American Railroads."; and

(3) by striking subsection (e).

SEC. 1404. HAZARD ELIMINATION PROGRAM.

(a) IN GENERAL.—Section 152 of title 23, United States Code, is amended—

(1) in subsection (a), by inserting ", bicyclists," after "motorists";

(2) in subsection (b), by striking "highway safety improvement project" and inserting "safety improvement project, including a project described in subsection (a)"; and

(3) in subsection (c), by striking "on any public road (other than a highway on the Interstate System)." and inserting the following: "on—

"(1) any public road;

"(2) any public transportation vehicle or facility, any publicly owned bicycle or pedestrian pathway or trail, or any other facility that the Secretary determines to be appropriate; or

"(3) any traffic calming measure.".

(b) CONFORMING AMENDMENTS.—

(1) Section 101(a) of title 23, United States Code, is amended—

(A) in the undesignated paragraph defining "highway safety improvement project", by striking "highway safety" and inserting "safety"; and

(B) by moving that undesignated paragraph to appear before the undesignated paragraph defining "Secretary".

(2) Section 152 of title 23, United States Code, is amended in subsections (f) and (g) by striking "highway safety improvement projects" each place it appears and inserting "safety improvement projects".

SEC. 1405. MINIMUM PENALTIES FOR REPEAT OFFENDERS FOR DRIVING WHILE INTOXICATED OR DRIVING UNDER THE INFLUENCE.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1301(a)), is amended by adding at the end the following:

"§ 163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence

"(a) DEFINITIONS.—In this section:

"(1) ALCOHOL CONCENTRATION.—The term 'alcohol concentration' means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

"(2) DRIVING WHILE INTOXICATED; DRIVING UNDER THE INFLUENCE.—The terms 'driving while intoxicated' and 'driving under the influence' mean driving or being in actual physical control of a motor vehicle while having an alcohol concentration above the permitted limit as established by each State.

"(3) LICENSE SUSPENSION.—The term 'license suspension' means the suspension of all driving privileges.

"(4) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line or a commercial vehicle.

"(5) REPEAT INTOXICATED DRIVER LAW.—The term 'repeat intoxicated driver law' means a State law that provides, as a minimum penalty, that an individual convicted of a second or subsequent offense for driving while intoxicated or driving under the influence within 5 years after a conviction for that offense whose alcohol concentration with respect to the second or subsequent offense was determined on the basis of a chemical test to be equal to or greater than 0.15 shall receive—

"(A) a license suspension for not less than 1 year;

"(B) an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and

"(C) either—

"(i) an assignment of 30 days of community service; or

"(ii) 5 days of imprisonment.

"(b) TRANSFER OF FUNDS.—

"(1) FISCAL YEARS 2001 AND 2002.—

"(A) IN GENERAL.—On October 1, 2000, and October 1, 2001, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer an amount equal to 1½ percent of the funds apportioned to the State on that date under paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used for alcohol-impaired driving programs.

"(B) DERIVATION OF AMOUNT TO BE TRANSFERRED.—An amount transferred under subparagraph (A) may be derived—

"(i) from the apportionment of the State under section 104(b)(1);

"(ii) from the apportionment of the State under section 104(b)(3); or

"(iii) partially from the apportionment of the State under section 104(b)(1) and partially from the apportionment of the State under section 104(b)(3).

"(2) FISCAL YEAR 2003 AND FISCAL YEARS THEREAFTER.—On October 1, 2002, and each October 1 thereafter, if a State has not enacted or is not enforcing a repeat intoxicated driver law, the Secretary shall transfer 3 percent of the funds apportioned to the State on that date under each of paragraphs (1) and (3) of section 104(b) to the apportionment of the State under section 402 to be used for alcohol-impaired driving programs.

"(3) FEDERAL SHARE.—The Federal share of the cost of a project carried out under section 402 with funds transferred under paragraph (1) or (2) shall be 100 percent.

"(4) TRANSFER OF OBLIGATION AUTHORITY.—

"(A) IN GENERAL.—If the Secretary transfers under this subsection any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall transfer an amount, determined under subparagraph (B), of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out projects under section 402.

"(B) AMOUNT.—The amount of obligation authority referred to in subparagraph (A) shall be determined by multiplying—

"(i) the amount of funds transferred under subparagraph (A) to the apportionment of the State under section 402 for the fiscal year; by

"(ii) the ratio that—

"(I) the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs; bears to

"(II) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to any obligation limitation) for the fiscal year.

"(5) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other provision of law, no limitation on the total of obligations for highway safety programs under section 402 shall apply to funds transferred under this subsection to the apportionment of a State under that section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1301(b)), is amended by adding at the end the following:

"163. Minimum penalties for repeat offenders for driving while intoxicated or driving under the influence.".

SEC. 1406. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1405(a)), is amended by adding at the end the following:

"§ 164. Safety incentive grants for use of seat belts

"(a) DEFINITIONS.—In this section:

"(1) MOTOR VEHICLE.—The term 'motor vehicle' means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways, but does not include a vehicle operated solely on a rail line.

"(2) MULTIPURPOSE PASSENGER MOTOR VEHICLE.—The term 'multipurpose passenger motor vehicle' means a motor vehicle with motive power (except a trailer), designed to carry not more than 10 individuals, that is constructed on a truck chassis or is constructed with special features for occasional off-road operation.

"(3) NATIONAL AVERAGE SEAT BELT USE RATE.—The term 'national average seat belt use rate' means, in the case of each of calendar years 1995 through 2001, the national average seat belt use rate for that year, as determined by the Secretary.

"(4) PASSENGER CAR.—The term 'passenger car' means a motor vehicle with motive power (except a multipurpose passenger motor vehicle, motorcycle, or trailer) designed to carry not more than 10 individuals.

"(5) PASSENGER MOTOR VEHICLE.—The term 'passenger motor vehicle' means a passenger car or a multipurpose passenger motor vehicle.

"(6) SAVINGS TO THE FEDERAL GOVERNMENT.—The term 'savings to the Federal Government' means the amount of Federal budget savings relating to Federal medical costs (including savings under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.)), as determined by the Secretary.

"(7) SEAT BELT.—The term 'seat belt' means—

"(A) with respect to an open-body passenger motor vehicle, including a convertible, an occupant restraint system consisting of a lap belt or a lap belt and a detachable shoulder belt; and

"(B) with respect to any other passenger motor vehicle, an occupant restraint system consisting of integrated lap and shoulder belts.

"(8) STATE SEAT BELT USE RATE.—The term 'State seat belt use rate' means the rate of use of seat belts in passenger motor vehicles in a State, as measured and submitted to the Secretary—

"(A) for each of calendar years 1995 through 1997, by the State, as adjusted by the Secretary to ensure national consistency in methods of measurement (as determined by the Secretary); and

"(B) for each of calendar years 1998 through 2001, by the State in a manner consistent with the criteria established by the Secretary under subsection (e).

"(b) DETERMINATIONS BY THE SECRETARY.—Not later than 30 days after the date of enactment of this section, and not later than September 1 of each calendar year thereafter through September 1, 2002, the Secretary shall determine—

"(1)(A) which States had, for each of the previous calendar years (referred to in this subsection as the 'previous calendar year') and the year preceding the previous calendar year, a State seat belt use rate greater than the national average seat belt use rate for that year; and

"(B) in the case of each State described in subparagraph (A), the amount that is equal to the savings to the Federal Government due to the amount by which the State seat belt use rate for the previous calendar year exceeds the national average seat belt use rate for that year; and

"(2) in the case of each State that is not a State described in paragraph (1)(A)—

"(A) the base seat belt use rate of the State, which shall be equal to the highest State seat belt use rate for the State for any calendar year during the period of 1995 through the calendar year preceding the previous calendar year; and

"(B) the amount that is equal to the savings to the Federal Government due to any increase in the State seat belt use rate for the previous calendar year over the base seat belt use rate determined under subparagraph (A).

"(c) ALLOCATIONS.—

"(1) STATES WITH GREATER THAN THE NATIONAL AVERAGE SEAT BELT USE RATE.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(1)(A) an amount equal to the amount determined for the State under subsection (b)(1)(B).

"(2) OTHER STATES.—Not later than 30 days after the date of enactment of this section, and not later than each October 1 thereafter through October 1, 2002, the Secretary shall allocate to each State described in subsection (b)(2) an amount equal to the amount determined for the State under subsection (b)(2)(B).

"(d) USE OF FUNDS.—For each fiscal year, each State that is allocated an amount under this section shall use the amount for projects eligible for assistance under this title.

"(e) CRITERIA.—Not later than 180 days after the date of enactment of the Intermodal Surface Transportation Efficiency Act

of 1997, the Secretary shall establish criteria for the measurement of State seat belt use rates by States to ensure that the measurements are accurate and representative.

"(f) FUNDING.—

"(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $60,000,000 for fiscal year 1998, $70,000,000 for fiscal year 1999, $80,000,000 for fiscal year 2000, $90,000,000 for fiscal year 2001, and $100,000,000 for each of fiscal years 2002 and 2003.

"(2) PROPORTIONATE ADJUSTMENT.—If the total amounts to be allocated under subsection (c) for any fiscal year would exceed the amounts authorized for the fiscal year under paragraph (1), the allocation to each State under subsection (c) shall be reduced proportionately.

"(3) USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under paragraph (1) exceed the total amounts to be allocated under subsection (c) for the fiscal year, the excess amounts—

"(A) shall be apportioned in accordance with section 104(b)(3);

"(B) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d); and

"(C) shall be available for any purpose eligible for funding under section 133.

"(4) ADMINISTRATIVE EXPENSES.—Not more than 2 percent of the funds made available to carry out this section may be used to pay the necessary administrative expenses incurred in carrying out this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1405(b)), is amended by adding at the end the following:

"164. Safety incentive grants for use of seat belts.".

SEC. 1407. AUTOMATIC CRASH PROTECTION UNBELTED TESTING STANDARD.

(a) IN GENERAL.—

(1) TESTING WITH SIMULTANEOUS USE.—Beginning on the date of enactment of this Act, for the purpose of certification under section 30115 of title 49, United States Code, of compliance with the motor vehicle safety standards under section 30111 of that title, a manufacturer or distributor of a motor vehicle shall be deemed to be in compliance with applicable performance standards for occupant crash protection if the motor vehicle meets the applicable requirements for testing with the simultaneous use of both an automatic restraint system and a manual seat belt.

(2) PROHIBITION.—In no case shall a manufacturer or distributor use, for the purpose of the certification referred to in paragraph (1), testing that provides for the use of an automatic restraint system without the use of a manual seat belt.

(b) REVISION OF STANDARDS.—The Secretary shall issue such revised standards under section 30111 of title 49, United States Code, as are necessary to conform to subsection (a).

Subtitle E—Environment

SEC. 1501. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Chapter 1 of title 23, United States Code (as amended by section 1406(a)) is amended by adding at the end the following:

"§ 165. National scenic byways program

"(a) DESIGNATION OF ROADS.—

"(1) IN GENERAL.—The Secretary shall carry out a national scenic byways program that recognizes roads having outstanding scenic, historic, cultural, natural, recreational, and archaeological qualities by designating the roads as National Scenic Byways or All-American Roads.

"(2) CRITERIA.—The Secretary shall designate roads to be recognized under the national scenic byways program in accordance with criteria developed by the Secretary.

"(3) NOMINATION.—To be considered for the designation, a road must be nominated by a State or a Federal land management agency and must first be designated as a State scenic byway or, in the case of a road on Federal land, as a Federal land management agency byway.

"(b) GRANTS AND TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall make grants and provide technical assistance to States to—

"(A) implement projects on highways designated as National Scenic Byways or All-American Roads, or as State scenic byways; and

"(B) plan, design, and develop a State scenic byway program.

"(2) PRIORITIES.—In making grants, the Secretary shall give priority to—

"(A) each eligible project that is associated with a highway that has been designated as a National Scenic Byway or All-American Road and that is consistent with the corridor management plan for the byway;

"(B) each eligible project along a State-designated scenic byway that is consistent with the corridor management plan for the byway, or is intended to foster the development of such a plan, and is carried out to make the byway eligible for designation as a National Scenic Byway or All-American Road; and

"(C) each eligible project that is associated with the development of a State scenic byway program.

"(c) ELIGIBLE PROJECTS.—The following are projects that are eligible for Federal assistance under this section:

"(1) An activity related to the planning, design, or development of a State scenic byway program.

"(2) Development and implementation of a corridor management plan to maintain the scenic, historical, recreational, cultural, natural, and archaeological characteristics of a byway corridor while providing for accommodation of increased tourism and development of related amenities.

"(3) Safety improvements to a State scenic byway, National Scenic Byway, or All-American Road to the extent that the improvements are necessary to accommodate increased traffic and changes in the types of vehicles using the highway as a result of the designation as a State scenic byway, National Scenic Byway, or All-American Road.

"(4) Construction along a scenic byway of a facility for pedestrians and bicyclists, rest area, turnout, highway shoulder improvement, passing lane, overlook, or interpretive facility.

"(5) An improvement to a scenic byway that will enhance access to an area for the purpose of recreation, including water-related recreation.

"(6) Protection of scenic, historical, recreational, cultural, natural, and archaeological resources in an area adjacent to a scenic byway.

"(7) Development and provision of tourist information to the public, including interpretive information about a scenic byway.

"(8) Development and implementation of a scenic byways marketing program.

"(d) LIMITATION.—The Secretary shall not make a grant under this section for any project that would not protect the scenic, historical, recreational, cultural, natural, and archaeological integrity of a highway and adjacent areas.

"(e) FEDERAL SHARE.—The Federal share of the cost of carrying out a project under this section shall be 80 percent, except that, in the case of any scenic byways project along a public road that provides access to or within Federal or Indian land, a Federal land management agency may use funds authorized for use by the agency as the non-Federal share.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $17,000,000 for fiscal year 1998, $17,000,000 for fiscal year 1999, $19,000,000 for fiscal year 2000, $19,000,000 for fiscal year 2001, $21,000,000 for fiscal year 2002, and $23,000,000 for fiscal year 2003.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code (as amended by section 1406(b)), is amended by adding at the end the following:

"165. National scenic byways program.".

SEC. 1502. PUBLIC-PRIVATE PARTNERSHIPS.

Section 149 of title 23, United States Code, is amended by adding at the end the following:

"(e) PARTNERSHIPS WITH NONGOVERNMENTAL ENTITIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title and in accordance with this subsection, a metropolitan planning organization, State transportation department, or other project sponsor may enter into an agreement with any public, private, or nonprofit entity to cooperatively implement any project carried out under this section.

"(2) FORMS OF PARTICIPATION BY ENTITIES.—Participation by an entity under paragraph (1) may consist of—

"(A) ownership or operation of any land, facility, vehicle, or other physical asset associated with the project;

"(B) cost sharing of any project expense;

"(C) carrying out of administration, construction management, project management, project operation, or any other management or operational duty associated with the project; and

"(D) any other form of participation approved by the Secretary.

"(3) ALLOCATION TO ENTITIES.—A State may allocate funds apportioned under section 104(b)(2) to an entity described in paragraph (1).

"(4) ALTERNATIVE FUEL PROJECTS.—In the case of a project that will provide for the use of alternative fuels by privately owned vehicles or vehicle fleets, activities eligible for funding under this subsection—

"(A) may include the costs of vehicle refueling infrastructure and other capital investments associated with the project; and

"(B) shall—

"(i) include only the incremental cost of an alternative fueled vehicle compared to a conventionally fueled vehicle that would otherwise be borne by a private party; and

"(ii) apply other governmental financial purchase contributions in the calculation of net incremental cost.

"(5) PROHIBITION ON FEDERAL PARTICIPATION WITH RESPECT TO REQUIRED ACTIVITIES.—A Federal participation payment under this subsection may not be made to an entity to fund an obligation imposed under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other Federal law.".

SEC. 1503. WETLAND RESTORATION PILOT PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) surface transportation has unintended but negative consequences for wetlands and other water resources;

(2) in almost every State, construction and other highway activities have reduced or eliminated wetland functions and values, such as wildlife habitat, ground water recharge, flood control, and water quality benefits;

(3) the United States has lost more than ½ of the estimated 220,000,000 acres of wetlands that existed during colonial times; and

(4) while the rate of human-induced destruction and conversion of wetlands has slowed in recent years, the United States has suffered unacceptable wetland losses as a result of highway projects.

(b) ESTABLISHMENT.—The Secretary shall establish a national wetland restoration pilot program (referred to in this section as the "program") to fund mitigation projects to offset the degradation of wetlands, or the loss of functions and values of the aquatic resource, resulting from projects carried out before December 27, 1977, under title 23, United States Code (or similar projects as determined by the Secretary), for which mitigation has not been performed.

(c) APPLICATIONS.—To be eligible for funding under the program, a State shall submit an application to the Secretary that includes—

(1) a description of the wetland proposed to be restored by a mitigation project described in subsection (b) (referred to in this section as a "wetland restoration project") under the program (including the size and quality of the wetland);

(2) such information as is necessary to establish a nexus between—

(A) a project carried out under title 23, United States Code (or a similar project as determined by the Secretary); and

(B) the wetland values and functions proposed to be restored by the wetland restoration project;

(3) a description of the benefits expected from the proposed wetland restoration project (including improvement of water quality, improvement of wildlife habitat, ground water recharge, and flood control);

(4) a description of the State's level of commitment to the proposed wetland restoration project (including the monetary commitment of the State and any development of a State or regional conservation plan that includes the proposed wetland restoration); and

(5) the estimated total cost of the wetland restoration project.

(d) SELECTION OF WETLAND RESTORATION PROJECTS.—

(1) INTERAGENCY COUNCIL.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall establish an interagency advisory council to—

(A) review the submitted applications that meet the requirements of subsection (c); and

(B) not later than 60 days after the application deadline, select wetland restoration projects for funding under the program.

(2) SELECTION CRITERIA FOR PRIORITY WETLAND RESTORATION PROJECTS.—In consultation with the Secretary of the Army, the Secretary of the Interior, the Secretary of Agriculture, and the Administrator of the Environmental Protection Agency, the Secretary shall give priority in funding under this section to wetland restoration projects that—

(A) provide for long-term monitoring and maintenance of wetland resources;

(B) are managed by an entity, such as a nature conservancy, with expertise in the long-term monitoring and protection of wetland resources; and

(C) have a high likelihood of success.

(e) REPORTS.—Not later than April 1, 2000, and April 1, 2003, the Secretary shall submit a report to Congress on the results of the program.

(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for fiscal year 1998, $13,000,000 for fiscal year 1999, $14,000,000 for fiscal year 2000, $17,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $24,000,000 for fiscal year 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle F—Planning

SEC. 1601. METROPOLITAN PLANNING.

(a) IN GENERAL.—Section 134 of title 23, United States Code, is amended to read as follows:

"§ 134. Metropolitan planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—Congress finds that it is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objective stated in paragraph (1), metropolitan planning organizations designated under subsection (b), in cooperation with the State and public transit operators, shall develop transportation plans and programs for urbanized areas of the State.

"(3) CONTENTS.—The plans and programs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan area and as an integral part of an intermodal transportation system for the State and the United States.

"(4) PROCESS.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—

"(1) IN GENERAL.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) REDESIGNATION.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities as defined by the Bureau of the Census) as appropriate to carry out this section.

"(3) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(4) STRUCTURE.—Each policy board of a metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area (including all transportation agencies included in the metropolitan planning organization as of June 1, 1991); and

"(C) appropriate State officials.

"(5) OTHER AUTHORITY.—Nothing in this subsection interferes with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

"(A) develop plans and programs for adoption by a metropolitan planning organization; or

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities under State law.

"(c) METROPOLITAN PLANNING AREA BOUNDARIES.—

"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) INCLUDED AREA.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the boundaries of the metropolitan planning area in existence as of the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997, shall be retained, except that the boundaries may be adjusted by agreement of the affected metropolitan planning organizations and Governors in the manner described in subsection (b)(2).

"(4) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997 as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—

"(A) shall be established by agreement between the appropriate units of general purpose local government (including the central city) and the Governor;

"(B) shall encompass at least the urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period;

"(C) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census; and

"(D) may address any nonattainment area identified under the Clean Air Act (42 U.S.C. 7401 et seq.) for ozone or carbon monoxide.

"(d) COORDINATION IN MULTISTATE AREAS.—

"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.

"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—

"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and

"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.

"(e) COORDINATION OF METROPOLITAN PLANNING ORGANIZATIONS.—If more than 1 metropolitan planning organization has authority within a metropolitan planning area or an area that is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), each such metropolitan planning organization shall consult with the other metropolitan planning organizations designated for the area and the State in the development of plans and programs required by this section.

"(f) SCOPE OF PLANNING PROCESS.—The metropolitan transportation planning process for a metropolitan area under this section shall consider the following:

"(1) Supporting the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency.

"(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

"(3) Increasing the accessibility and mobility options available to people and for freight.

"(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

"(5) Enhancing the integration and connectivity of the transportation system, across and between modes, for people and freight.

"(6) Promoting efficient system management and operation.

"(7) Emphasizing the preservation of the existing transportation system.

"(g) DEVELOPMENT OF LONG-RANGE TRANSPORTATION PLAN.—

"(1) IN GENERAL.—

"(A) DEVELOPMENT.—In accordance with this subsection, each metropolitan planning organization shall develop, and update periodically, according to a schedule that the Secretary determines to be appropriate, a long-range transportation plan for its metropolitan area.

"(B) FORECAST PERIOD.—In developing long-range transportation plans, the metropolitan planning process shall address—

"(i) the considerations under subsection (f); and

"(ii) any State or local goals developed within the cooperative metropolitan planning process;

as they relate to a 20-year forecast period and to other forecast periods as determined by the participants in the planning process.

"(C) FUNDING ESTIMATES.—For the purpose of developing the long-range transportation plan, the State shall consult with the metropolitan planning organization and each public transit agency in developing estimates of funds that are reasonably expected to be available to support plan implementation.

"(2) LONG-RANGE TRANSPORTATION PLAN.—A long-range transportation plan under this subsection shall, at a minimum, contain—

"(A) an identification of transportation facilities (including major roadways and transit, multimodal, and intermodal facilities) that should function as a future integrated transportation system, giving emphasis to those facilities that serve important national, regional, and metropolitan transportation functions;

"(B) an identification of transportation strategies necessary to—

"(i) ensure preservation, including requirements for management, operation, modernization, and rehabilitation, of the existing and future transportation system; and

"(ii) make the most efficient use of existing transportation facilities to relieve congestion, to efficiently serve the mobility needs of people and goods, and to enhance access within the metropolitan planning area; and

"(C) a financial plan that demonstrates how the long-range transportation plan can be implemented, indicates total resources from public and private sources that are reasonably expected to be available to carry out the plan (without any requirement for indicating project-specific funding sources), and recommends any additional financing strategies for needed projects and programs.

"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas that are in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), the metropolitan planning organization shall coordinate the development of a long-range transportation plan with the process for development of the transportation control measures of the State implementation plan required by that Act.

"(4) PARTICIPATION BY INTERESTED PARTIES.—Before adopting a long-range transportation plan, each metropolitan planning organization shall provide citizens, affected public agencies, representatives of transportation agency employees, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the long-range transportation plan.

"(5) PUBLICATION OF LONG-RANGE TRANSPORTATION PLAN.—Each long-range transportation plan prepared by a metropolitan planning organization shall be—

"(A) published or otherwise made readily available for public review; and

"(B) submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.

"(h) METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—In cooperation with the State and any affected public transit operator, the metropolitan planning organization designated for a metropolitan area shall develop a transportation improvement program for the area for which the organization is designated.

"(B) OPPORTUNITY FOR COMMENT.—In developing the program, the metropolitan planning organization, in cooperation with the State and any affected public transit operator, shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(C) FUNDING ESTIMATES.—For the purpose of developing the transportation improvement program, the metropolitan planning organization, public transit agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.

"(D) UPDATING AND APPROVAL.—The program shall be updated at least once every 2 years and shall be approved by the metropolitan planning organization and the Governor.

"(2) CONTENTS.—The transportation improvement program shall include—

"(A) a list, in order of priority, of proposed federally supported projects and strategies to be carried out within each 3-year-period after the initial adoption of the transportation improvement program; and

"(B) a financial plan that—

"(i) demonstrates how the transportation improvement program can be implemented;

"(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program (without any requirement for indicating project-specific funding sources); and

"(iii) identifies innovative financing techniques to finance projects, programs, and strategies (without any requirement for indicating project-specific funding sources).

"(3) INCLUDED PROJECTS.—

"(A) CHAPTER 1 AND CHAPTER 53 PROJECTS.—A transportation improvement program developed under this subsection for a metropolitan area shall include the projects and strategies within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of this title shall be identified individually in the transportation improvement program.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of this title that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (g) for the area.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(4) NOTICE AND COMMENT.—Before approving a transportation improvement program, a metropolitan planning organization shall,

in cooperation with the State and any affected public transit operator, provide citizens, affected public agencies, representatives of transportation agency employees, private providers of transportation, and other interested parties with reasonable notice of and an opportunity to comment on the proposed program.

"(5) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—Except as otherwise provided in subsection (i)(4) and in addition to the transportation improvement program development required under paragraph (1), the selection of federally funded projects for implementation in metropolitan areas shall be carried out, from the approved transportation improvement program—

"(i) by—

"(I) in the case of projects under chapter 1, the State; and

"(II) in the case of projects under chapter 53 of title 49, the designated transit funding recipients; and

"(ii) in cooperation with the metropolitan planning organization.

"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project of higher priority in the program.

"(i) TRANSPORTATION MANAGEMENT AREAS.—

"(1) DESIGNATION.—

"(A) REQUIRED DESIGNATIONS.—The Secretary shall designate as a transportation management area each urbanized area with a population of over 200,000 individuals.

"(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.

"(2) TRANSPORTATION PLANS AND PROGRAMS.—Within a transportation management area, transportation plans and programs shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and any affected public transit operator.

"(3) CONGESTION MANAGEMENT SYSTEM.—Within a transportation management area, the transportation planning process under this section shall include a congestion management system that provides for effective management of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies.

"(4) SELECTION OF PROJECTS.—

"(A) IN GENERAL.—In addition to the transportation improvement program development required under subsection (h)(1), all federally funded projects carried out within the boundaries of a transportation management area under this title (excluding projects carried out on the National Highway System) or under chapter 53 of title 49 shall be selected for implementation from the approved transportation improvement program by the metropolitan planning organization designated for the area in consultation with the State and any affected public transit operator.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a transportation management area on the National Highway System shall be selected for implementation from the approved transportation improvement program by the State in cooperation with the metropolitan planning organization designated for the area.

"(5) CERTIFICATION.—

"(A) IN GENERAL.—The Secretary shall—

"(i) ensure that the metropolitan planning process in each transportation management area is being carried out in accordance with applicable provisions of Federal law; and

"(ii) subject to subparagraph (B), certify, not less often than once every 3 years, that the requirements of this paragraph are met with respect to the transportation management area.

"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—

"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and

"(ii) there is a transportation improvement program for the area that has been approved by the metropolitan planning organization and the Governor.

"(C) EFFECT OF FAILURE TO CERTIFY.—

"(i) WITHHOLDING OF FUNDS.—If a metropolitan planning process is not certified, the Secretary may withhold up to 20 percent of the apportioned funds attributable to the transportation management area under this title and chapter 53 of title 49.

"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld apportionments shall be restored to the metropolitan area at such time as the metropolitan planning organization is certified by the Secretary.

"(iii) FEASIBILITY OF PRIVATE ENTERPRISE PARTICIPATION.—The Secretary shall not withhold certification under this paragraph based on the policies and criteria established by a metropolitan planning organization or transit grant recipient for determining the feasibility of private enterprise participation in accordance with section 5306(a) of title 49.

"(j) ABBREVIATED PLANS AND PROGRAMS FOR CERTAIN AREAS.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated metropolitan transportation plan and program that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.

"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or programs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.).

"(k) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this title or chapter 53 of title 49, in the case of a transportation management area classified as nonattainment for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.), Federal funds may not be programmed in the area for any highway project that will result in a significant increase in carrying capacity for single occupant vehicles unless the project results from an approved congestion management system.

"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (c).

"(l) LIMITATION.—Nothing in this section confers on a metropolitan planning organization the authority to impose any legal requirement on any transportation facility, provider, or project not eligible for assistance under this title or chapter 53 of title 49.

"(m) FUNDING.—

"(1) IN GENERAL.—Funds set aside under section 104(f) of this title and section 5303 of title 49 shall be available to carry out this section.

"(2) UNUSED FUNDS.—Any funds that are not used to carry out this section may be made available by the metropolitan planning organization to the State to fund activities under section 135.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 134 and inserting the following:

"134. Metropolitan planning.".

SEC. 1602. STATEWIDE PLANNING.

Section 135 of title 23, United States Code, is amended to read as follows:

"§ 135. Statewide planning

"(a) GENERAL REQUIREMENTS.—

"(1) FINDINGS.—It is in the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight throughout each State.

"(2) DEVELOPMENT OF PLANS AND PROGRAMS.—Subject to section 134 of this title and sections 5303 through 5305 of title 49, each State shall develop transportation plans and programs for all areas of the State.

"(3) CONTENTS.—The plans and programs for each State shall provide for the development and integrated management and operation of transportation systems (including pedestrian walkways and bicycle transportation facilities) that will function as an intermodal State transportation system and an integral part of the intermodal transportation system of the United States.

"(4) PROCESS OF DEVELOPMENT.—The process for developing the plans and programs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(b) SCOPE OF PLANNING PROCESS.—Each State shall carry out a transportation planning process that shall consider the following:

"(1) Supporting the economic vitality of the United States, the States, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency.

"(2) Increasing the safety and security of the transportation system for motorized and nonmotorized users.

"(3) Increasing the accessibility and mobility options available to people and for freight.

"(4) Protecting and enhancing the environment, promoting energy conservation, and improving quality of life through land use planning.

"(5) Enhancing the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight.

"(6) Promoting efficient system management and operation.

"(7) Emphasizing the preservation of the existing transportation system.

"(c) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—In carrying out planning under this section, a State shall—

"(1) coordinate the planning with the transportation planning activities carried out under section 134 for metropolitan areas of the State; and

"(2) carry out the responsibilities of the State for the development of the transportation portion of the State air quality implementation plan to the extent required by the Clean Air Act (42 U.S.C. 7401 et seq.).

"(d) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall, at a minimum, consider—

"(1) with respect to nonmetropolitan areas, the concerns of local elected officials representing units of general purpose local government;

"(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and

"(3) coordination of transportation plans, programs, and planning activities with related planning activities being carried out outside of metropolitan planning areas.

"(e) LONG-RANGE TRANSPORTATION PLAN.—

"(1) DEVELOPMENT.—Each State shall develop a long-range transportation plan, with a minimum 20-year forecast period, for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.

"(2) CONSULTATION WITH GOVERNMENTS.—

"(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the plan shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

"(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area, the plan shall be developed in consultation with local elected officials representing units of general purpose local government.

"(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the plan shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the plan, the State shall—

"(A) provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed plan; and

"(B) identify transportation strategies necessary to efficiently serve the mobility needs of people.

"(f) STATE TRANSPORTATION IMPROVEMENT PROGRAM.—

"(1) DEVELOPMENT.—

"(A) IN GENERAL.—The State shall develop a transportation improvement program for all areas of the State.

"(B) CONSULTATION WITH GOVERNMENTS.—

"(i) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134 of this title and section 5305 of title 49.

"(ii) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with units of general purpose local government.

"(iii) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.

"(C) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the Governor shall provide citizens, affected public agencies, representatives of transportation agency employees, other affected employee representatives, freight shippers, private providers of transportation, and other interested parties with a reasonable opportunity to comment on the proposed program.

"(2) INCLUDED PROJECTS.—

"(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.

"(B) CHAPTER 2 PROJECTS.—

"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually.

"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually.

"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall—

"(i) be consistent with the long-range transportation plan developed under this section for the State;

"(ii) be identical to the project as described in an approved metropolitan transportation improvement program; and

"(iii) be in conformance with the applicable State air quality implementation plan developed under the Clean Air Act (42 U.S.C. 7401 et seq.), if the project is carried out in an area designated as nonattainment for ozone or carbon monoxide under that Act.

"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—

"(i) IN GENERAL.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.

"(ii) LIMITATION.—Clause (i) does not require the indication of project-specific funding sources.

"(E) PRIORITIES.—The program shall reflect the priorities for programming and expenditures of funds, including transportation enhancements, required by this title.

"(3) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—

"(A) IN GENERAL.—Projects carried out in areas with populations of less than 50,000 individuals (excluding projects carried out on the National Highway System) shall be selected, from the approved statewide transportation improvement program, by the State in cooperation with the affected local officials.

"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out in areas described in subparagraph (A) on the National Highway System shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected local officials.

"(4) BIENNIAL REVIEW AND APPROVAL.—A transportation improvement program developed under this subsection shall be reviewed and, on a finding that the planning process through which the program was developed is consistent with this section and section 134, approved not less frequently than biennially by the Secretary.

"(5) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved statewide transportation improvement program in place of another project of higher priority in the program.

"(g) FUNDING.—Funds set aside under section 505 of this title and section 5313(b) of title 49 shall be available to carry out this section.

"(h) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and programs described in this section or section 134 are subject to a reasonable opportunity for public comment, since individual projects included in the plans and programs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and programs described in this section have not been reviewed under that Act as of January 1, 1997, any decision by the Secretary concerning a plan or program described in this section or section 134 shall not be considered to be a Federal action subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).".

SEC. 1603. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish an advanced travel forecasting procedures program—

(1) to provide for completion of the advanced transportation model developed under the Transportation Analysis Simulation System (referred to in this section as "TRANSIMS"); and

(2) to provide support for early deployment of the advanced transportation modeling computer software and graphics package developed under TRANSIMS and the program established under this section to States, local governments, and metropolitan planning organizations with responsibility for travel modeling.

(b) ELIGIBLE ACTIVITIES.—The Secretary shall use funds made available under this section to—

(1) provide funding for completion of core development of the advanced transportation model;

(2) develop user-friendly advanced transportation modeling computer software and graphics packages;

(3) provide training and technical assistance with respect to the implementation and application of the advanced transportation model to States, local governments, and metropolitan planning organizations with responsibility for travel modeling; and

(4) allocate funds to not more than 12 entities described in paragraph (3), representing a diversity of populations and geographic regions, for a pilot program to enable transportation management areas designated under section 134(i) of title 23, United States Code, to convert from the use of travel forecasting procedures in use by the areas as of the date of enactment of this Act to the use of the advanced transportation model.

(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $4,000,000 for fiscal year 1998, $3,000,000 for fiscal year 1999, $6,500,000 for fiscal year 2000, $5,000,000 for fiscal year 2001, $4,000,000 for fiscal year 2002, and $2,500,000 for fiscal year 2003.

(2) ALLOCATION OF FUNDS.—

(A) FISCAL YEARS 1998 AND 1999.—For each of fiscal years 1998 and 1999, 100 percent of the funds made available under paragraph (1) shall be allocated to activities in described in paragraphs (1), (2), and (3) of subsection (b).

(B) FISCAL YEARS 2000 THROUGH 2003.—For each of fiscal years 2000 through 2003, not more than 50 percent of the funds made available under paragraph (1) may be allocated to activities described in subsection (b)(4).

(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of—

(A) any activity described in paragraph (1), (2), or (3) of subsection (b) shall not exceed 100 percent; and

(B) any activity described in subsection (b)(4) shall not exceed 80 percent.

SEC. 1604. TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.

(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a comprehensive initiative to investigate and address the relationships between transportation and community and system preservation.

(b) RESEARCH.—

(1) IN GENERAL.—In cooperation with appropriate Federal agencies, State, regional, and local governments, and other entities eligible for assistance under subsection (d), the Secretary shall carry out a comprehensive research program to investigate the relationships between transportation, community preservation, and the environment.

(2) REQUIRED ELEMENTS.—The program shall provide for monitoring and analysis of projects carried out with funds made available to carry out subsections (c) and (d).

(c) PLANNING.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to plan, develop, and implement strategies to integrate transportation and community and system preservation plans and practices.

(2) PURPOSES.—The purposes of the allocations shall be—

(A) to improve the efficiency of the transportation system;

(B) to reduce the impacts of transportation on the environment;

(C) to reduce the need for costly future investments in public infrastructure; and

(D) to provide efficient access to jobs, services, and centers of trade.

(3) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) propose projects for funding that address the purposes described in paragraph (2);

(B) demonstrate a commitment to public involvement, including involvement of nontraditional partners in the project team; and

(C) demonstrate a commitment of non-Federal resources to the proposed projects.

(d) ALLOCATION OF FUNDS FOR IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this subsection to States, metropolitan planning organizations, and local governments to carry out projects to address transportation efficiency and community and system preservation.

(2) CRITERIA.—In allocating funds made available to carry out this subsection, the Secretary shall give priority to applicants that—

(A) have instituted preservation or development plans and programs that—

(i) meet the requirements of title 23 and chapter 53 of title 49, United States Code; and

(ii) are—

(I) coordinated with adopted preservation or development plans; or

(II) intended to promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment;

(B) have instituted other policies to integrate transportation and community and system preservation practices, such as—

(i) spending policies that direct funds to high-growth areas;

(ii) urban growth boundaries to guide metropolitan expansion;

(iii) "green corridors" programs that provide access to major highway corridors for areas targeted for efficient and compact development; or

(iv) other similar programs or policies as determined by the Secretary;

(C) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment; and

(D) propose projects for funding that address the purposes described in subsection (c)(2).

(3) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this subsection, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.

(4) USE OF ALLOCATED FUNDS.—

(A) IN GENERAL.—An allocation of funds made available to carry out this subsection shall be used by the recipient to implement the projects proposed in the application to the Secretary.

(B) TYPES OF PROJECTS.—The allocation of funds shall be available for obligation for—

(i) any project eligible for funding under title 23 or chapter 53 of title 49, United States Code; or

(ii) any other activity relating to transportation and community and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement—

(I) transit-oriented development plans;

(II) traffic calming measures; or

(III) other coordinated transportation and community and system preservation practices.

(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $20,000,000 for each of fiscal years 1998 through 2003.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.

Subtitle G—Technical Corrections

SEC. 1701. FEDERAL-AID SYSTEMS.

(a) IN GENERAL.—Section 103 of title 23, United States Code, is amended to read as follows:

"§ 103. Federal-aid systems

"(a) IN GENERAL.—For the purposes of this title, the Federal-aid systems are the Interstate System and the National Highway System.

"(b) NATIONAL HIGHWAY SYSTEM.—

"(1) DESCRIPTION.—The National Highway System consists of an interconnected system of major routes and connectors that—

"(A) serve major population centers, international border crossings, ports, airports, public transportation facilities, and other intermodal transportation facilities and other major travel destinations;

"(B) meet national defense requirements; and

"(C) serve interstate and interregional travel.

"(2) COMPONENTS.—The National Highway System consists of the following:

"(A) The Interstate System described in subsection (c).

"(B) Other urban and rural principal arterial routes.

"(C) Other connector highways (including toll facilities) that provide motor vehicle access between arterial routes on the National Highway System and a major intermodal transportation facility.

"(D) A strategic highway network consisting of a network of highways that are important to the United States strategic defense policy and that provide defense access, continuity, and emergency capabilities for the movement of personnel, materials, and equipment in both peacetime and wartime. The highways may be highways on or off the Interstate System and shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(E) Major strategic highway network connectors consisting of highways that provide motor vehicle access between major military installations and highways that are part of the strategic highway network. The highways shall be designated by the Secretary in consultation with appropriate Federal agencies and the States.

"(3) MAXIMUM MILEAGE.—The mileage of highways on the National Highway System shall not exceed 178,250 miles.

"(4) MODIFICATIONS TO NHS.—

"(A) IN GENERAL.—The Secretary may make any modification, including any modification consisting of a connector to a major intermodal terminal, to the National Highway System that is proposed by a State or that is proposed by a State and revised by the Secretary if the Secretary determines that the modification—

"(i) meets the criteria established for the National Highway System under this title; and

"(ii) enhances the national transportation characteristics of the National Highway System.

"(B) COOPERATION.—

"(i) IN GENERAL.—In proposing a modification under this paragraph, a State shall cooperate with local and regional officials.

"(ii) URBANIZED AREAS.—In an urbanized area, the local officials shall act through the metropolitan planning organization designated for the area under section 134.

"(c) INTERSTATE SYSTEM.—

"(1) DESCRIPTION.—

"(A) IN GENERAL.—The Dwight D. Eisenhower National System of Interstate and Defense Highways within the United States (including the District of Columbia and Puerto Rico), consists of highways—

"(i) designed—

"(I) in accordance with the standards of section 109(b); or

"(II) in the case of highways in Alaska and Puerto Rico, in accordance with such geometric and construction standards as are adequate for current and probable future traffic demands and the needs of the locality of the highway; and

"(ii) located so as—

"(I) to connect by routes, as direct as practicable, the principal metropolitan areas, cities, and industrial centers;

"(II) to serve the national defense; and

"(III) to the maximum extent practicable, to connect at suitable border points with routes of continental importance in Canada and Mexico.

"(B) SELECTION OF ROUTES.—To the maximum extent practicable, each route of the Interstate System shall be selected by joint action of the State transportation 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.

"(2) MAXIMUM MILEAGE.—The mileage of highways on the Interstate System shall not exceed 43,000 miles, exclusive of designations under paragraph (4).

"(3) MODIFICATIONS.—The Secretary may approve or require modifications to the Interstate System in a manner consistent with the policies and procedures established under this subsection.

"(4) INTERSTATE SYSTEM DESIGNATIONS.—

"(A) ADDITIONS.—If the Secretary determines that a highway on the National Highway System meets all standards of a highway on the Interstate System and that the highway is a logical addition or connection to the Interstate System, the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a route on the Interstate System.

"(B) DESIGNATIONS AS FUTURE INTERSTATE SYSTEM ROUTES.—

"(i) IN GENERAL.—If the Secretary determines that a highway on the National Highway System would be a logical addition or connection to the Interstate System and would qualify for designation as a route on the Interstate System under subparagraph (A), the Secretary may, upon the affirmative recommendation of the State or States in which the highway is located, designate the highway as a future Interstate System route.

"(ii) WRITTEN AGREEMENT OF STATES.—A designation under clause (i) shall be made only upon the written agreement of the State or States described in that clause that the highway will be constructed to meet all standards of a highway on the Interstate System by the date that is 12 years after the date of the agreement.

"(iii) REMOVAL OF DESIGNATION.—

"(I) IN GENERAL.—If the State or States described in clause (i) have not substantially completed the construction of a highway designated under this subparagraph within the time provided for in the agreement between the Secretary and the State or States under clause (ii), the Secretary shall remove the designation of the highway as a future Interstate System route.

"(II) EFFECT OF REMOVAL.—Removal of the designation of a highway under subclause (I) shall not preclude the Secretary from designating the highway as a route on the Interstate System under subparagraph (A) or under any other provision of law providing for addition to the Interstate System.

"(iv) PROHIBITION ON REFERRAL AS INTERSTATE SYSTEM ROUTE.—No law, rule, regulation, map, document, or other record of the United States, or of any State or political subdivision of a State, shall refer to any highway designated as a future Interstate System route under this subparagraph, nor shall any such highway be signed or marked, as a highway on the Interstate System until such time as the highway is constructed to the geometric and construction standards for the Interstate System and has been designated as a route on the Interstate System.

"(C) FINANCIAL RESPONSIBILITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the designation of a highway under this paragraph shall create no additional Federal financial responsibility with respect to the highway.

"(ii) CERTAIN HIGHWAYS.—Subject to section 119(b)(1)(B), a State may use funds available to the State under paragraphs (1) and (3) of section 104(b) for the resurfacing, restoration, rehabilitation, and reconstruction of a highway—

"(I) designated before March 9, 1984, as a route on the Interstate System under subparagraph (A) or as a future Interstate System route under subparagraph (B); or

"(II) designated under subparagraph (A) and located in Alaska or Puerto Rico.

"(d) TRANSFER OF INTERSTATE CONSTRUCTION FUNDS.—

"(1) INTERSTATE CONSTRUCTION FUNDS NOT IN SURPLUS.—

"(A) IN GENERAL.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997), if the amount does not exceed the Federal share of the costs of construction of segments of the Interstate System in the State included in the most recent Interstate System cost estimate.

"(B) EFFECT OF TRANSFER.—Upon transfer of an amount under subparagraph (A), the construction on which the amount is based, as included in the most recent Interstate System cost estimate, shall be ineligible for funding under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997) or 104(k).

"(2) SURPLUS INTERSTATE CONSTRUCTION FUNDS.—Upon application by a State and approval by the Secretary, the Secretary may transfer to the apportionment of the State under section 104(b)(1) any amount of surplus funds apportioned to the State under section 104(b)(5)(A) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997), if the State has fully financed all work eligible under the most recent Interstate System cost estimate.

"(3) APPLICABILITY OF CERTAIN LAWS.—Funds transferred under this subsection shall be subject to the laws (including regulations, policies, and procedures) relating to the apportionment to which the funds are transferred.

"(e) UNOBLIGATED BALANCES OF INTERSTATE SUBSTITUTE FUNDS.—Unobligated balances of funds apportioned to a State under section 103(e)(4)(H) (as in effect on the day before the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1997) shall be available for obligation by the State under the law (including regulations, policies, and procedures) relating to the obligation and expenditure of the funds in effect on that date.".

(b) CONFORMING AMENDMENTS.—

(1)(A) Section 101(a) of title 23, United States Code, is amended in the undesignated paragraph defining "Interstate System" by striking "subsection (e) of section 103 of this title" and inserting "section 103(c)".

(B) Section 104(f)(1) of title 23, United States Code, is amended by striking ", except that" and all that follows through "programs".

(C) Section 115(a) of title 23, United States Code, is amended—

(i) in the subsection heading, by striking "SUBSTITUTE,"; and

(ii) in paragraph (1)(A)(i), by striking "103(e)(4)(H),";

(D) Section 118 of title 23, United States Code (as amended by section 1118(b)), is amended—

(i) by striking subsection (d); and

(ii) by redesignating subsections (e), (f), and (g) (as added by section 1103(d)) as subsections (c), (d), and (e), respectively.

(E) Section 129(b) of title 23, United States Code, is amended in the first sentence by striking "which has been" and all that follows through "and has not" and inserting "which is a public road and has not".

(2)(A) Section 139 of title 23, United States Code, is repealed.

(B) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 139.

(C) Section 119(a) of title 23, United States Code, is amended in the first sentence—

(i) by striking "sections 103 and 139(c) of this title" and inserting "section 103(c)(1) and, in Alaska and Puerto Rico, under section 103(c)(4)(A)"; and

(ii) by striking "section 139 (a) and (b) of this title" and inserting "subparagraphs (A) and (B) of section 103(c)(4)".

(D) Section 127(f) of title 23, United States Code, is amended by striking "section 139(a)" and inserting "section 103(c)(4)(A)".

(E) Section 1105(e)(5) of the Intermodal Surface Transportation Efficiency Act of 1991 (109 Stat. 597) is amended by striking subparagraph (B) and inserting the following:

"(B) TREATMENT OF SEGMENTS.—Subject to subparagraph (C), segments designated as parts of the Interstate System under this paragraph shall be treated in the same manner as segments designated under section 103(c)(4)(A) of title 23, United States Code.".

SEC. 1702. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) DEFINITIONS AND DECLARATION OF POLICY.—

(1) CREATION OF POLICY SECTION.—Section 102 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 102. Declaration of policy";

(B) by redesignating subsection (a) as subsection (c) and moving that subsection to the end of section 146; and

(C) by redesignating subsection (b) as subsection (f) and moving that subsection to the end of section 118 (as amended by section 1701(b)(1)(D)(ii)).

(2) TRANSFER OF POLICY PROVISIONS.—Section 101 of title 23, United States Code, is amended—

(A) by striking the section heading and inserting the following:

"§ 101. Definitions";

(B) in subsection (a), by striking "(a)";

(C) by striking subsection (b); and

(D) by redesignating subsections (c) through (e) as subsections (a) through (c), respectively, and moving those subsections to section 102 (as amended by paragraph (1)).

(3) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the items relating to sections 101 and 102 and inserting the following:

"101. Definitions.

"102. Declaration of policy.".

(B) Section 47107(j)(1)(B) of title 49, United States Code, is amended by striking "section 101(a)" and inserting "section 101".

(b) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—

(1) in subsection (b)—

(A) by striking "PROJECTS" and all that follows through "When a State" and inserting "PROJECTS.—When a State";

(B) by striking paragraphs (2) and (3); and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and indenting appropriately;

(2) by striking subsection (c);

(3) in subsection (d), by striking "section 135(f)" and inserting "section 135"; and

(4) by redesignating subsection (d) as subsection (c).

(c) MAINTENANCE.—Section 116 of title 23, United States Code, is amended—

(1) in subsection (a), by striking the second sentence;

(2) by striking subsection (b);

(3) in subsection (c)—

(A) in the first sentence, by striking "he" and inserting "the Secretary"; and

(B) in the second sentence, by striking "further projects" and inserting "further expenditure of Federal-aid highway program funds"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(d) INTERSTATE MAINTENANCE PROGRAM.—Section 119(a) of title 23, United States Code, is amended in the first sentence by striking "the date of enactment of this sentence" and inserting "March 9, 1984".

(e) ADVANCES TO STATES.—Section 124 of title 23, United States Code, is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

(f) DIVERSION.—

(1) IN GENERAL.—Section 126 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 126.

(g) RAILWAY-HIGHWAY CROSSINGS.—Section 130(f) of title 23, United States Code, is amended by striking "APPORTIONMENT" and all that follows through the first sentence and inserting "FEDERAL SHARE.—".

(h) SURFACE TRANSPORTATION PROGRAM.—Section 133(a) of title 23, United States Code, is amended by striking "ESTABLISHMENT.—The Secretary shall establish" and inserting "IN GENERAL.—The Secretary shall carry out".

(i) CONTROL OF JUNKYARDS.—Section 136 of title 23, United States Code, is amended by striking subsection (m) and inserting the following:

"(m) PRIMARY SYSTEM DEFINED.—For purposes of this section, the term 'primary system' means the Federal-aid primary system in existence on June 1, 1991, and any highway which is not on such system but which is on the National Highway System.".

(j) FRINGE AND CORRIDOR PARKING FACILITIES.—Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".

(k) NONDISCRIMINATION.—Section 140 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking "subsection (a) of section 105 of this title," and inserting "section 106(a),";

(B) by striking "he" each place it appears and inserting "the Secretary";

(C) in the second sentence, by striking "He" and inserting "The Secretary";

(D) in the third sentence, by striking "In approving programs for projects on any of the Federal-aid systems," and inserting "Before approving any project under section 106(a),"; and

(E) in the last sentence, by striking "him" and inserting "the Secretary";

(2) by striking subsection (b);

(3) in the subsection heading of subsection (d), by striking "AND CONTRACTING"; and

(4) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(l) PRIORITY PRIMARY ROUTES.—

(1) IN GENERAL.—Section 147 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 147.

(m) DEVELOPMENT OF A NATIONAL SCENIC AND RECREATIONAL HIGHWAY.—

(1) IN GENERAL.—Section 148 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148.

(n) HAZARD ELIMINATION PROGRAM.—Section 152(e) of title 23, United States Code, is amended by striking "apportioned to" in the first sentence and all that follows through "shall be" in the second sentence.

(o) ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES.—

(1) IN GENERAL.—Section 155 of title 23, United States Code, is repealed.

(2) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 155.

SEC. 1703. NONDISCRIMINATION.

(a) IN GENERAL.—Section 324 of title 23, United States Code, is amended—

(1) by inserting "(d) PROHIBITION OF DISCRIMINATION ON THE BASIS OF SEX.—" before "No person"; and

(2) by moving subsection (d) (as designated by paragraph (1)) to the end of section 140 (as amended by section 1702(k)).

(b) CONFORMING AMENDMENTS.—

(1) Section 324 of title 23, United States Code, is repealed.

(2) The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 324.

SEC. 1704. STATE TRANSPORTATION DEPARTMENT.

(a) IN GENERAL.—Section 302 of title 23, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "(a)";

(B) by striking the second sentence; and

(C) by adding at the end the following: "Compliance with this section shall have no effect on the eligibility of costs."; and

(2) by striking subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) Title 23, United States Code, is amended—

(A) by striking "State highway department" each place it appears and inserting "State transportation department"; and

(B) by striking "State highway departments" each place it appears and inserting "State transportation departments".

(2) The analysis for chapter 3 of title 23, United States Code, is amended in the item relating to section 302 by striking "highway" and inserting "transportation".

(3) Section 302 of title 23, United States Code, is amended in the section heading by striking "**highway**" and inserting "**transportation**".

(4) Section 410(h)(5) of title 23, United States Code, is amended in the paragraph heading by striking "HIGHWAY" and inserting "TRANSPORTATION".

(5) Section 201(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by striking "State highway department" and inserting "State transportation department".

(6) Section 138(c) of the Surface Transportation Assistance Act of 1978 (40 U.S.C. App. note to section 201 of the Appalachian Regional Development Act of 1965; Public Law 95-599) is amended in the first sentence by striking "State highway department" and inserting "State transportation department".

Subtitle H—Miscellaneous Provisions

SEC. 1801. DESIGNATION OF PORTION OF STATE ROUTE 17 IN NEW YORK AND PENNSYLVANIA AS INTERSTATE ROUTE 86.

(a) IN GENERAL.—Subject to subsection (b)(2), notwithstanding section 103(c), the portion of State Route 17 located between the junction of State Route 17 and Interstate Route 87 in Harriman, New York, and the junction of State Route 17 and Interstate Route 90 near Erie, Pennsylvania, is designated as Interstate Route 86.

(b) SUBSTANDARD FEATURES.—

(1) UPGRADING.—Each segment of State Route 17 described in subsection (a) that does not substantially meet the Interstate System design standards under section 109(b) of title 23, United States Code, in effect on the date of enactment of this Act shall be upgraded in accordance with plans and schedules developed by the applicable State.

(2) DESIGNATION.—Each segment of State Route 17 that on the date of enactment of this Act is not at least 4 lanes wide, separated by a median, access-controlled, and grade-separated shall—

(A) be designated as a future Interstate System route; and

(B) become part of Interstate Route 86 at such time as the Secretary determines that the segment substantially meets the Interstate System design standards described in paragraph (1).

(c) TREATMENT OF ROUTE.—

(1) MILEAGE LIMITATION.—The mileage of Interstate Route 86 designated under subsection (a) shall not be charged against the limitation established by section 103(c)(2) of title 23, United States Code.

(2) FEDERAL FINANCIAL RESPONSIBILITY.—

(A) IN GENERAL.—Subject to subparagraph (B), the designation of Interstate Route 86 under subsection (a) shall not create increased Federal financial responsibility with respect to the designated Route.

(B) USE OF CERTAIN FUNDS.—A State may use funds available to the State under paragraphs (1) and (3) of section 104(b) of title 23, United States Code, to eliminate substandard features of, and to resurface, restore, rehabilitate, or reconstruct, any portion of the designated Route.

TITLE II—RESEARCH AND TECHNOLOGY

Subtitle A—Research and Training

SEC. 2001. STRATEGIC RESEARCH PLAN.

Subtitle III of title 49, United States Code, is amended—

(1) in the table of chapters, by inserting after the item relating to chapter 51 the following:

"52. RESEARCH AND DEVELOPMENT ... 5201";

and

(2) by inserting after chapter 51 the following:

"CHAPTER 52—RESEARCH AND DEVELOPMENT

"Sec.

"5201. Definitions.

"SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

"5211. Transactional authority.

"SUBCHAPTER II—STRATEGIC PLANNING

"5221. Strategic planning.
"5222. Authorization of contract authority.

"SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM

"5231. Multimodal Transportation Research and Development Program.
"5232. Authorization of contract authority.

"SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS

"5241. National university transportation centers.

"§ 5201. Definitions

"In this chapter:

"(1) DEPARTMENT.—The term 'Department' means the Department of Transportation.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Transportation.

"SUBCHAPTER I—GENERAL AND ADMINISTRATIVE PROVISIONS

"§ 5211. Transactional authority

"To further the objectives of this chapter, the Secretary may make grants to, and enter into contracts, cooperative agreements, and other transactions with—

"(1) any person or any agency or instrumentality of the United States;

"(2) any unit of State or local government;

"(3) any educational institution; and

"(4) any other entity.

"SUBCHAPTER II—STRATEGIC PLANNING

"§ 5221. Strategic planning

"(a) AUTHORITY.—The Secretary shall establish a strategic planning process to—

"(1) determine national transportation research, development, and technology deployment priorities, strategies, and milestones over the next 5 years;

"(2) coordinate Federal transportation research, development, and technology deployment activities; and

"(3) measure the impact of the research, development, and technology investments described in paragraph (2) on the performance of the transportation system of the United States.

"(b) CRITERIA.—In developing strategic plans for intermodal, multimodal, and mode-specific research, development, and technology deployment, the Secretary shall consider the need to—

"(1) coordinate and integrate Federal, regional, State, and metropolitan planning research, development, and technology activities in urban and rural areas;

"(2) promote standards that facilitate a seamless and interoperable transportation system;

"(3) encourage innovation;

"(4) identify and facilitate initiatives and partnerships to deploy technology with the potential for improving transportation systems during the next 5-year and 10-year periods;

"(5) identify core research to support the long-term transportation technology and system needs of urban and rural areas of the United States, including safety;

"(6) ensure the ability of the United States to compete on a global basis; and

"(7) provide a means of assessing the impact of Federal research and technology investments on the performance of the transportation system of the United States.

"(c) IMPLEMENTATION.—

"(1) IN GENERAL.—In carrying out subsection (a), the Secretary shall adopt such policies and procedures as are appropriate—

"(A) to provide for integrated planning, coordination, and consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research, development, and technology transfer important to national transportation needs;

"(B) to promote the exchange of information on transportation-related research and development activities among the operating elements of the Department, other Federal departments and agencies, State and local governments, colleges and universities, industry, and other private and public sector organizations engaged in the activities;

"(C) to ensure that the research and development programs of the Department do not duplicate other Federal and, to the maximum extent practicable, private sector research and development programs; and

"(D) to ensure that the research and development activities of the Department—

"(i) make appropriate use of the talents, skills, and abilities at the Federal laboratories; and

"(ii) leverage, to the maximum extent practicable, the research, development, and technology transfer capabilities of institutions of higher education and private industry.

"(2) CONSULTATION.—The procedures and policies adopted under paragraph (1) shall include consultation with State officials and members of the private sector.

"(d) REPORTS.—

"(1) IN GENERAL.—Concurrent with the submission to Congress of the budget of the President for each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the strategic plans, goals, and milestones developed under subsections (a) and (b) to help guide research, development, and technology transfer activities during the 5-year period beginning on the date of the report.

"(2) COMPARISON TO PREVIOUS REPORT.—The report shall include a delineation of the progress made with respect to each of the plans, goals, and milestones specified in the previous report.

"(3) PROHIBITION ON OBLIGATION FOR FAILURE TO SUBMIT REPORT.—Beginning on the date of the submission to Congress of the budget of the President for fiscal year 2000, and on the date of the submission for each fiscal year thereafter, none of the funds made available under this chapter or chapter 5 of title 23 may be obligated until the report required under paragraph (1) for that fiscal year is submitted.

"§ 5222. Authorization of contract authority

"(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $1,500,000 for each of fiscal years 1998 through 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

"(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

"(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.

"(c) USE OF UNALLOCATED FUNDS.—To the extent that the amounts made available for any fiscal year under subsection (a) exceed the amounts used to carry out section 5221 for the fiscal year, the excess amounts—

"(1) shall be apportioned in accordance with section 104(b)(3) of title 23;

"(2) shall be considered to be sums made available for expenditure on the surface transportation program, except that the amounts shall not be subject to section 133(d) of that title; and

"(3) shall be available for any purpose eligible for funding under section 133 of that title.".

SEC. 2002. MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM.

Chapter 52 of title 49, United States Code (as added by section 2001), is amended by adding at the end the following:

"SUBCHAPTER III—MULTIMODAL TRANSPORTATION RESEARCH AND DEVELOPMENT PROGRAM

"§ 5231. Multimodal Transportation Research and Development Program

"(a) ESTABLISHMENT.—The Secretary shall establish a program to be known as the 'Multimodal Transportation Research and Development Program'.

"(b) PURPOSES.—The purposes of the Multimodal Transportation Research and Development Program are to—

"(1) enhance the capabilities of Federal agencies to meet national transportation needs, as defined by the missions of the agencies, through support for long-term and applied research and development that would benefit the various modes of transportation, including research and development in safety, security, mobility, energy and the environment, information and physical infrastructure, and industrial design;

"(2) identify and apply innovative research performed by the Federal Government, academia, and the private sector to the intermodal and multimodal transportation research, development, and deployment needs of the Department and the transportation enterprise of the United States;

"(3) identify and leverage research, technologies, and other information developed by the Federal Government for national defense and nondefense purposes for the benefit of the public, commercial, and defense transportation sectors; and

"(4) share information and analytical and research capabilities among the Federal Government, State and local governments, colleges and universities, and private organizations to advance their ability to meet their transportation research, development, and deployment needs.

"(c) PROCESS FOR CONSULTATION.—To advise the Secretary in establishing priorities within the Program, the Secretary shall establish a process for consultation among the Administrators of the operating administrations of the Department and other Federal officials with responsibility for research.

"§ 5232. Authorization of contract authority

"(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $2,500,000 for each of fiscal years 1998 through 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that—

"(1) any Federal share of the cost of an activity under this subchapter shall be determined in accordance with this subchapter; and

"(2) the funds shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.".

SEC. 2003. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

(a) IN GENERAL.—Chapter 52 of title 49, United States Code (as amended by section 2002), is amended by adding at the end the following:

"SUBCHAPTER IV—NATIONAL UNIVERSITY TRANSPORTATION CENTERS

"§ 5241. National university transportation centers

"(a) IN GENERAL.—The Secretary shall make grants to, or enter into contracts with, the nonprofit institutions of higher learning selected under section 5317 (as in effect on the day before the date of enactment of this section)—

"(1) to operate 1 university transportation center in each of the 10 Federal administrative regions that comprise the Standard Federal Regional Boundary System; and

"(2) to continue operation of university transportation centers at the Mack-Blackwell National Rural Transportation Study Center, the National Center for Transportation and Industrial Productivity, the Institute for Surface Transportation Policy Studies, the Urban Transit Institute at the University of South Florida, the National Center for Advanced Transportation Technology, and the University of Alabama Transportation Research Center.

"(b) ADDITIONAL CENTERS.—

"(1) IN GENERAL.—The Secretary may make grants to nonprofit institutions of higher learning to establish and operate not more than 4 additional university transportation centers to address—

"(A) transportation management, research, and development, with special attention to increasing the number of highly skilled minority individuals and women entering the transportation workforce;

"(B) transportation and industrial productivity;

"(C) rural transportation;

"(D) advanced transportation technology;

"(E) international transportation policy studies;

"(F) transportation infrastructure technology;

"(G) urban transportation research;

"(H) transportation and the environment;

"(I) surface transportation safety; or

"(J) infrastructure finance studies.

"(2) SELECTION CRITERIA.—

"(A) APPLICATION.—A nonprofit institution of higher learning that desires to receive a grant under paragraph (1) shall submit an application to the Secretary in such manner and containing such information as the Secretary may require.

"(B) SELECTION OF RECIPIENTS.—The Secretary shall select each grant recipient under paragraph (1) on the basis of—

"(i) the demonstrated research and extension resources available to the recipient to carry out this section;

"(ii) the capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-term transportation problems;

"(iii) the establishment by the recipient of a surface transportation program that encompasses several modes of transportation;

"(iv) the demonstrated ability of the recipient to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program;

"(v) the strategic plan that the recipient proposes to carry out using the grant funds; and

"(vi) the extent to which private funds have been committed to a university and public-private partnerships established to fulfill the objectives specified in paragraph (1).

"(c) OBJECTIVES.—Each university transportation center shall use grant funds under subsection (a) or (b) to carry out—

"(1) multimodal basic and applied research, the products of which are judged by peers or other experts in the field to advance the body of knowledge in transportation;

"(2) an education program that includes multidisciplinary course work and participation in research; and

"(3) an ongoing program of technology transfer that makes research results available to potential users in a form that can be readily implemented, used, or otherwise applied.

"(d) MAINTENANCE OF EFFORT.—Before making a grant under subsection (a) or (b), the Secretary shall require the grant recipient to enter into an agreement with the Secretary to ensure that the recipient will maintain, during the period of the grant, a level of total expenditures from all other sources for establishing and operating a university transportation center and carrying out related research activities that is at least equal to the average level of those expenditures in the 2 fiscal years of the recipient prior to the award of a grant under subsection (a) or (b).

"(e) ADDITIONAL GRANTS AND CONTRACTS.—

"(1) GRANTS OR CONTRACTS.—In addition to grants under subsection (a) or (b), the Secretary may make grants to, or enter into contracts with, university transportation centers without the need for a competitive process.

"(2) USE OF GRANTS OR CONTRACTS.—A noncompetitive grant or contract under paragraph (1) shall be used for transportation research, development, education, or training consistent with the strategic plan approved as part of the selection process for the center.

"(f) FEDERAL SHARE.—The Federal share of the cost of establishing and operating a university transportation center and carrying out related research activities under this section shall be not more than 50 percent.

"(g) PROGRAM COORDINATION.—

"(1) IN GENERAL.—The Secretary shall—

"(A) coordinate research, education, training, and technology transfer activities carried out by grant recipients under this section;

"(B) disseminate the results of the research; and

"(C) establish and operate a clearinghouse for disseminating the results of the research.

"(2) REVIEW AND EVALUATION.—

"(A) IN GENERAL.—Not less often than annually, the Secretary shall review and evaluate programs carried out by grant recipients under this section.

"(B) NOTIFICATION OF DEFICIENCIES.—In carrying out subparagraph (A), if the Secretary determines that a university transportation center is deficient in meeting the objectives of this section, the Secretary shall notify the grant recipient operating the center of each deficiency and provide specific recommendations of measures that should be taken to address the deficiency.

"(C) DISQUALIFICATION.—If, after the end of the 180-day period that begins on the date of notification to a grant recipient under subparagraph (B) with respect to a center, the Secretary determines that the recipient has not corrected each deficiency identified under subparagraph (B), the Secretary may, after notifying the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination—

"(i) disqualify the university transportation center from further participation under this section; and

"(ii) make a grant for the establishment of a new university transportation center, in lieu of the disqualified center, under subsection (a) or (b), as applicable.

"(3) FUNDING.—The Secretary may use not more than 1 percent of Federal funds made available under this section to carry out this subsection.

"(h) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $12,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.

"(3) TECHNOLOGY TRANSFER ACTIVITIES.—For each fiscal year, not less than 5 percent of the amounts made available to carry out this section shall be available to carry out technology transfer activities.

"(i) LIMITATION ON AVAILABILITY OF FUNDS.—Funds authorized under this section shall remain available for obligation for a period of 2 years after the last day of the fiscal year for which the funds are authorized.".

(b) CONFORMING AMENDMENTS.—

(1) Sections 5316 and 5317 of title 49, United States Code, are repealed.

(2) The analysis for chapter 53 of title 49, United States Code, is amended by striking the items relating to sections 5316 and 5317.

SEC. 2004. BUREAU OF TRANSPORTATION STATISTICS.

(a) IN GENERAL.—Section 111 of title 49, United States Code, is amended—

(1) in subsection (b)(4), by striking the second sentence;

(2) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (J), by striking "and" at the end;

(ii) in subparagraph (K), by striking the period at the end and inserting "; and"; and

(iii) by adding at the end the following:

"(L) transportation-related variables that influence global competitiveness.";

(B) in paragraph (2)—

(i) in the first sentence, by striking "national transportation system" and inserting "transportation systems of the United States";

(ii) by striking subparagraph (A) and inserting the following:

"(A) be coordinated with efforts to measure outputs and outcomes of the Department of Transportation and the transportation systems of the United States under the Government Performance and Results Act of 1993 (Public Law 103–62) and the amendments made by that Act;"; and

(iii) in subparagraph (C), by inserting ", made relevant to the States and metropolitan planning organizations," after "accuracy";

(C) in paragraph (3), by adding at the end the following: "The Bureau shall review and report to the Secretary of Transportation on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103-62), and the amendments made by that Act, and shall carry out such other reviews of the sources and reliability of other data collected by the heads of the operating administrations of the Department as shall be requested by the Secretary."; and

(D) by adding at the end the following:

"(7) SUPPORTING TRANSPORTATION DECISIONMAKING.—Ensuring that the statistics compiled under paragraph (1) are relevant for transportation decisionmaking by the Federal Government, State and local governments, transportation-related associations, private businesses, and consumers.";

(3) by redesignating subsections (d), (e), and (f) as subsections (h), (i), and (j), respectively;

(4) by striking subsection (g);

(5) by inserting after subsection (c) the following:

"(d) TRANSPORTATION DATA BASE.—

"(1) IN GENERAL.—In consultation with the Associate Deputy Secretary, the Assistant Secretaries, and the heads of the operating administrations of the Department of Transportation, the Director shall establish and maintain a transportation data base for all modes of transportation.

"(2) USE.—The data base shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.

"(3) CONTENTS.—The data base shall include—

"(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations, and by relevant classification;

"(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations, and by relevant classification;

"(C) information on the location and connectivity of transportation facilities and services; and

"(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.

"(e) NATIONAL TRANSPORTATION LIBRARY.—

"(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.

"(2) ACCESS.—The Bureau shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Bureau to make statistics readily accessible under subsection (c)(5).

"(3) COORDINATION.—The Bureau shall work with other transportation libraries and other transportation information providers, both public and private, to achieve the goal specified in paragraph (2).

"(f) NATIONAL TRANSPORTATION ATLAS DATA BASE.—

"(1) IN GENERAL.—The Director shall develop and maintain geospatial data bases that depict—

"(A) transportation networks;

"(B) flows of people, goods, vehicles, and craft over the networks; and

"(C) social, economic, and environmental conditions that affect or are affected by the networks.

"(2) INTERMODAL NETWORK ANALYSIS.—The data bases shall be able to support intermodal network analysis.

"(g) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State departments of transportation, metropolitan planning organizations, and institutions of higher education) for—

"(1) investigation of the subjects specified in subsection (c)(1) and research and development of new methods of data collection, management, integration, dissemination, interpretation, and analysis;

"(2) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (e); and

"(3) development and improvement of methods for sharing geographic data, in support of the national transportation atlas data base under subsection (f) and the National Spatial Data Infrastructure developed under Executive Order No. 12906.";

(6) by striking subsection (i) (as redesignated by paragraph (3)) and inserting the following:

"(i) PROHIBITION ON CERTAIN DISCLOSURES.—

"(1) IN GENERAL.—An officer or employee of the Bureau may not—

"(A) make any disclosure in which the data provided by an individual or organization under subsection (c)(2) can be identified;

"(B) use the information provided under subsection (c)(2) for a nonstatistical purpose; or

"(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c)(2).

"(2) PROHIBITION ON REQUESTS FOR CERTAIN DATA.—

"(A) GOVERNMENT AGENCIES.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c)(2) with the Bureau or retained by an individual respondent.

"(B) COURTS.—Any copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—

"(i) shall be immune from legal process; and

"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

"(C) APPLICABILITY.—This paragraph shall apply only to information that permits information concerning an individual or organization to be reasonably inferred by direct or indirect means.

"(3) DATA COLLECTED FOR NONSTATISTICAL PURPOSES.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent that is requested or required to supply the data or information of the nonstatistical purpose.";

(7) in subsection (j) (as redesignated by paragraph (3)), by striking "On or before January 1, 1994, and annually thereafter, the" and inserting "The"; and

(8) by adding at the end the following:

"(k) STUDY.—

"(1) IN GENERAL.—The Director shall carry out a study—

"(A) to measure the ton-miles and value-miles of international trade traffic carried by highway for each State;

"(B) to evaluate the accuracy and reliability of such measures for use in the formula for highway apportionments;

"(C) to evaluate the accuracy and reliability of the use of diesel fuel data as a measure of international trade traffic by State; and

"(D) to identify needed improvements in long-term data collection programs to provide accurate and reliable measures of international traffic for use in the formula for highway apportionments.

"(2) BASIS FOR EVALUATIONS.—The study shall evaluate the accuracy and reliability of measures for use as formula factors based on statistical quality standards developed by the Bureau in consultation with the Committee on National Statistics of the National Academy of Sciences.

"(3) REPORT.—Not later than 3 years after the date of enactment of this subsection, the Director shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study carried out under paragraph (1), including recommendations for changes in law necessary to implement the identified needs for improvements in long-term data collection programs.

"(l) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, United States Code, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.

"(m) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $26,000,000 for fiscal year 1998, $27,000,000 for fiscal year 1999, $28,000,000 for fiscal year 2000, $29,000,000 for fiscal year 2001, $30,000,000 for fiscal year 2002, and $31,000,000 for fiscal year 2003, except that not more than $500,000 for each fiscal year may be made available to carry out subsection (g).

"(2) AVAILABILITY.—Funds authorized under this subsection shall remain available for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(3) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23.".

(b) CONFORMING AMENDMENTS.—Section 5503 of title 49, United States Code, is amended—

(1) by striking subsection (d); and

(2) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

SEC. 2005. RESEARCH AND TECHNOLOGY PROGRAM.

Title 23, United States Code, is amended—

(1) in the table of chapters, by adding at the end the following:

"5. Research and Technology ..... 501";

and

(2) by adding at the end the following:

"CHAPTER 5—RESEARCH AND TECHNOLOGY

"SUBCHAPTER I—RESEARCH AND TRAINING

"Sec.
"501. Definition of safety.
"502. Research and technology program.
"503. Advanced research program.
"504. Long-term pavement performance program.
"505. State planning and research program.
"506. Education and training.
"507. International highway transportation outreach program.
"508. National technology deployment initiatives and partnerships program.
"509. Infrastructure investment needs report.
"510. Innovative bridge research and construction program.
"511. Study of future strategic highway research program.
"512. Transportation and environment cooperative research program.

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

"521. Purposes.
"522. Definitions.
"523. Cooperation, consultation, and analysis.
"524. Research, development, and training.
"525. Intelligent transportation system integration program.
"526. Integration program for rural areas.
"527. Commercial vehicle intelligent transportation system infrastructure.
"528. Corridor development and coordination.
"529. Standards.
"530. Funding limitations.
"531. Use of innovative financing.
"532. Advisory committees.

"SUBCHAPTER III—FUNDING

"541. Funding.

"SUBCHAPTER I—RESEARCH AND TRAINING

"§ 501. Definition of safety

"In this chapter, the term 'safety' includes highway and traffic safety systems, research and development relating to vehicle, highway, driver, passenger, bicyclist, and pedestrian characteristics, accident investigations, communications, emergency medical care, and transportation of the injured.

"§ 502. Research and technology program

"(a) GENERAL AUTHORITY AND COLLABORATIVE AGREEMENTS.—

"(1) AUTHORITY OF THE SECRETARY.—

"(A) IN GENERAL.—The Secretary—

"(i) shall carry out research, development, and technology transfer activities with respect to—

"(I) motor carrier transportation;

"(II) all phases of transportation planning and development (including construction, operation, modernization, development, design, maintenance, safety, financing, and traffic conditions); and

"(III) the effect of State laws on the activities described in subclauses (I) and (II); and

"(ii) may test, develop, or assist in testing and developing any material, invention, patented article, or process.

"(B) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out this section—

"(i) independently;

"(ii) in cooperation with other Federal departments, agencies, and instrumentalities; or

"(iii) by making grants to, or entering into contracts, cooperative agreements, and other transactions with, the National Academy of Sciences, the American Association of State Highway and Transportation Officials, or any State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.

"(C) TECHNICAL INNOVATION.—The Secretary shall develop and carry out programs to facilitate the application of such products of research and technical innovations as will improve the safety, efficiency, and effectiveness of the transportation system.

"(D) FUNDS.—

"(i) IN GENERAL.—Except as otherwise specifically provided in other sections of this chapter—

"(I) to carry out this subsection, the Secretary shall use—

"(aa) funds made available under section 541 for research, technology, and training; and

"(bb) such funds as may be deposited by any cooperating organization or person in a special account of the Treasury established for this purpose; and

"(II) the funds described in item (aa) shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(ii) USE OF FUNDS.—The Secretary shall use funds described in clause (i) to develop, administer, communicate, and promote the use of products of research, development, and technology transfer programs under this section.

"(2) COLLABORATIVE RESEARCH AND DEVELOPMENT.—

"(A) IN GENERAL.—To encourage innovative solutions to surface transportation problems and stimulate the deployment of new technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, sole proprietorships, and trade associations that are incorporated or established under the laws of any State.

"(B) AGREEMENTS.—In carrying out this paragraph, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).

"(C) FEDERAL SHARE.—

"(i) IN GENERAL.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this paragraph shall not exceed 50 percent, except that if there is substantial public interest or benefit, the Secretary may approve a greater Federal share.

"(ii) NON-FEDERAL SHARE.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware development costs, shall be credited toward the non-Federal share of the cost of the activities described in clause (i).

"(D) USE OF TECHNOLOGY.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this paragraph, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

"(3) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this chapter.

"(b) MANDATORY ELEMENTS OF PROGRAM.—The Secretary shall include in the surface transportation research, development, and technology transfer programs under this subsection and as specified elsewhere in this title—

"(1) a coordinated long-term program of research for the development, use, and dissemination of performance indicators to measure the performance of the surface transportation systems of the United States, including indicators for productivity, efficiency, energy use, air quality, congestion, safety, maintenance, and other factors that reflect the overall performance of the system; and

"(2) a program to strengthen and expand surface transportation infrastructure research, development, and technology transfer, which shall include, at a minimum—

"(A) methods and materials for improving the durability of surface transportation infrastructure facilities and extending the life of bridge structures, including new and innovative technologies to reduce corrosion;

"(B) a research and development program directed toward the reduction of costs, and the mitigation of impacts, associated with the construction of highways and mass transit systems;

"(C) a surface transportation research program to develop nondestructive evaluation equipment for use with existing infrastructure facilities and with next-generation infrastructure facilities that use advanced materials;

"(D)(i) information technology, including appropriate computer programs to collect and analyze data on the status of infrastructure facilities described in subparagraph (C) with respect to enhancing management, growth, and capacity; and

"(ii) dynamic simulation models of surface transportation systems for—

"(I) predicting capacity, safety, and infrastructure durability problems;

"(II) evaluating planned research projects; and

"(III) testing the strengths and weaknesses of proposed revisions to surface transportation operation programs;

"(E) new innovative technologies to enhance and facilitate field construction and rehabilitation techniques for minimizing disruption during repair and maintenance of structures;

"(F) initiatives to improve the ability of the United States to respond to emergencies and natural disasters and to enhance national defense mobility; and

"(G) an evaluation of traffic calming measures that promote community preservation, transportation mode choice, and safety.

"(c) REPORT ON GOALS, MILESTONES, AND ACCOMPLISHMENTS.—The goals, milestones, and accomplishments relevant to each of the mandatory program elements described in subsection (b) shall be specified in the report required under section 5221(d) of title 49.".

SEC. 2006. ADVANCED RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

"§ 503. Advanced research program

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary shall establish an advanced research program within the Federal Highway Administration to address longer-term, higher-risk research that shows potential benefits for improving the durability, mobility, efficiency, environmental impact, productivity, and safety of transportation systems.

"(2) DEVELOPMENT OF PARTNERSHIPS.—In carrying out the program, the Secretary shall attempt to develop partnerships with the public and private sectors.

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts for advanced research.

"(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $9,000,000 for fiscal year 2000, and $10,000,000 for each of fiscal years 2001 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary.".

SEC. 2007. LONG-TERM PAVEMENT PERFORMANCE PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2006), is amended by adding at the end the following:

"§ 504. Long-term pavement performance program

"(a) AUTHORITY.—The Secretary shall complete the long-term pavement performance program tests initiated under the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section) and continued by the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) through the midpoint of a planned 20-year life of the long-term pavement performance program (referred to in this section as the 'program').

"(b) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—

"(1) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;

"(2) analyze the data obtained in carrying out paragraph (1); and

"(3) prepare products to fulfill program objectives and meet future pavement technology needs.

"(c) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(A) the Federal share of the cost of any activity funded under this section shall be determined by the Secretary; and

"(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.".

SEC. 2008. STATE PLANNING AND RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2007), is amended by adding at the end the following:

"§ 505. State planning and research program

"(a) IN GENERAL.—

"(1) AVAILABILITY OF FUNDS.—Two percent of the sums apportioned for fiscal year 1998 and each fiscal year thereafter to any State under section 104 (except section 104(f)) and any transfers or additions to the surface transportation program under section 133 shall be available for expenditure by the State transportation department, in consultation with the Secretary, in accordance with this section.

"(2) USE OF FUNDS.—The sums referred to in paragraph (1) shall be available only for—

"(A) intermodal metropolitan, statewide, and nonmetropolitan planning under sections 134 and 135;

"(B) development and implementation of management systems referred to in section 303;

"(C) studies, research, development, and technology transfer activities necessary for the planning, design, construction, management, operation, maintenance, regulation, and taxation of the use of surface transportation systems, including training and accreditation of inspection and testing on engineering standards and construction materials for the systems; and

"(D) studies of the economy, safety, and convenience of surface transportation usage and the desirable regulation and equitable taxation of surface transportation usage.

"(b) MINIMUM EXPENDITURES ON STUDIES, RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—

"(1) IN GENERAL.—For each fiscal year, not less than 25 percent of the funds of a State that are subject to subsection (a) shall be expended by the State transportation department for studies, research, development, and technology transfer activities described in subparagraphs (C) and (D) of subsection (a)(2) unless the State certifies to the Secretary for the fiscal year that the total expenditures by the State transportation department for transportation planning under sections 134 and 135 will exceed 75 percent of the amount of the funds and the Secretary accepts the certification.

"(2) EXEMPTION FROM SMALL BUSINESS ASSESSMENT.—Funds expended under paragraph (1) shall not be considered to be part of the extramural budget of the agency for the purpose of section 9 of the Small Business Act (15 U.S.C. 638).

"(c) FEDERAL SHARE.—The Federal share of the cost of a project financed with funds referred to in subsection (a) shall be 80 percent unless the Secretary determines that the interests of the Federal-aid highway program would be best served by decreasing or eliminating the non-Federal share.

"(d) ADMINISTRATION OF FUNDS.—Funds referred to in subsection (a) shall be combined and administered by the Secretary as a single fund, which shall be available for obligation for the same period as funds apportioned under section 104(b)(1).".

SEC. 2009. EDUCATION AND TRAINING.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2008), is amended by adding at the end the following:

"§ 506. Education and training

"(a) LOCAL TECHNICAL ASSISTANCE PROGRAM.—

"(1) AUTHORITY.—The Secretary shall carry out a transportation assistance program that will provide access to modern highway technology to—

"(A) highway and transportation agencies in urbanized areas with populations of between 50,000 and 1,000,000 individuals;

"(B) highway and transportation agencies in rural areas; and

"(C) contractors that do work for the agencies.

"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services that will—

"(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—

"(i) develop and expand their expertise in road and transportation areas (including pavement, bridge, safety management systems, and traffic safety countermeasures);

"(ii) improve roads and bridges;

"(iii) enhance—

"(I) programs for the movement of passengers and freight; and

"(II) intergovernmental transportation planning and project selection; and

"(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;

"(B) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems;

"(C) operate, in cooperation with State transportation departments and universities—

"(i) local technical assistance program centers to provide transportation technology transfer services to rural areas and to urbanized areas with populations of between 50,000 and 1,000,000 individuals; and

"(ii) local technical assistance program centers designated to provide transportation technical assistance to Indian tribal governments; and

"(D) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.

"(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) $7,000,000 for fiscal year 1998, $7,000,000 for fiscal year 1999, $7,000,000 for fiscal year 2000, $8,000,000 for fiscal year 2001, $8,000,000 for fiscal year 2002, and $8,000,000 for fiscal year 2003 to be used to develop and administer the program established under this section and to provide technical and financial support for the centers operated under paragraph (2)(C).

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(b) NATIONAL HIGHWAY INSTITUTE.—

"(1) ESTABLISHMENT; DUTIES; PROGRAMS.—

"(A) ESTABLISHMENT.—The Secretary shall establish and operate in the Federal Highway Administration a National Highway Institute (referred to in this subsection as the 'Institute').

"(B) DUTIES.—

"(i) INSTITUTE.—In cooperation with State transportation departments, United States industry, and any national or international entity, the Institute shall develop and administer education and training programs of instruction for—

"(I) Federal Highway Administration, State, and local transportation agency employees;

"(II) regional, State, and metropolitan planning organizations;

"(III) State and local police, public safety, and motor vehicle employees; and

"(IV) United States citizens and foreign nationals engaged or to be engaged in surface transportation work of interest to the United States.

"(ii) SECRETARY.—The Secretary shall administer, through the Institute, the authority vested in the Secretary by this title or by any other law for the development and conduct of education and training programs relating to highways.

"(C) TYPES OF PROGRAMS.—Programs that the Institute may develop and administer may include courses in modern developments, techniques, methods, regulations, management, and procedures relating to—

"(i) surface transportation;

"(ii) environmental factors;

"(iii) acquisition of rights-of-way;

"(iv) relocation assistance;

"(v) engineering;

"(vi) safety;

"(vii) construction;

"(viii) maintenance;

"(ix) operations;

"(x) contract administration;

"(xi) motor carrier activities;

"(xii) inspection; and

"(xiii) highway finance.

"(2) SET ASIDE; FEDERAL SHARE.—Not to exceed ¼ of 1 percent of the funds apportioned to a State under section 104(b)(3) for the surface transportation program shall be available for expenditure by the State transportation department for the payment of not to exceed 80 percent of the cost of tuition and direct educational expenses (excluding travel, subsistence, or salaries) in connection with the education and training of employees of State and local transportation agencies in accordance with this subsection.

"(3) FEDERAL RESPONSIBILITY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), education and training of employees of Federal, State, and local transportation (including highway) agencies authorized under this subsection may be provided—

"(i) by the Secretary at no cost to the States and local governments if the Secretary determines that provision at no cost is in the public interest; or

"(ii) by the State through grants, cooperative agreements, and contracts with public and private agencies, institutions, individuals, and the Institute.

"(B) PAYMENT OF FULL COST BY PRIVATE PERSONS.—Private agencies, international or foreign entities, and individuals shall pay the full cost of any education and training received by them unless the Secretary determines that a lower cost is of critical importance to the public interest.

"(4) TRAINING FELLOWSHIPS; COOPERATION.—The Institute may—

"(A) engage in training activities authorized under this subsection, including the granting of training fellowships; and

"(B) carry out its authority independently or in cooperation with any other branch of the Federal Government or any State agency, authority, association, institution, for-profit or nonprofit corporation, other national or international entity, or other person.

"(5) COLLECTION OF FEES.—

"(A) GENERAL RULE.—In accordance with this subsection, the Institute may assess and collect fees solely to defray the costs of the Institute in developing or administering education and training programs under this subsection.

"(B) LIMITATION.—Fees may be assessed and collected under this subsection only in a manner that may reasonably be expected to result in the collection of fees during any fiscal year in an aggregate amount that does not exceed the aggregate amount of the costs referred to in subparagraph (A) for the fiscal year.

"(C) PERSONS SUBJECT TO FEES.—Fees may be assessed and collected under this subsection only with respect to—

"(i) persons and entities for whom education or training programs are developed or administered under this subsection; and

"(ii) persons and entities to whom education or training is provided under this subsection.

"(D) AMOUNT OF FEES.—The fees assessed and collected under this subsection shall be established in a manner that ensures that the liability of any person or entity for a fee is reasonably based on the proportion of the costs referred to in subparagraph (A) that relate to the person or entity.

"(E) USE.—All fees collected under this subsection shall be used to defray costs associated with the development or administration of education and training programs authorized under this subsection.

"(6) FUNDING.—

"(A) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $5,000,000 for fiscal year 1998, $5,000,000 for fiscal year 1999, $5,000,000 for fiscal year 2000, $6,000,000 for fiscal year 2001, $6,000,000 for fiscal year 2002, and $6,000,000 for fiscal year 2003.

"(B) RELATION TO FEES.—The funds provided under this paragraph may be combined with or held separate from the fees collected under paragraph (5).

"(C) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(7) CONTRACTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into under this subsection.

"(c) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

"(1) GENERAL AUTHORITY.—The Secretary, acting independently or in cooperation with other Federal departments, agencies, and instrumentalities, may make grants for fellowships for any purpose for which research, technology, or capacity building is authorized under this chapter.

"(2) DWIGHT DAVID EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—

"(A) IN GENERAL.—The Secretary shall carry out a transportation fellowship program, to be known as the 'Dwight David Eisenhower Transportation Fellowship Program', for the purpose of attracting qualified students to the field of transportation.

"(B) TYPES OF FELLOWSHIPS.—The program shall offer fellowships at the junior through postdoctoral levels of college education.

"(C) CITIZENSHIP.—Each recipient of a fellowship under the program shall be a United States citizen.

"(3) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(A) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection $2,000,000 for each of fiscal years 1998 through 2003.

"(B) CONTRACT AUTHORITY.—Funds authorized under this paragraph shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(i) the Federal share of the cost of any activity funded under this subsection shall be determined by the Secretary; and

"(ii) the funds shall remain available for obligation for a period of 1 year after the last day of the fiscal year for which the funds are authorized.

"(d) HIGHWAY CONSTRUCTION TRAINING PROGRAMS.—

"(1) USE OF FUNDS BY THE SECRETARY.—

"(A) IN GENERAL.—The Secretary, in cooperation with any other department or agency of the Federal Government, State agency, authority, association, institution, Indian tribal government, for-profit or nonprofit corporation, or other organization or person, may—

"(i) develop, conduct, and administer highway construction and technology training, including skill improvement, programs; and

"(ii) develop and fund Summer Transportation Institutes.

"(B) WAIVER OF ADVERTISING REQUIREMENTS.—Section 3709 of the Revised Statutes (41 U.S.C. 5) shall not apply to a contract or agreement entered into by the Secretary under this subsection.

"(C) FUNDING.—

"(i) IN GENERAL.—Before making apportionments under section 104(b) for a fiscal year, the Secretary shall deduct such sums as the Secretary determines are necessary, but not to exceed $10,000,000 for each fiscal year, to carry out this subsection.

"(ii) AVAILABILITY.—Sums deducted under clause (i) shall remain available until expended.

"(2) USE OF FUNDS APPORTIONED TO STATES.—Notwithstanding any other provision of law, upon request of a State transportation department to the Secretary, not to exceed ½ of 1 percent of the funds apportioned to the State for a fiscal year under paragraphs (1) and (3) of section 104(b) may be made available to carry out this subsection.

"(3) RESERVATION OF TRAINING POSITIONS FOR INDIVIDUALS RECEIVING WELFARE ASSISTANCE.—In carrying out this subsection, the Secretary and States may reserve training positions for individuals who receive welfare assistance from a State.".

SEC. 2010. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.

(a) IN GENERAL.—Title 23, United States Code, is amended—

(1) by redesignating section 325 as section 507;

(2) by moving that section to appear at the end of subchapter I of chapter 5 (as amended by section 2009);

(3) in subsection (a) of that section, by inserting ", goods, and services" after "expertise"; and

(4) by striking subsection (c) of that section and inserting the following:

"(c) USE OF FUNDS.—

"(1) FUNDS DEPOSITED IN SPECIAL ACCOUNT.—Funds available to carry out this

section shall include funds deposited by any cooperating organization or person in a special account for the program established under this section with the Secretary of the Treasury.

"(2) USE OF FUNDS.—The funds deposited in the special account and other funds available to carry out this section shall be available to pay the cost of any activity eligible under this section, including the cost of promotional materials, travel, reception and representation expenses, and salaries and benefits of officers and employees of the Department of Transportation.

"(3) REIMBURSEMENTS.—Reimbursements for the salaries and benefits of Federal Highway Administration employees who provide services under this section shall be credited to the special account.

"(d) ELIGIBLE USE OF STATE PLANNING AND RESEARCH FUNDS.—A State, in coordination with the Secretary, may obligate funds made available to carry out section 505 for any activity authorized under subsection (a).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 325.

SEC. 2011. NATIONAL TECHNOLOGY DEPLOYMENT INITIATIVES AND PARTNERSHIPS PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2010), is amended by adding at the end the following:

"§ 508. National technology deployment initiatives and partnerships program

"(a) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment initiatives and partnerships program (referred to in this section as the 'program').

"(b) PURPOSE.—The purpose of the program is to significantly accelerate the adoption of innovative technologies by the surface transportation community.

"(c) DEPLOYMENT GOALS.—

"(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish not more than 5 deployment goals to carry out subsection (a).

"(2) DESIGN.—Each of the goals and the program developed to achieve the goals shall be designed to provide tangible benefits, with respect to transportation systems, in the areas of efficiency, safety, reliability, service life, environmental protection, or sustainability.

"(3) STRATEGIES FOR ACHIEVEMENT.—For each goal, the Secretary, in cooperation with representatives of the transportation community such as States, local governments, the private sector, and academia, shall use domestic and international technology to develop strategies and initiatives to achieve the goal, including technical assistance in deploying technology and mechanisms for sharing information among program participants.

"(d) CONTINUATION OF SHRP PARTNERSHIPS.—Under the program, the Secretary shall continue the partnerships established through the strategic highway research program established under section 307(d) (as in effect on the day before the date of enactment of this section).

"(e) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary may make grants and enter into cooperative agreements and contracts to foster alliances and support efforts to stimulate advances in transportation technology, including—

"(1) the testing and evaluation of products of the strategic highway research program;

"(2) the further development and implementation of technology in areas such as the Superpave system and the use of lithium salts to prevent and mitigate alkali silica reactivity; and

"(3) the provision of support for long-term pavement performance product implementation and technology access.

"(f) REPORTS.—Not later than 18 months after the date of enactment of this section, and biennially thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the progress and results of activities carried out under this section.

"(g) FUNDING.—

"(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $50,000,000 for each of fiscal years 1998 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(A) the Federal share of the cost of any activity under this section shall be determined by the Secretary; and

"(B) the funds shall remain available for obligation for a period of 3 years after the last day of the fiscal year for which the funds are authorized.

"(3) ALLOCATION.—To the extent appropriate to achieve the goals established under subsection (c), the Secretary may further allocate funds made available under this subsection to States for their use.".

SEC. 2012. INFRASTRUCTURE INVESTMENT NEEDS REPORT.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2011), is amended by adding at the end the following:

"§ 509. Infrastructure investment needs report

"Not later than January 31, 1999, and January 31 of every second year thereafter, the Secretary shall report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on estimates of the future highway and bridge needs of the United States.".

SEC. 2013. INNOVATIVE BRIDGE RESEARCH AND CONSTRUCTION PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2012), is amended by adding at the end the following:

"§ 510. Innovative bridge research and construction program

"(a) IN GENERAL.—The Secretary shall establish and carry out a program to demonstrate the application of innovative material technology in the construction of bridges and other structures.

"(b) GOALS.—The goals of the program shall include—

"(1) the development of new, cost-effective innovative material highway bridge applications;

"(2) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;

"(3) the development of construction techniques to increase safety and reduce construction time and traffic congestion;

"(4) the development of engineering design criteria for innovative products and materials for use in highway bridges and structures; and

"(5) the development of highway bridges and structures that will withstand natural disasters, including alternative processes for the seismic retrofit of bridges.

"(c) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—

"(1) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with—

"(A) States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer concerning innovative materials; and

"(B) States to pay the Federal share of the cost of repair, rehabilitation, replacement, and new construction of bridges or structures that demonstrates the application of innovative materials.

"(2) GRANTS.—

"(A) APPLICATIONS.—

"(i) SUBMISSION.—To receive a grant under this section, an entity described in paragraph (1) shall submit an application to the Secretary.

"(ii) CONTENTS.—The application shall be in such form and contain such information as the Secretary may require.

"(B) APPROVAL CRITERIA.—The Secretary shall select and approve applications for grants under this section based on whether the project that is the subject of the grant meets the goals of the program described in subsection (b).

"(d) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under subsection (c) is made available to State and local transportation departments and other interested parties as specified by the Secretary.

"(e) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined by the Secretary.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account)—

"(A) to carry out subsection (c)(1)(A) $1,000,000 for each of fiscal years 1998 through 2003; and

"(B) to carry out subsection (c)(1)(B)—

"(i) $10,000,000 for fiscal year 1998;

"(ii) $15,000,000 for fiscal year 1999;

"(iii) $17,000,000 for fiscal year 2000; and

"(iv) $20,000,000 for each of fiscal years 2001 through 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be made available for obligation in the same manner as if the funds were apportioned under chapter 1, except that the Federal share of the cost of a project under this section shall be determined in accordance with this section.".

SEC. 2014. USE OF BUREAU OF INDIAN AFFAIRS ADMINISTRATIVE FUNDS.

Section 204(b) of title 23, United States Code, is amended in the last sentence by striking "326" and inserting "506".

SEC. 2015. STUDY OF FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2013), is amended by adding at the end the following:

"§ 511. Study of future strategic highway research program

"(a) STUDY.—

"(1) IN GENERAL.—Not later than 120 days after the date of enactment of this section,

the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, the Transportation Research Board of the National Academy of Sciences (referred to in this section as the 'Board') to conduct a study to determine the goals, purposes, research agenda and projects, administrative structure, and fiscal needs for a new strategic highway research program to replace the program established under section 307(d) (as in effect on the day before the date of enactment of this section), or a similar effort.

"(2) CONSULTATION.—In conducting the study, the Board shall consult with the American Association of State Highway and Transportation Officials and such other entities as the Board determines to be necessary to the conduct of the study.

"(b) REPORT.—Not later than 2 years after making a grant or entering into a cooperative agreement or contract under subsection (a), the Board shall submit a final report on the results of the study to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.".

SEC. 2016. JOINT PARTNERSHIPS FOR ADVANCED VEHICLES, COMPONENTS, AND INFRASTRUCTURE PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

"§ 310. Joint partnerships for advanced vehicles, components, and infrastructure program

"(a) PURPOSES.—The Secretary of Transportation, in coordination with other government agencies and private consortia, shall encourage and promote the research, development, and deployment of transportation technologies that will use technological advances in multimodal vehicles, vehicle components, environmental technologies, and related infrastructure to remove impediments to an efficient and cost-effective national transportation system.

"(b) DEFINITION OF ELIGIBLE CONSORTIUM.—In this section, the term 'eligible consortium' means a consortium that receives funding under the Department of Defense Appropriations Act, 1993 (Public Law 102-396; 106 Stat. 1876), and that comprises 2 or more of the following entities:

"(1) Businesses incorporated in the United States.

"(2) Public or private educational or research organizations located in the United States.

"(3) Entities of State or local governments in the United States.

"(4) Federal laboratories.

"(c) PROGRAM.—The Secretary shall enter into contracts, cooperative agreements, and other transactions as authorized by section 2371 of title 10 with, and make grants to, eligible consortia to promote the development and deployment of innovation in transportation technology services, management, and operational practices.

"(d) ELIGIBILITY CRITERIA.—To be eligible to receive assistance under this section, an eligible consortium shall—

"(1) for a period of not less than the 3 years preceding the date of a contract, cooperative agreement, or other transaction, be organized on a statewide or multistate basis for the purpose of designing, developing, and deploying transportation technologies that address identified technological impediments in the transportation field;

"(2) facilitate the participation in the consortium of small- and medium-sized businesses, utilities, public laboratories and universities, and other relevant entities;

"(3) be actively engaged in transportation technology projects that address compliance in nonattainment areas under the Clean Air Act (42 U.S.C. 7401 et seq.);

"(4) be designed to use Federal and State funding to attract private capital in the form of grants or investments to carry out this section; and

"(5) ensure that at least 50 percent of the funding for the consortium project will be provided by non-Federal sources.

"(e) PROPOSALS.—The Secretary shall prescribe such terms and conditions as the Secretary determines to be appropriate for the content and structure of proposals submitted for assistance under this section.

"(f) REPORTING REQUIREMENTS.—At least once each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the projects undertaken by the eligible consortia and the progress made in advancing the purposes of this section.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $50,000,000 for each of fiscal years 1998 through 2003, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 3 of subtitle I of title 49, United States Code, is amended by adding at the end the following:

"310. Joint partnerships for advanced vehicles, components, and infrastructure program.".

SEC. 2017. TRANSPORTATION AND ENVIRONMENT COOPERATIVE RESEARCH PROGRAM.

Subchapter I of chapter 5 of title 23, United States Code (as amended by section 2015), is amended by adding at the end the following:

"§ 512. Transportation and environment cooperative research program

"(a) IN GENERAL.—The Secretary shall establish and carry out a transportation and environment cooperative research program.

"(b) ADVISORY BOARD.—

"(1) ESTABLISHMENT.—In consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, the Secretary shall establish an advisory board to recommend environmental and energy conservation research, technology, and technology transfer activities related to surface transportation.

"(2) MEMBERSHIP.—The advisory board shall include—

"(A) representatives of State transportation and environmental agencies;

"(B) transportation and environmental scientists and engineers; and

"(C) representatives of metropolitan planning organizations, transit operating agencies, and environmental organizations.

"(3) DEVELOPMENT OF RESEARCH PRIORITIES.—In developing recommendations for priorities for research described in paragraph (1), the advisory board shall consider the research recommendations of the National Research Council report entitled 'Environmental Research Needs in Transportation'.

"(4) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.

"(c) NATIONAL ACADEMY OF SCIENCES.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities related to the research, technology, and technology transfer activities described in subsection (b)(1) as the Secretary determines to be appropriate.

"(2) ECOSYSTEM INTEGRITY STUDY.—

"(A) IN GENERAL.—The Secretary shall give priority to conducting a study of, and preparing a report on, the relationship between highway density and ecosystem integrity, including an analysis of the habitat-level impacts of highway density on the overall health of ecosystems.

"(B) PROPOSAL OF RAPID ASSESSMENT METHODOLOGY.—To aid transportation and regulatory agencies, the report shall propose a rapid assessment methodology for determining the relationship between highway density and ecosystem integrity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 1998 through 2003.".

SEC. 2018. CONFORMING AMENDMENTS.

(a) Sections 307, 321, and 326 of title 23, United States Code, are repealed.

(b) The analysis for chapter 3 of title 23, United States Code, is amended by striking the items relating to sections 307, 321, and 326.

(c) Section 115(a)(1)(A)(i) of title 23, United States Code, is amended by striking "or 307" and inserting "or 505".

(d) Section 151(d) of title 23, United States Code, is amended by striking "section 307(a)," and inserting "section 506,".

(e) Section 106 of Public Law 89-564 (23 U.S.C. 403 note) is amended in the third sentence by striking "sections 307 and 403 of title 23, United States Code," and inserting "section 403 and chapter 5 of title 23, United States Code,".

Subtitle B—Intelligent Transportation Systems

SEC. 2101. SHORT TITLE.

This subtitle may be cited as the "Intelligent Transportation Systems Act of 1997".

SEC. 2102. FINDINGS.

Congress finds that—

(1) numerous studies conducted on behalf of the Department of Transportation document that investment in intelligent transportation systems offers substantial benefits in relationship to costs;

(2) as a result of the investment authorized by the Intelligent Transportation Systems Act of 1991 (23 U.S.C. 307 note; 105 Stat. 2189), progress has been made on each of the goals set forth for the national intelligent transportation system program in section 6052(b) of that Act; and

(3) continued investment by the Department of Transportation is needed to complete implementation of those goals.

SEC. 2103. INTELLIGENT TRANSPORTATION SYSTEMS.

Chapter 5 of title 23, United States Code (as added by section 2005), is amended by adding at the end the following:

"SUBCHAPTER II—INTELLIGENT TRANSPORTATION SYSTEMS

"§ 521. Purposes

"The purposes of this subchapter are—

"(1) to expedite deployment and integration of basic intelligent transportation system services for consumers of passenger and freight transportation across the United States;

"(2) to encourage the use of intelligent transportation systems to enhance international trade and domestic economic productivity;

"(3) to encourage the use of intelligent transportation systems to promote the

achievement of national environmental goals;

"(4) to continue research, development, testing, and evaluation activities to continually expand the state-of-the-art in intelligent transportation systems;

"(5) to provide financial and technical assistance to State and local governments and metropolitan planning organizations to ensure the integration of interoperable, intermodal, and cost-effective intelligent transportation systems;

"(6) to foster regional cooperation, standards implementation, and operations planning to maximize the benefits of integrated and coordinated intelligent transportation systems;

"(7) to promote the consideration of intelligent transportation systems in mainstream transportation planning and investment decisionmaking by ensuring that Federal and State transportation officials have adequate, working knowledge of intelligent transportation system technologies and applications and by ensuring comprehensive funding eligibility for the technologies and applications;

"(8) to encourage intelligent transportation system training for, and technology transfer to, State and local agencies;

"(9) to promote the deployment of intelligent transportation system services in rural America so as to achieve safety benefits, promote tourism, and improve quality of life;

"(10) to promote the innovative use of private resources, such as through public-private partnerships or other uses of private sector investment, to support the development and integration of intelligent transportation systems throughout the United States;

"(11) to complete the Federal investment in the Commercial Vehicle Information Systems and Networks by September 30, 2003;

"(12) to facilitate intermodalism through deployment of intelligent transportation systems, including intelligent transportation system technologies for transit systems to improve safety, efficiency, capacity, and utility for the public;

"(13) to enhance the safe operation of motor vehicles, including motorcycles, and nonmotorized vehicles on the surface transportation systems of the United States, with a particular emphasis on decreasing the number and severity of collisions; and

"(14) to accommodate the needs of all users of the surface transportation systems of the United States, including the operators of commercial vehicles, passenger vehicles, and motorcycles.

"§ 522. Definitions

"In this subchapter:

"(1) COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS.—The term 'Commercial Vehicle Information Systems and Networks' means the information systems and communications networks that support commercial vehicle operations.

"(2) COMMERCIAL VEHICLE OPERATIONS.—The term 'commercial vehicle operations'—

"(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial movement of goods, including hazardous materials, and passengers; and

"(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.

"(3) COMPLETED STANDARD.—The term 'completed standard' means a standard adopted and published by the appropriate standards-setting organization through a voluntary consensus standardmaking process.

"(4) CORRIDOR.—The term 'corridor' means any major transportation route that includes parallel limited access highways, major arterials, or transit lines.

"(5) INTELLIGENT TRANSPORTATION SYSTEM.—The term 'intelligent transportation system' means electronics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.

"(6) NATIONAL ARCHITECTURE.—The term 'national architecture' means the common framework for interoperability adopted by the Secretary that defines—

"(A) the functions associated with intelligent transportation system user services;

"(B) the physical entities or subsystems within which the functions reside;

"(C) the data interfaces and information flows between physical subsystems; and

"(D) the communications requirements associated with the information flows.

"(7) PROVISIONAL STANDARD.—The term 'provisional standard' means a provisional standard established by the Secretary under section 529(c).

"(8) STANDARD.—The term 'standard' means a document that—

"(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and

"(B) may support the national architecture and promote—

"(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and

"(ii) interoperability among intelligent transportation system technologies implemented throughout the States.

"§ 523. Cooperation, consultation, and analysis

"(a) COOPERATION.—In carrying out this subchapter, the Secretary shall—

"(1) foster enhanced operation and management of the surface transportation systems of the United States;

"(2) promote the widespread deployment of intelligent transportation systems; and

"(3) advance emerging technologies, in cooperation with State and local governments and the private sector.

"(b) CONSULTATION.—As appropriate, in carrying out this subchapter, the Secretary shall—

"(1) consult with the heads of other interested Federal departments and agencies; and

"(2) maximize the involvement of the United States private sector, colleges and universities, and State and local governments in all aspects of carrying out this subchapter.

"(c) PROCUREMENT METHODS.—To meet the need for effective implementation of intelligent transportation system projects, the Secretary shall develop appropriate technical assistance and guidance to assist State and local agencies in evaluating and selecting appropriate methods of procurement for intelligent transportation system projects, including innovative and nontraditional methods of procurement.

"§ 524. Research, development, and training

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, operational testing, technical assistance and training, national architecture activities, standards development and implementation, and other similar activities that are necessary to carry out the purposes of this subchapter.

"(b) INTELLIGENT VEHICLE AND INTELLIGENT INFRASTRUCTURE PROGRAMS.—

"(1) IN GENERAL.—

"(A) PROGRAM.—The Secretary shall carry out a program to conduct research, development, and engineering designed to stimulate and advance deployment of an integrated intelligent vehicle program and an integrated intelligent infrastructure program, consisting of—

"(i) projects such as crash avoidance, automated highway systems, advanced vehicle controls, and roadway safety and efficiency systems linked to intelligent vehicles; and

"(ii) projects that improve mobility and the quality of the environment, including projects for traffic management, incident management, transit management, toll collection, traveler information, and traffic control systems.

"(B) CONSIDERATION OF VEHICLE AND INFRASTRUCTURE ELEMENTS.—In carrying out subparagraph (A), the Secretary may consider systems that include both vehicle and infrastructure elements and determine the most appropriate mix of those elements.

"(2) NATIONAL ARCHITECTURE.—The program carried out under paragraph (1) shall be consistent with the national architecture.

"(3) PRIORITIES.—In carrying out paragraph (1), the Secretary shall give higher priority to activities that—

"(A) assist motor vehicle drivers in avoiding motor vehicle crashes;

"(B) assist in the development of an automated highway system; or

"(C) improve the integration of air bag technology with other on-board safety systems and maximize the safety benefits of the simultaneous use of an automatic restraint system and seat belts.

"(4) COST SHARING.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of a research project carried out in cooperation with a non-Federal entity under a program carried out under paragraph (1) shall not exceed 80 percent.

"(B) INNOVATIVE OR HIGH-RISK RESEARCH PROJECTS.—The Federal share of the cost of an innovative or high-risk research project described in subparagraph (A) may, at the discretion of the Secretary, be 100 percent.

"(5) PLAN.—The Secretary shall—

"(A) not later than 1 year after the date of enactment of this subchapter, submit to Congress a 6-year plan specifying the goals, objectives, and milestones to be achieved by each program carried out under paragraph (1); and

"(B) report biennially to Congress on the progress in meeting the goals, objectives, and milestones.

"(c) EVALUATION.—

"(1) GUIDELINES AND REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall establish guidelines and requirements for the independent evaluation of field and related operational tests, and, if necessary, deployment projects, carried out under this subchapter.

"(B) REQUIRED PROVISIONS.—The guidelines and requirements established under subparagraph (A) shall include provisions to ensure

the objectivity and independence of the evaluator so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subchapter.

"(2) FUNDING.—

"(A) SMALL PROJECTS.—In the case of a test or project with a cost of less than $5,000,000, the Secretary may allocate not more than 15 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(B) MODERATE PROJECTS.—In the case of a test or project with a cost of $5,000,000 or more, but less than $10,000,000, the Secretary may allocate not more than 10 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(C) LARGE PROJECTS.—In the case of a test or project with a cost of $10,000,000 or more, the Secretary may allocate not more than 5 percent of the funds made available to carry out the test or project for an evaluation of the test or project.

"(3) INAPPLICABILITY OF PAPERWORK REDUCTION ACT.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the evaluation of any test or program assessment activity under this subchapter shall not be subject to chapter 35 of title 44.

"(d) INFORMATION CLEARINGHOUSE.—

"(1) IN GENERAL.—The Secretary shall—

"(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subchapter; and

"(B) on request, make that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.

"(2) DELEGATION OF AUTHORITY.—

"(A) IN GENERAL.—The Secretary may delegate the responsibility of the Secretary under this subsection, with continuing oversight by the Secretary, to an appropriate entity not within the Department of Transportation.

"(B) FEDERAL ASSISTANCE.—If the Secretary delegates the responsibility, the entity to which the responsibility is delegated shall be eligible for Federal assistance under this section.

"(e) TRAFFIC INCIDENT MANAGEMENT AND RESPONSE.—The Secretary shall carry out a program to advance traffic incident management and response technologies, strategies, and partnerships that are fully integrated with intelligent transportation systems.

"(f) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $120,000,000 for fiscal year 1998, $125,000,000 for fiscal year 1999, $130,000,000 for fiscal year 2000, $135,000,000 for fiscal year 2001, $140,000,000 for fiscal year 2002, and $150,000,000 for fiscal year 2003, of which, for each fiscal year—

"(A) not less than $25,000,000 shall be available for activities that assist motor vehicle drivers in avoiding motor vehicle crashes, including activities that improve the integration of air bag technology with other onboard safety systems;

"(B) not less than $25,000,000 shall be available for activities that assist in the development of an automated highway system; and

"(C) not less than $3,000,000 shall be available for traffic incident management and response.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1.

"§ 525. Intelligent transportation system integration program

"(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to in this section as the 'program') to accelerate the integration and interoperability of intelligent transportation systems.

"(b) SELECTION OF PROJECTS.—

"(1) IN GENERAL.—Under the program, the Secretary shall select for funding, through competitive solicitation, projects that will serve as models to improve transportation efficiency, promote safety, increase traffic flow, reduce emissions of air pollutants, improve traveler information, or enhance alternative transportation modes.

"(2) PRIORITIES.—Under the program, the Secretary shall give higher priority to funding projects that—

"(A) promote and foster integration strategies and written agreements among local governments, States, and other regional entities;

"(B) build on existing (as of the date of project selection) intelligent transportation system projects;

"(C) deploy integrated intelligent transportation system projects throughout metropolitan areas;

"(D) deploy integrated intelligent transportation system projects that enhance safe freight movement or coordinate intermodal travel, including intermodal travel at ports of entry into the United States; and

"(E) advance intelligent transportation system deployment projects that are consistent with the national architecture and, as appropriate, comply with required standards as described in section 529.

"(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

"(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $100,000,000 for fiscal year 1998, $110,000,000 for fiscal year 1999, $115,000,000 for fiscal year 2000, $130,000,000 for fiscal year 2001, $135,000,000 for fiscal year 2002, and $145,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 526. Integration program for rural areas

"(a) IN GENERAL.—The Secretary shall conduct a comprehensive program (referred to in this section as the 'program') to accelerate the integration or deployment of intelligent transportation systems in rural areas.

"(b) SELECTION OF PROJECTS.—Under the program, the Secretary shall—

"(1) select projects through competitive solicitation; and

"(2) give higher priority to funding projects that—

"(A) promote and foster integration strategies and agreements among local governments, States, and other regional entities;

"(B) deploy integrated intelligent transportation system projects that improve mobility, enhance the safety of the movement of passenger vehicles and freight, or promote tourism; or

"(C) advance intelligent transportation system deployment projects that are consistent with the national architecture and comply with required standards as described in section 529.

"(c) PRIVATE SECTOR INVOLVEMENT.—In carrying out the program, the Secretary shall encourage private sector involvement and financial commitment, to the maximum extent practicable, through innovative financial arrangements, especially public-private partnerships.

"(d) FINANCING AND OPERATIONS PLANS.—As a condition of receipt of funds under the program, a recipient participating in a project shall submit to the Secretary a multiyear financing and operations plan that describes how the project can be cost-effectively operated and maintained

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 1998, $10,000,000 for fiscal year 1999, $15,000,000 for fiscal year 2000, $15,000,000 for fiscal year 2001, $20,000,000 for fiscal year 2002, and $20,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 527. Commercial vehicle intelligent transportation system infrastructure

"(a) IN GENERAL.—The Secretary shall carry out a comprehensive program—

"(1) to deploy intelligent transportation systems that will promote the safety and productivity of commercial vehicles and drivers; and

"(2) to reduce costs associated with commercial vehicle operations and State and Federal commercial vehicle regulatory requirements.

"(b) ELEMENTS OF PROGRAM.—

"(1) SAFETY INFORMATION SYSTEMS AND NETWORKS.—

"(A) IN GENERAL.—The program shall advance the technological capability and promote the deployment of commercial vehicle, commercial driver, and carrier-specific safety information systems and networks and other intelligent transportation system technologies used to assist States in identifying high-risk commercial operations and

in conducting other innovative safety strategies, including the Commercial Vehicle Information Systems and Networks.

"(B) FOCUS OF PROJECTS.—Projects assisted under the program shall focus on—

"(i) identifying and eliminating unsafe and illegal carriers, vehicles, and drivers in a manner that does not unduly hinder the productivity and efficiency of safe and legal commercial operations;

"(ii) enhancing the safe passage of commercial vehicles across the United States and across international borders;

"(iii) reducing the numbers of violations of out-of-service orders; and

"(iv) complying with directives to address other safety violations.

"(2) MONITORING SYSTEMS.—The program shall advance on-board driver and vehicle safety monitoring systems, including fitness-for-duty, brake, and other operational monitoring technologies, that will facilitate commercial vehicle safety, including inspection by motor carrier safety assistance program officers and employees under chapter 311 of title 49.

"(c) USE OF FEDERAL FUNDS.—

"(1) IN GENERAL.—Federal funds used to carry out the program shall be primarily used to improve—

"(A) commercial vehicle safety and the effectiveness and efficiency of enforcement efforts conducted under the motor carrier safety assistance program under chapter 311 of title 49;

"(B) electronic processing of registration, driver licensing, fuel tax, and other safety information; and

"(C) communication of the information described in subparagraph (B) among the States.

"(2) LEVERAGING.—Federal funds used to carry out the program shall, to the maximum extent practicable—

"(A) be leveraged with non-Federal funds; and

"(B) be used for activities not carried out through the use of private funds.

"(d) FEDERAL SHARE.—The Federal share of the cost of a project assisted under the program shall be not more than 80 percent.

"(e) AUTHORIZATION OF CONTRACT AUTHORITY.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for fiscal year 1998, $25,000,000 for fiscal year 1999, $25,000,000 for fiscal year 2000, $35,000,000 for fiscal year 2001, $35,000,000 for fiscal year 2002, and $40,000,000 for fiscal year 2003.

"(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that, in the case of a project funded under paragraph (1)—

"(A) the Federal share of the cost of the project payable from funds made available under paragraph (1) shall not exceed 50 percent; and

"(B) the total Federal share of the cost of the project payable from all eligible sources (including paragraph (1)) shall not exceed 80 percent.

"§ 528. Corridor development and coordination

"(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements intended to promote regional cooperation, planning, and shared project implementation for intelligent transportation system projects.

"(b) FUNDING.—There shall be available to carry out this section for each fiscal year not more than—

"(1) $3,000,000 of the amounts made available under section 524(f); and

"(2) $7,000,000 of the amounts made available under section 525(e).

"§ 529. Standards

"(a) IN GENERAL.—

"(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—The Secretary shall develop, implement, and maintain a national architecture and supporting standards to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.

"(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the standards shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the States.

"(3) USE OF STANDARDS-SETTING ORGANIZATIONS.—In carrying out this section, the Secretary may use the services of such standards-setting organizations as the Secretary determines appropriate.

"(b) REPORT.—

"(1) IN GENERAL.—Not later than January 1, 1999, the Secretary shall submit a report describing the status of all standards.

"(2) CONTENTS.—The report shall—

"(A) identify each standard that is needed for operation of intelligent transportation systems in the United States;

"(B) specify the status of the development of each standard;

"(C) provide a timetable for achieving agreement on each standard as described in this section; and

"(D) determine which standards are critical to ensuring national interoperability or critical to the development of other standards.

"(c) ESTABLISHMENT OF PROVISIONAL STANDARDS.—

"(1) ESTABLISHMENT.—Subject to subsection (d), if a standard determined to be critical under subsection (b)(2)(D) is not adopted and published by the appropriate standards-setting organization by January 1, 2001, the Secretary shall establish a provisional standard after consultation with affected parties.

"(2) PERIOD OF EFFECTIVENESS.—The provisional standard shall—

"(A) be published in the Federal Register;

"(B) take effect not later than May 1, 2001; and

"(C) remain in effect until the appropriate standards-setting organization adopts and publishes a standard.

"(d) WAIVER OF REQUIREMENT TO ESTABLISH PROVISIONAL STANDARDS.—

"(1) NOTICE.—The Secretary may waive the requirement to establish a provisional standard by submitting, not later than January 1, 2001, to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, a notice that—

"(A) specifies the provisional standard subject to the waiver;

"(B) describes the history of the development of the standard subject to the waiver;

"(C) specifies the reasons why the requirement for the establishment of the provisional standard is being waived;

"(D) describes the impacts of delaying the establishment of the standard subject to the waiver, especially the impacts on the purposes of this subchapter; and

"(E) provides specific estimates as to when the standard subject to the waiver is expected to be adopted and published by the appropriate standards-setting organization.

"(2) PROGRESS REPORTS.—

"(A) IN GENERAL.—In the case of each standard subject to a waiver by the Secretary under paragraph (1), the Secretary shall submit, in accordance with the schedule specified in subparagraph (B), a report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the progress of the adoption of a completed standard.

"(B) SCHEDULE OF REPORTS.—The Secretary shall submit a report under subparagraph (A) with respect to a standard—

"(i) not later than 180 days after the date of submission of the notice under paragraph (1) with respect to the standard; and

"(ii) at the end of each 180-day period thereafter until such time as a standard has been adopted and published by the appropriate standards-setting organization or the waiver is withdrawn under paragraph (3).

"(C) CONSULTATION.—In developing each progress report under subparagraph (A), the Secretary shall consult with the standards-setting organizations involved in the standardmaking process for the standard.

"(3) WITHDRAWAL OF WAIVER.—

"(A) IN GENERAL.—At any time, the Secretary may, through notification to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives, withdraw a notice of a waiver of the requirement to establish a provisional standard.

"(B) IMPLEMENTATION.—If the Secretary submits notification under subparagraph (A) with respect to a provisional standard, not less than 30 days, but not more than 90 days, after the date of the notification, the Secretary shall implement the provisional standard, unless, by the end of the 90-day period beginning on the date of the notification, a standard has been adopted and published by the appropriate standards-setting organization.

"(e) REQUIREMENT FOR COMPLIANCE WITH STANDARD.—

"(1) IN GENERAL.—

"(A) STANDARD IN EXISTENCE.—Funds made available from the Highway Trust Fund shall not be used to deploy an intelligent transportation system technology if the technology does not comply with each applicable provisional standard or completed standard.

"(B) NO STANDARD IN EXISTENCE.—In the absence of a provisional standard or completed standard, Federal funds shall not be used to deploy an intelligent transportation system technology if the deployment is not consistent with the interfaces to ensure interoperability that are contained in the national architecture.

"(2) APPLICABILITY.—Paragraph (1) shall not apply to—

"(A) the operation or maintenance of an intelligent transportation system in existence on the date of enactment of this subchapter; or

"(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this subchapter if the Secretary determines that the upgrade or expansion—

"(i) does not adversely affect the purposes of this subchapter, especially the goal of national or regional interoperability;

"(ii) is carried out before the end of the useful life of the system; and

"(iii) is cost effective as compared to alternatives that meet the compliance requirement of paragraph (1)(A) or the consistency requirement of paragraph (1)(B).

"(f) SPECTRUM.—

"(1) CONSULTATION.—The Secretary shall consult with the Secretary of Commerce, the Secretary of Defense, and the Chairman of the Federal Communications Commission to determine the best means for securing the necessary spectrum for the near-term establishment of a dedicated short-range vehicle-to-wayside wireless standard and any other spectrum that the Secretary determines to be critical to the implementation of this title.

"(2) PROGRESS REPORT.—After consultation under paragraph (1) and with other affected agencies, but not later than 1 year after the date of enactment of this subchapter, the Secretary shall submit a report to Congress on the progress made in securing the spectrum described in paragraph (1).

"(3) DEADLINE FOR SECURING SPECTRUM.—Notwithstanding any other provision of law, not later than 2 years after the date of enactment of this subchapter, the Secretary of Commerce shall release to the Federal Communications Commission, and the Federal Communications Commission shall allocate, the spectrum described in paragraph (1).

"(g) FUNDING.—The Secretary shall use funds made available under section 524 to carry out this section.

"§ 530. Funding limitations

"(a) CONSISTENCY WITH NATIONAL ARCHITECTURE.—The Secretary shall use funds made available under this subchapter to deploy intelligent transportation system technologies that are consistent with the national architecture.

"(b) COMPETITION WITH PRIVATELY FUNDED PROJECTS.—To the maximum extent practicable, the Secretary shall not fund any intelligent transportation system operational test or deployment project that competes with a similar privately funded project.

"(c) INFRASTRUCTURE DEVELOPMENT.—Funds made available under this subchapter for operational tests and deployment projects—

"(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

"(2) to the maximum extent practicable, shall not be used for the construction of physical highway and transit infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

"(d) PUBLIC RELATIONS AND TRAINING.—For each fiscal year, not more than $15,000,000 of the funds made available under this subchapter shall be used for intelligent transportation system outreach, public relations, training, mainstreaming, shareholder relations, or related activities.

"§ 531. Use of innovative financing

"(a) IN GENERAL.—The Secretary may use up to 25 percent of the funds made available under this subchapter and section 541 to make available loans, lines of credit, and loan guarantees for projects that are eligible for assistance under this title and that have significant intelligent transportation system elements.

"(b) CONSISTENCY WITH OTHER LAW.—Credit assistance described in subsection (a) shall be made available in a manner consistent with the Transportation Infrastructure Finance and Innovation Act of 1997.

"§ 532. Advisory committees

"(a) IN GENERAL.—In carrying out this subchapter, the Secretary shall use 1 or more advisory committees.

"(b) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Any advisory committee so used shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).".

SEC. 2104. CONFORMING AMENDMENT.

The Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking part B of title VI (23 U.S.C. 307 note; 105 Stat. 2189).

Subtitle C—Funding

SEC. 2201. FUNDING.

Chapter 5 of title 23, United States Code (as amended by section 2103), is amended by adding at the end the following:

"SUBCHAPTER III—FUNDING

"§ 541. Funding

"(a) RESEARCH, TECHNOLOGY, AND TRAINING.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out sections 502, 507, 509, and 511 $98,000,000 for fiscal year 1998, $101,000,000 for fiscal year 1999, $104,000,000 for fiscal year 2000, $107,000,000 for fiscal year 2001, $110,000,000 for fiscal year 2002, and $114,000,000 for fiscal year 2003.

"(b) CONTRACT AUTHORITY.—Funds authorized under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1, except that—

"(1) any Federal share of the cost of an activity under this chapter shall be determined in accordance with this chapter; and

"(2) the funds shall remain available for obligation for a period of 4 years after the last day of the fiscal year for which the funds are authorized.

"(c) LIMITATIONS ON OBLIGATIONS.—Notwithstanding any other provision of law, the total amount of all obligations under subsection (a) shall not exceed—

"(1) $97,999,999 for fiscal year 1998;
"(2) $101,000,000 for fiscal year 1999;
"(3) $104,000,000 for fiscal year 2000;
"(4) $107,000,000 for fiscal year 2001;
"(5) $110,000,000 for fiscal year 2002; and
"(6) $114,000,000 for fiscal year 2003.".

LOTT (AND OTHERS) AMENDMENT NO. 1318

Mr. LOTT (for himself, Mr. CHAFEE, and Mr. WARNER) proposed an amendment to amendment No. 1317 proposed by Mr. LOTT to the instructions of the motion to recommit the bill, S. 1173, supra; as follows:

On page 44, strike line 6 and insert the following:

(e) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

(1) $301,905,000 for fiscal year 1998;
(2) $301,725,000 for fiscal year 1999;
(3) $302,055,000 for fiscal year 2000;
(4) $303,480,000 for fiscal year 2001;
(5) $310,470,000 for fiscal year 2002; and
(6) $320,595,000 for fiscal year 2003.

(f) APPLICABILITY OF OBLIGATION LIMITATIONS.—

ROTH AMENDMENT NO. 1319

(Ordered to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to the bill, S. 1173, supra; as follows:

At the end of the bill add the following:

TITLE ___—REVENUE

SEC. ___001. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This title may be cited as the "Intermodal Surface Transportation Revenue Act of 1997".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. ___002. EXTENSION AND MODIFICATION OF HIGHWAY-RELATED TAXES AND TRUST FUND.

(a) EXTENSION OF TAXES AND EXEMPTIONS.—

(1) The following provisions are each amended by striking "1999" each place it appears and inserting "2005":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels), as amended by section 907(a)(1) of the Taxpayer Relief Act of 1997.

(C) Section 4041(m)(1)(A) (relating to certain alcohol fuels), as amended by section 907(b) of the Taxpayer Relief Act of 1997.

(D) Section 4051(c) (relating to termination).

(E) Section 4071(d) (relating to termination).

(F) Section 4081(d)(1) (relating to termination).

(G) Section 4221(a) (relating to certain tax-free sales).

(H) Section 4481(e) (relating to period tax in effect).

(I) Section 4482(c)(4) (relating to taxable period).

(J) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(K) Section 4483(g) (relating to termination of exemptions).

(L) Section 6156(e)(2) (relating to section inapplicable to certain liabilities).

(M) Section 6412(a) (relating to floor stocks refunds).

(2) The following provisions are each amended by striking "2000" each place it appears and inserting "2007":

(A) Section 4041(b)(2)(C) (relating to termination).

(B) Section 4041(k)(3) (relating to termination).

(C) Section 4081(c)(8) (relating to termination).

(D) Section 4091(c)(5) (relating to termination).

(3) Section 6412(a) (relating to floor stocks refunds) is amended by striking "2000" each place it appears and inserting "2006".

(4) Section 6427(f)(4) (relating to termination) is amended by striking "1999" and inserting "2007".

(5) Section 40(e)(1) (relating to termination) is amended—

(A) by striking "December 31, 2000" and inserting "December 31, 2007", and

(B) by striking subparagraph (B) and inserting the following:

"(B) of any fuel for any period before January 1, 2008, during which the rate of tax under section 4081(a)(2)(A) is 4.3 cents per gallon.".

(6) Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007) are amended in the effective period column by striking "10/1/2000" each place it appears and inserting "10/1/2007".

(b) EXTENSION AND MODIFICATION OF HIGHWAY TRUST FUND.—

(1) EXTENSION.—Section 9503 (relating to Highway Trust Fund) is amended—

(A) in subsection (b)—

(i) in paragraph (1)—

(I) by striking "1999" and inserting "2005",

(II) by striking subparagraph (C),

(III) in subparagraph (D), by striking "and tread rubber", and

(IV) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E), respectively,

(ii) in paragraph (2), by striking "1999" each place it appears and inserting "2005" and by striking "2000" and inserting "2006",

(iii) in the heading of paragraph (2), by striking "OCTOBER 1, 1999" and inserting "OCTOBER 1, 2005", and

(iv) in subparagraphs (E) and (F) of paragraph (4), as amended by section 901(a) of the Taxpayer Relief Act of 1997, by striking "1999" and inserting "2005", and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking "1997" and inserting "2003",

(II) in subparagraph (C), by striking "or" at the end,

(III) in subparagraph (D), by striking "1991." and inserting "1991, or",

(IV) by inserting after subparagraph (D) the following:

"(E) authorized to be paid out of the Highway Trust Fund under the Intermodal Surface Transportation Efficiency Act of 1997.", and

(V) by striking the last sentence and inserting the following:

"In determining the authorizations under the Acts referred to in the preceding subparagraphs, such Acts shall be applied as in effect on the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1997.",

(ii) in paragraph (2)(A)(i)—

(I) by striking "2000" and inserting "2006",

(II) in subclause (II), by adding "and" at the end,

(III) in subclause (IV), by striking "1999" and inserting "2005", and

(IV) by striking subclause (III) and redesignating subclause (IV) as subclause (III),

(iii) in paragraph (2)(A), by striking clause (ii) and inserting the following:

"(ii) the credits allowed under section 34 (relating to credit for certain uses of fuel) with respect to fuel used before October 1, 2005.",

(iv) in paragraph (3)—

(I) by striking "July 1, 2000" and inserting "July 1, 2006", and

(II) by striking the heading and inserting "FLOOR STOCKS REFUNDS",

(v) in paragraph (4)(A)(i), by striking "1997" and inserting "2003", and

(vi) in paragraph (5), by striking "1997" and inserting "2003".

(2) LIMITATION ON EXPENDITURES.—

(A) IN GENERAL.—Section 9503(c) (relating to expenditures from Highway Trust Fund), as amended by subsection (d)(2)(A), is amended by inserting after paragraph (5) the following:

"(6) LIMITATION ON EXPENDITURES FROM HIGHWAY TRUST FUND.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), no expenditure shall be made from the Highway Trust Fund unless such expenditure is permitted under a provision of this title. The determination of whether an expenditure is so permitted shall be made without regard to—

"(i) any provision of law which is not contained or referenced in this title and which is not contained or referenced in a revenue Act, and

"(ii) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

"(B) EXCEPTION FOR PRIOR OBLIGATIONS.—Subparagraph (A) shall not apply to any expenditure to liquidate any contract entered into, or for any amount otherwise obligated, in accordance with the provisions of this section before October 1, 2003.".

(B) TRANSFER OF TAXES TO TRUST FUND TERMINATED IF EXPENDITURE LIMITATION VIOLATED.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund), as amended by subsection (b)(1)(A)(iv), is amended—

(i) in subparagraph (E), by striking "or" at the end,

(ii) in subparagraph (F), by striking the period at the end and inserting ", or", and

(iii) by adding at the end the following:

"(G) any provision described in paragraph (1) on and after the date of any expenditure not permitted by subsection (c)(6).".

(c) MODIFICATION OF SUBSIDIES FOR ALCOHOL FUELS.—

(1) IN GENERAL.—Subsection (h) of section 40 (relating to alcohol used as fuel) is amended to read as follows:

"(h) REDUCED CREDIT FOR ETHANOL BLENDERS.—

"(1) IN GENERAL.—In the case of any alcohol mixture credit or alcohol credit with respect to any sale or use of alcohol which is ethanol during calendar years 2001 through 2007—

"(A) subsections (b)(1)(A) and (b)(2)(A) shall be applied by substituting 'the blender amount' for '60 cents',

"(B) subsection (b)(3) shall be applied by substituting 'the low-proof blender amount' for '45 cents' and 'the blender amount' for '60 cents', and

"(C) subparagraphs (A) and (B) of subsection (d)(3) shall be applied by substituting 'the blender amount' for '60 cents' and 'the low-proof blender amount' for '45 cents'.

"(2) AMOUNTS.—For purposes of paragraph (1), the blender amount and the low-proof blender amount shall be determined in accordance with the following table:

In the case of any sale or use during calendar year:	The blender amount is:	The low-proof blender amount is:
2001 or 2002	53 cents	39.26 cents
2003 or 2004	52 cents	38.52 cents
2005, 2006, or 2007 ...	51 cents	37.78 cents.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4041(b)(2) is amended—

(i) in subparagraph (A)(i), by striking "5.4 cents" and inserting "the applicable blender rate", and

(ii) by redesignating subparagraph (C), as amended by subsection (a)(2)(A), as subparagraph (D) and by inserting after subparagraph (B) the following:

"(C) APPLICABLE BLENDER RATE.—For purposes of subparagraph (A)(i), the applicable blender rate is—

"(i) except as provided in clause (ii), 5.4 cents, and

"(ii) for sales or uses during calendar years 2001 through 2007, 1/10 of the blender amount applicable under section 40(h)(2) for the calendar year in which the sale or use occurs.".

(B) Subparagraph (A) of section 4081(c)(4) is amended to read as follows:

"(A) GENERAL RULES.—

"(i) MIXTURES CONTAINING ETHANOL.—Except as provided in clause (ii), in the case of a qualified alcohol mixture which contains gasoline, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

"(I) in the case of 10 percent gasohol, the applicable blender rate (as defined in section 4041(b)(2)(A)) per gallon,

"(II) in the case of 7.7 percent gasohol, the number of cents per gallon equal to 77 percent of such applicable blender rate, and

"(III) in the case of 5.7 percent gasohol, the number of cents per gallon equal to 57 percent of such applicable blender rate.

"(ii) MIXTURES NOT CONTAINING ETHANOL.—In the case of a qualified alcohol mixture which contains gasoline and none of the alcohol in which consists of ethanol, the alcohol mixture rate is the excess of the rate which would (but for this paragraph) be determined under subsection (a) over—

"(I) in the case of 10 percent gasohol, 6 cents per gallon,

"(II) in the case of 7.7 percent gasohol, 4.62 cents per gallon, and

"(III) in the case of 5.7 percent gasohol, 3.42 cents per gallon.".

(C) Section 4081(c)(5) is amended by striking "5.4 cents" and inserting "the applicable blender rate (as defined in section 4041(b)(2)(C))".

(D) Section 4091(c)(1) is amended by striking "13.4 cents" each place it appears and inserting "the applicable blender amount" and by adding at the end the following new sentence: "For purposes of this paragraph, the term 'applicable blender amount' means 13.3 cents in the case of any sale or use during 2001 or 2002, 13.2 cents in the case of any sale or use during 2003 or 2004, 13.1 cents in the case of any sale or use during 2005, 2006, or 2007, and 13.4 cents in the case of any sale or use during 2008 or thereafter.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on January 1, 2001.

(d) ELIMINATION OF NATIONAL RECREATIONAL TRAILS TRUST FUND.—

(1) IN GENERAL.—Section 9511 (relating to National Recreational Trails Trust Fund) is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 9503(c) is amended by striking paragraph (6).

(B) The table of sections for subchapter A of chapter 98 is amended by striking the item relating to section 9511.

(e) AQUATIC RESOURCES TRUST FUND.—

(1) EXTENSION.—Section 9504(c) (relating to expenditures from Boat Safety Account) is amended—

(A) by striking "1998" and inserting "2004", and

(B) by striking "1988" and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1997".

(2) LIMITATION ON EXPENDITURES.—Section 9504 (relating to Aquatic Resources Trust Fund) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

"(d) LIMITATION ON EXPENDITURES FROM TRUST FUND.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no expenditure shall be made from the Aquatics Resources Trust Fund unless such expenditure is permitted under a provision of this title. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title and which is not contained or referenced in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or

indirectly seeks to waive the application of this subsection.

"(2) EXCEPTION FOR PRIOR OBLIGATIONS FROM THE BOAT SAFETY ACCOUNT.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into, or for any amount otherwise obligated, in accordance with the provisions of subsection (c) before April 1, 2004.

"(3) TRANSFER OF TAXES TO TRUST FUND TERMINATED IF EXPENDITURE LIMITATION VIOLATED.—For purposes of the second sentence of subsection (a)(2), there shall not be taken into account any amount described in subsection (b)(1), section 9503(c)(4), or section 9503(c)(5)(A) on and after the date of any expenditure not permitted by paragraph (1).".

(3) CONFORMING AMENDMENTS.—Section 9504(b)(2) is amended—

(A) in subparagraph (A), by striking "1988" and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1997", and

(B) in subparagraph (B), by striking "1990" and inserting "the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1997".

SEC. __003. MASS TRANSIT ACCOUNT.

(a) IN GENERAL.—Section 9503(e)(3) (relating to expenditures from Account) is amended—

(1) by striking "1997" and inserting "2003",

(2) in subparagraph (A), by striking "or" at the end,

(3) in subparagraph (B), by adding "or" at the end,

(4) by inserting after subparagraph (B) the following:

"(C) the Intermodal Surface Transportation Efficiency Act of 1997,", and

(5) by striking "Intermodal Surface Transportation Efficiency Act of 1991" the second place it appears and inserting "Intermodal Surface Transportation Efficiency Act of 1997".

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 9503(e) is amended to read as follows:

"(4) LIMITATION.—Rules similar to the rules of subsection (d) shall apply to the Mass Transit Account.".

(c) TECHNICAL CORRECTION.—

(1) IN GENERAL.—Section 9503(e)(2) is amended by striking the last sentence and inserting the following: "For purposes of the preceding sentence, the term 'mass transit portion' means, for any fuel with respect to which tax was imposed under section 4041 or 4081 and otherwise deposited into the Highway Trust Fund, the amount determined at the rate of—

"(A) except as otherwise provided in this sentence, 2.86 cents per gallon,

"(B) 1.77 cents per gallon in the case of any partially exempt methanol or ethanol fuel (as defined in section 4041(m)) none of the alcohol in which consists of ethanol,

"(C) 1.86 cents per gallon in the case of liquefied natural gas,

"(D) 2.13 cents per gallon in the case of liquefied petroleum gas, and

"(E) 9.71 cents per MCF (determined at standard temperature and pressure) in the case of compressed natural gas.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendment made by section 901(b) of the Taxpayer Relief Act of 1997.

SEC. __004. TAX-EXEMPT FINANCING OF QUALIFIED HIGHWAY INFRASTRUCTURE CONSTRUCTION.

(a) TREATMENT AS EXEMPT FACILITY BOND.—A bond described in subsection (b) shall be treated as described in section 141(e)(1)(A) of the Internal Revenue Code of 1986, except that—

(1) section 146 of such Code shall not apply to such bond, and

(2) section 147(c)(1) of such Code shall be applied by substituting "any portion of" for "25 percent or more".

(b) BOND DESCRIBED.—

(1) IN GENERAL.—A bond is described in this subsection if such bond is issued after the date of the enactment of this Act as part of an issue—

(A) 95 percent or more of the net proceeds of which are to be used to provide a qualified highway infrastructure project, and

(B) to which there has been allocated a portion of the allocation to the project under paragraph (2)(C)(ii) which is equal to the aggregate face amount of bonds to be issued as part of such issue.

(2) QUALIFIED HIGHWAY INFRASTRUCTURE PROJECTS.—

(A) IN GENERAL.—For purposes of paragraph (1), the term "qualified highway infrastructure project" means a project—

(i) for the construction or reconstruction of a highway, and

(ii) designated under subparagraph (B) as an eligible pilot project.

(B) ELIGIBLE PILOT PROJECT.—

(i) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall select not more than 15 highway infrastructure projects to be pilot projects eligible for tax-exempt financing.

(ii) ELIGIBILITY CRITERIA.—In determining the criteria necessary for the eligibility of pilot projects, the Secretary of Transportation shall include the following:

(I) The project must serve the general public.

(II) The project is necessary to evaluate the potential of the private sector's participation in the provision of the highway infrastructure of the United States.

(III) The project must be located on publicly-owned rights-of-way.

(IV) The project must be publicly owned or the ownership of the highway constructed or reconstructed under the project must revert to the public.

(V) The project must be consistent with a transportation plan developed pursuant to section 134(g) or 135(e) of title 23, United States Code.

(C) AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING.—

(i) IN GENERAL.—The aggregate face amount of bonds issued pursuant to this section shall not exceed $15,000,000,000, determined without regard to any bond the proceeds of which are used exclusively to refund (other than to advance refund) a bond issued pursuant to this section (or a bond which is a part of a series of refundings of a bond so issued) if the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

(ii) ALLOCATION.—The Secretary of Transportation, in consultation with the Secretary of the Treasury, shall allocate the amount described in clause (i) among the eligible pilot projects designated under subparagraph (B).

(iii) REALLOCATION.—If any portion of an allocation under clause (ii) is unused on the date which is 3 years after such allocation, the Secretary of Transportation, in consultation with the Secretary of the Treasury, may reallocate such portion among the remaining eligible pilot projects.

(c) REPORT.—

(1) IN GENERAL.—Not later than the earlier of—

(A) 1 year after either ½ of the projects authorized under this section have been identified or ½ of the total bonds allowable for the projects under this section have been issued, or

(B) 7 years after the date of the enactment of this Act,

the Secretary of Transportation, in consultation with the Secretary of the Treasury, shall submit the report described in paragraph (2) to the Committees on Finance and on Environment and Public Works of the Senate and the Committees on Ways and Means and on Transportation and Infrastructure of the House of Representatives.

(2) CONTENTS.—The report under paragraph (1) shall evaluate the overall success of the program conducted pursuant to this section, including—

(A) a description of each project under the program,

(B) the extent to which the projects used new technologies, construction techniques, or innovative cost controls that resulted in savings in building the project, and

(C) the use and efficiency of the Federal tax subsidy provided by the bond financing.

SEC. __005. REPEAL OF 1.25 CENT TAX RATE ON RAIL DIESEL FUEL.

(a) IN GENERAL.—Section 4041(a)(1)(C)(ii) (relating to rate of tax on trains) is amended—

(1) in subclause (II), by striking "October 1, 1999" and inserting "May 16, 1999", and

(2) in subclause (III), by striking "September 30, 1999" and inserting "May 15, 1999".

(b) CONFORMING AMENDMENTS.—

(1) Section 6421(f)(3)(B) is amended—

(A) in clause (ii), by striking "October 1, 1999" and inserting "May 16, 1999", and

(B) in clause (iii), by striking "September 30, 1999" and inserting "May 15, 1999".

(2) Section 6427(l)(3)(B) is amended—

(A) in clause (ii), by striking "October 1, 1999" and inserting "May 16, 1999", and

(B) in clause (iii), by striking "September 30, 1999" and inserting "May 15, 1999".

SEC. __006. ELECTION TO RECEIVE TAXABLE CASH COMPENSATION IN LIEU OF NONTAXABLE QUALIFIED TRANSPORTATION FRINGE BENEFITS.

(a) IN GENERAL.— Paragraph (4) of section 132(f) (relating to qualified transportation fringe) is amended to read as follows:

"(4) NO CONSTRUCTIVE RECEIPT.—No amount shall be included in the gross income of an employee solely because the employee may choose between any qualified transportation fringe and compensation which would otherwise be includible in gross income of such employee.".

(b) INCREASE IN MAXIMUM EXCLUSION FOR EMPLOYER-PROVIDED TRANSIT PASSES.—

(1) IN GENERAL.—Subparagraph (A) of section 132(f)(2) (relating to limitation on exclusion) is amended by striking "$60" and inserting "$100".

(2) INFLATION ADJUSTMENT.—Paragraph (6) of section 132(f) (relating to qualified transportation fringe) is amended to read as follows:

"(6) INFLATION ADJUSTMENT.—

"(A) ADJUSTMENT TO QUALIFIED PARKING LIMITATION.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amount contained in paragraph (2)(B) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins.

"(B) ADJUSTMENT TO OTHER QUALIFIED TRANSPORTATION FRINGES LIMITATION.—In the

case of any taxable year beginning in a calendar year after 2003, the dollar amount contained in paragraph (2)(A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, by substituting 'calendar year 2002' for 'calendar year 1992'.

"(c) ROUNDING.—If any increase determined under subparagraph (A) or (B) is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. __007. TAX TREATMENT OF CERTAIN FEDERAL PARTICIPATION PAYMENTS.

For purposes of the Internal Revenue Code of 1986, with respect to any Federal participation payment to a taxpayer in any taxable year made under section 149(e) of title 23, United States Code, as added by section 1502, to the extent such payment is not subject to tax under such Code for the taxable year—

(1) no credit or deduction (other than a deduction with respect to any interest on a loan) shall be allowed to the taxpayer with respect to any property placed in service or other expenditure that is directly or indirectly attributable to the payment, and

(2) the basis of any such property shall be reduced by the portion of the cost of the property that is attributable to the payment.

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

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

TECHNICAL EXPLANATION OF THE "INTERMODAL SURFACE TRANSPORTATION REVENUE ACT OF 1997" RELATING TO EXTENSION OF HIGHWAY TRUST FUND EXCISE TAXES AND HIGHWAY TRUST FUND PROVISIONS

I. LEGISLATIVE BACKGROUND

Highway Trust Fund Authorizations

S. 1173, the "Intermodal Transportation Act of 1997," was ordered reported by the Senate Committee on Environment and Public Works on September 17, 1997, and the report was filed on October 1, 1997 (S. Rept. 105-95). S. 1173 would extend expenditure authorizations for the Highway Trust Fund (the "Highway Fund") for 6 years, from October 1, 1997 through September 30, 2003, and make various modifications to the highway programs financed through the Highway Fund. The Highway Fund is funded with amounts equivalent to revenues from certain excise taxes on motor fuels and on heavy trucks and tires. These excise taxes currently are scheduled to expire after September 30, 1999. The provisions dedicating revenues from these excise taxes to the Highway Fund, relevant expenditure provisions governing the purposes for which Highway Fund monies may be spent, and the period when those expenditures may occur are contained in the Internal Revenue Code (the "Code"). The Highway Fund expenditure authority expired after September 30, 1997.

The Senate Committee on Banking, Housing, and Urban Affairs ("Banking") and the Committee on Commerce, Science, and Transportation ("Commerce") have been requested to approve Highway Fund-related authorization provisions within their respective jurisdictions. The Senate Banking Committee marked up mass transit authorizations on September 25, 1997. Provisions adopted by these Committees are expected to be incorporated into S. 1173 when that bill is considered by the Senate.

Revenue Provisions

The Committee on Finance has been requested to provide a revenue title to S. 1173. The Committee on Finance was requested to include provisions in the revenue title extending the period when the highway excise taxes are imposed and when Highway Fund monies can be spent, and conforming the purposes for which Highway Fund monies can be spent to those authorized under S. 1173.

On October 1, 1997, the Committee on Finance marked up a revenue title to be offered as an amendment ("Committee amendment") to S. 1173. The Committee amendment was approved by voice vote.

II. EXPLANATION OF COMMITTEE AMENDMENT

A. PRESENT LAW

1. Highway Trust Fund Excise Taxes and Other Related Tax Provisions

Highway transportation excise taxes

The current highway transportation excise taxes consist of:

(1) taxes on gasoline, diesel fuel, kerosene, and special motor fuels;

(2) a retail sales tax imposed on trucks and trailers having gross vehicle weights in excess of prescribed thresholds;

(3) a tax on manufacturers of tires designed for use on heavy highway vehicles; and

(4) an annual use tax imposed on trucks and tractors having taxable gross weights in excess of prescribed thresholds.

Special motor fuels include liquefied natural gas ("LNG"), benzol, naphtha, liquefied petroleum gas (e.g., propane), natural gasoline, and any other liquid (e.g., ethanol and methanol) other than gasoline or diesel fuel. Compressed natural gas ("CNG") also is subject to tax as a special motor fuel, but at a lower rate than other special motor fuels.

With the exception of 4.3 cents per gallon of the motor fuels excise tax rates, these taxes are scheduled to expire after September 30, 1999.

Highway motor fuels taxes

The current highway motor fuels excise tax rates are shown in Table 1.

TABLE 1.—FEDERAL HIGHWAY TRUST FUND MOTOR FUELS EXCISE TAX RATES, AS OF OCTOBER 1, 1997

[Rates shown in cents per gallon]

Highway Fuel	Tax Rate[2]
Gasoline[3]	18.3
Diesel fuel[4]	24.3
Special motor fuels generally	[5] 18.3
CNG	[6] 4.3

[1] The rates shown include the 4.3-cents-per-gallon tax rate which is transferred to the Highway Fund beginning on October 1, 1997, pursuant to the Taxpayer Relief Act of 1997.

[2] Effective on October 1, 1997, an additional 0.1-cent-per-gallon rate is imposed on these motor fuels to finance the Leaking Underground Storage Tank Trust Fund.

[3] Gasoline used in motorboats and in certain off-highway recreational vehicles and small engines is subject to tax in the same manner and at the same rates as gasoline used in highway vehicles. 6.8 cents per gallon of the revenues from the tax on gasoline used in these uses is retained in the General Fund; the remaining 11.5 cents per gallon is deposited in the Aquatic Resources Trust Fund (motorboat and small engine gasoline), the Land and Water Conservation Fund ($1 million of motorboat gasoline tax revenues), and the National Recreational Trails Trust Fund (the "Trails Trust Fund") (off-highway recreational vehicles).

[4] Kerosene is taxed at the same rate as diesel fuel.

[5] The rate is 13.6 cents per gallon for propane, 11.9 cents per gallon for liquefied natural gas, and 11.3 cents per gallon for methanol fuel from natural gas, in each case based on the relative energy equivalence of the fuel to gasoline.

[6] The statutory rate is 48.54 cents per thousand cubic feet ("MCF").

Present law includes numerous exemptions (including partial exemptions for specified uses of taxable fuels or for specified fuels) typically for governments or for uses not involving use of (and thereby change to) the highway system. Because the gasoline and diesel fuel taxes generally are imposed before the end use of the fuel is known, many of these exemptions are realized through refunds to end users of tax paid by a party that processed the fuel earlier in the distribution chain. These exempt uses and fuels include:

(1) use in State and local government and nonprofit educational organization vehicles;

(2) use in buses engaged in transporting students and employees of schools;

(3) use in private local mass transit buses having a seating capacity of at least 20 adults (not including the driver) when the buses operate under contract with (or are subsidized by) a State or local governmental unit;

(4) use in private intercity buses serving the general public along scheduled routes (totally exempt from the gasoline tax and exempt from 17 cents per gallon of the diesel tax); and

(5) use in off-highway uses such as farming.

LNG, propane, CNG, and methanol derived from natural gas are subject to reduced tax rates based on the energy equivalence of these fuels to gasoline.

Ethanol and methanol derived from renewable sources (e.g., biomass) are eligible for income tax benefits (the "alcohol fuels credit") equal to 54 cents per gallon (ethanol) and 60 cents per gallon (methanol).[1] In addition, small ethanol producers are eligible for a separate 10-cents-per-gallon credit.[2] The 54-cents-per-gallon ethanol and 60-cents-per-gallon renewable source methanol tax credits may be claimed through reduced excise taxes paid on gasoline and special motor fuels as well as through credits against income tax.[3]

NON-FUEL HIGHWAY FUND EXCISE TAXES

In addition to the highway motor fuels excise tax revenues, the Highway Fund receives revenues produced by three excise taxes imposed exclusively on heavy highway vehicles or tires. These taxes are:

(1) A 12-percent excise tax imposed on the first retail sale of highway vehicles, tractors, and trailers (generally, trucks having a gross vehicle weight in excess of 33,000 pounds and trailers having such a weight in excess of 26,000 pounds);

(2) An excise tax imposed at graduated rates on highway tires weighing more than 40 pounds; and

(3) An annual use tax imposed on highway vehicles having a taxable gross weight of 55,000 pounds or more. (The maximum rate for this tax is $550 per year, imposed on vehicles having a taxable gross weight over 75,000 pounds.)

Excise tax on diesel fuel used in rail transportation

Diesel fuel used in trains is subject to a 5.65-cents-per-gallon excise tax. Of this amount, 0.1 cent per gallon is dedicated to the Leaking Underground Storage Tank Trust Fund; this rate is scheduled to expire after March 31, 2005. The remaining 5.55 cents

[1] The alcohol fuels credit is scheduled to expire after December 31, 2000, or earlier, if the Highway Fund excise taxes actually expire before that date.

[2] The small ethanol producer credit is available on up to 15 million gallons of ethanol produced by persons whose annual production capacity does not exceed 30 million gallons.

[3] Authority to claim the ethanol and renewable source methanol tax benefits through excise tax reductions is scheduled to expire after September 30, 2000 (or earlier, if the underlying excise taxes actually expire before September 30, 2000).

per gallon is a General Fund tax, with 4.3 cents per gallon being permanently imposed and 1.25 cents per gallon being imposed through September 30, 1999.

Tax-exempt State or local government-bonds

Present law exempts interest on State or local government bonds from the regular income tax if the proceeds of the bonds are used to finance governmental activities of those entities and the bonds are repaid with governmental revenues. Interest on bonds issued by States or local governments acting as conduits to provide financing for private persons is taxable unless a specific exception is provided in the Code. No such exception is provided for bonds issued to provide conduit financing for privately constructed and/or privately operated toll roads and similar highway infrastructure projects.

Exclusion from income for employer-provided transportation benefits

Under present law, up to $170 per month of employer-provided parking is excludable from gross income and wages for employment tax purposes. Effective with respect to taxable years beginning after December 31, 1997, no amount is includible in income or wages merely because an employer offers an employee a choice between cash and employer-provided parking. The amount of cash offered is includible in income only if the employee chooses the cash instead of parking. If an employee chooses parking, the value of the parking is excludable from income as under present law. Employees may exclude a maximum of $65 per month from gross income for the value of employer-provided transit passes or vanpooling in an employer-provided vehicle. In order for the exclusion to apply, the employer-provided transit passes and vanpooling must be provided in addition to and not in lieu of any compensation that is otherwise payable to the employee.

2. Highway Trust Fund Expenditure Provisions

In general

Dedication of excise tax revenues to the Highway Fund and expenditures from the Highway Fund are governed by provisions of the Code (sec. 9503).[4] Under present law, revenues from the highway excise taxes, as imposed through September 30, 1999, are dedicated to the Highway Fund. Also, the Highway Fund earns interest on its cash balances each year from investments in Treasury securities. Further, the Code authorizes expenditures (subject to appropriations) from the Fund through September 30, 1997, for the purposes provided in authorizing legislation, as in effect on the date of enactment of the Intermodal Surface Transportation Efficiency Act of 1991.

Highway Fund provisions also govern transfer of 11.5 cents per gallon of the revenues from the tax imposed on gasoline used in motorboats, small engines, and off-highway recreational vehicles. Those revenues are transferred from the Highway Fund (after being received from the General Fund) to the Aquatic Resources Trust Fund, the Land and Water Conservation Fund, and the National Recreational Trails Trust Fund, respectively, through September 30, 1997.

Present-law Highway Fund expenditure purposes

Overview

The Highway Fund is divided into two accounts, a Highway Account and a Mass Transit Account, each of which is the funding source for specific programs.

Highway and Mass Transit Account expenditure purposes have been revised with passage of each authorization Act enacted since establishment of the Highway Trust Fund in 1956. In general, expenditures authorized under those Acts (as the Acts were in effect on the date of enactment of the most recent such authorizing Act) are approved Highway Fund expenditure purposes.[5] Authority to make expenditures from the Highway Fund expired after September 30, 1997. Thus, no Highway Fund monies may be spent for a purpose not approved by the tax-writing committees of Congress. Further, no Highway Fund expenditures may occur after September 30, 1997, without such approval.

Highway Fund spending further is limited by two, internal to the Highway Fund, anti-deficit provisions. The first of these provisions limits the unfunded Highway Account authorizations at the end of any fiscal year to amounts not exceeding revenues projected to be collected for that Account by the dedicated excise taxes during the two following fiscal years. The second anti-deficit provision similarly limits unfunded Mass Transit Account authorizations to the dedicated excise taxes expected to be collected during the next fiscal year. Because of these two provisions, the highway transportation excise taxes typically are scheduled to expire at least two years after current authorizing Acts. If either of these provisions is violated, spending for specified programs funded by the relevant Trust Fund Account is to be reduced proportionately, in much the same manner as would occur under a general Budget Act sequester.

Highway Account

The Highway Fund's Highway Account receives revenues from all non-fuel highway transportation excise taxes and revenues from all but 2.85 cents per gallon (2.0 cents prior to October 1, 1997) of the highway motor fuels excise taxes. Programs financed from the Highway Account include expenditures for the following general purposes:

(1) Federal-aid highways, including the Interstate System, National Highway System, parkways and park roads, forest and public lands highways, Indian reservation roads, scenic highways, and certain overseas highways (includes construction and planning);

(2) Highway resurfacing and repair;

(3) Bridge replacement and repair;

(4) Surface transportation programs;

(5) Congestion mitigation and air quality improvement;

(6) Highway safety programs and research and development, including a share of the cost of National Highway Traffic Safety Administration ("NHTSA") programs and university research centers;

(7) Transportation research, technology, and training;

(8) Traffic control grants and traffic control signal projects;

(9) Intermodal urban projects and mass transit (including carpool and vanpool) grants;

(10) Magnetic levitation technology deployment;

(11) Intelligent transportation systems;

(12) Certain administrative costs of the Federal Highway Administration and NHTSA;

(13) Grants to the Internal Revenue Service for motor fuels tax and highway use tax enforcement activities;

(14) Wetlands and other habitat mitigation; and

(15) Certain other highway and transit-related programs (including bicycle pathways and pedestrian walkways and fringe and corridor parking facilities).

Mass Transit Account

The Highway Fund's Mass Transit Account receives revenues equivalent to 2.85 cents per gallon (2.0 cents prior to October 1, 1997) of the highway motor fuels excise taxes. Mass Transit Account monies are available through September 30, 1997, for capital and capital-related expenditures under sections 5338 (a)(1) and (b)(1) of Title 49, United States Code, or the Intermodal Surface Transportation Efficiency Act of 1991.

The capital and capital-related mass transit programs include new rail or busway facilities, rail rolling stock, buses, improvement and maintenance of existing rail and other fixed guideway systems, and upgrading of bus systems.

Transfers from Highway Fund to National Recreational Trails Trust Fund

The National Recreational Trails Trust Fund ("Trails Fund") was established in the Intermodal Surface Transportation Act of 1991 ("1991 Act"). Amounts are authorized to be transferred from the Highway Fund into the Trails Fund equivalent to revenues received from "nonhighway recreational fuel taxes" (not to exceed $30 million per year under an obligational ceiling set in the 1991 Act), subject to amounts actually being appropriated to the Trails Fund. No monies have been transferred to date, since no amounts have been appropriated to the Trails Fund. The authority to transfer revenues to the Trails Fund expired after September 30, 1997.

Nonhighway recreational fuels taxes are the taxes imposed (to the extent attributable to the 11.5 cents per gallon rate) on (1) fuel used in vehicles and equipment on recreational trails or back country terrain, or (2) fuel used in camp stoves and other outdoor recreational equipment. Such revenues do not include small-engine gasoline tax revenues which are transferred to the Aquatic Resources Trust Fund.

Expenditures are authorized from the Trails Fund, subject to appropriations, for allocations to States for use on trails and trail-related projects as set forth in the 1991 Act. Authorized uses include (1) acquisition of new trails and access areas, (2) maintenance and restoration of existing trails, (3) State environmental protection education programs, and (4) program administrative costs.

B. SUMMARY OF S. 1173 TRUST FUND AUTHORIZATIONS

S. 1173 would extend authorizations for Highway Fund expenditures for six years, fiscal years 1998–2003. S. 1173 also would modify the expenditure purposes of the Highway Fund as described below. As reported by the Committee on Environment and Public Works ("Environment and Public Works"), S. 1173 contains no revenue provisions or other Code amendments.[6]

[4] The Highway Trust Fund statutory provisions were placed in the Internal Revenue Code in 1982.

[5] The authorizing Acts which currently are referenced in the Highway Trust Fund are the Highway Revenue Act of 1956, Titles I and II of the Surface Transportation Assistance Act of 1982, the Surface Transportation and Uniform Relocation Act of 1987, and the Intermodal Surface Transportation Efficiency Act of 1991.

[6] See below for mention of authorization of amounts from the Highway Account for grants to the Internal Revenue Service for motor fuel tax evasion projects and motor fuel tax reporting system.

Highway Account Authorizations Under S. 1173

S. 1173, as reported by Environment and Public Works, would provide Highway Trust Fund (Highway Account) authorizations totaling $145.3 billion for the 6-year period, fiscal years 1998–2003.

New Highway Account expenditure programs under S. 1173 include the following:

6-year total	*(millions)*
Recreational trails program[7]	$119.0
Motor fuel excise tax reporting system	20.0
International border crossing planning incentive grants	8.4
International trade corridor planning incentive grants	18.0
Infrastructure financing (loans, loan guarantees, credit lines, including State infrastructure banks)	470.0
Safety grants for seat belt use	470.0
Wetland restoration pilot program (where mitigation has not been performed)	100.0
Transportation and community and system preservation pilot program (research and planning regarding relationships between transportation and community and environment preservation)	120.0

The bill would extend for 6 years (at $5 million per year) the current authorization from the Highway Account for funds to the Internal Revenue Service and the States for highway use tax evasion projects.

Other Highway Account safety program authorizations are to be marked up by the Senate Committee on Commerce, Science, and Transportation, and are expected to be offered as an amendment to S. 1173 when the bill goes to the Senate Floor.

Mass Transit Account Authorizations Under S. 1173

The Senate Committee on Banking, Housing, and Urban Affairs ("Banking") marked up mass transit authorizations on September 25, 1997. These provisions are expected to be added to S. 1173, and include $31.6 billion authorized from the Mass Transit Account of the Highway Fund and $4.1 billion from the General Fund over the 6-year period, fiscal years 1998–2003.

The Banking Committee amendment would authorize a new clean fuels grant program to be financed one-half from the Mass Transit Account ($100 million per year) and one-half from the General Fund ($100 million per year). The clean fuels program includes grants to purchase or lease clean fuel vehicles or hybrid transit vehicles, construction or leasing of clean fuel vehicle fueling or electrical recharging facilities and equipment, improvements of existing transit facilities to accommodate clean fuel vehicles, incremental costs of biodiesel fuel, and projects relating to clean fuel, biodiesel, hybrid electric or zero emissions technology vehicles that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

[7] A "trail" is a thoroughfare or track across land or snow used for recreational purposes, such as pedestrian activities, skating or skateboarding, equestrian activities, skiing, bicycling, aquatic activities, and motorized vehicular activities (including all-terrain vehicles, motorcycles, snowmobiles, off-road vehicles). Eligible expenses include costs of State administration of the program and educational programs to promote trail safety and environmental protection.

C. EXPLANATION OF PROVISIONS

1. Highway Fund provisions

a. Extension of existing Highway Fund excise taxes

Under the Committee amendment, the scheduled expiration date of the current Highway Fund excise taxes on motor fuels and heavy highway vehicles and tires is extended for six years, from September 30, 1999 through September 30, 2005.

b. Extension and modification of ethanol tax provisions

The current tax benefits for ethanol and renewable source methanol are extended for seven years from their currently scheduled expiration dates; the ethanol benefits are modified to reduce the benefit levels during the extension period. The modified ethanol benefit levels are as follows: 2001 and 2002—53 cents per gallon; 2003 and 2004—52 cents per gallon; and, 2005 through 2007—51 cents per gallon. The extension and the modifications apply to both the alcohol fuels credit and the associated excise tax provisions.

c. Extension and modification of Highway Fund provisions[8]

The current September 30, 1997 expiration date of authority to spend monies from the Highway Fund is extended for six years, from October 1, 1997 through September 30, 2003.

The Code provisions governing purposes for which monies in the Highway Fund may be spent is updated to include the purposes provided in S. 1173, as enacted.

The anti-deficit provisions of the Mass Transit Account are conformed to those of the Highway Account so that permitted obligations will be determined by reference to two years of projected revenues.

Transfers of revenues on motorboat and small engine gasoline from the Highway Fund to the Aquatic Resources Trust Fund and the Land and Water Conservation Fund are extended for six years, from September 30, 1997 through September 30, 2003.

The Code provisions establishing the National Recreational Trails Trust Fund ("Trails Fund") and providing for transfer of revenues to the Trails Fund are repealed, effective on the date of enactment.

Provisions are incorporated into the Highway Fund clarifying that expenditures from the Highway Fund may occur only as provided in the Code. Clarification is further provided that the expiration date for expenditures allowed from the Highway Fund does not preclude disbursements to liquidate contracts which were validly entered into before that date. Expenditures for contracts entered into or for amounts otherwise obligated after that date (or for other non-contract authority purposes permitted by non-Code provisions) would not be permitted, notwithstanding the provisions of any subsequently enacted authorization or appropriations legislation. If any such subsequent non-tax legislation provided for expenditures not provided for in the Code, or if any executive agency authorized such expenditures in contravention of the Code restrictions, excise tax revenues otherwise to be deposited in the Highway Fund would be retained in the General Fund beginning on the date of any unauthorized expenditure (including an obligation of funds under contract authority) pursuant to such legislation or the date of such an action by an executive agency.[9] Similar clarifications are incorporated into the Aquatic Resources Trust Fund.

A technical amendment of the Taxpayer Relief Act of 1997 is included clarifying that excise tax revenues attributable to LNG, CNG, propane, and methanol from natural gas (all of which are subject to reduced, energy equivalent rates, as indicated in Table 1) are divided between the Highway and Mass Transit Accounts of the Highway Fund in the same proportions as gasoline tax revenues are divided between those two accounts.

A technical correction to the Taxpayer Relief Act of 1997 is included providing that, the amount of gasoline and diesel fuel tax revenues deposited into the Mass Transit Account would be 2.86 cents per gallon (rather than 2.85 cents per gallon as provided in that 1997 Act).

2. Repeal 1.25 cents per gallon of tax rate on rail diesel fuel

The Committee amendment repeals the 1.25-cents-per-gallon rate on rail diesel fuel that is scheduled to expire after September 30, 1999. The repeal is effective on May 16, 1999.

3. Authorize limited tax-exempt financing for toll road and certain similar highway infrastructure projects

S. 1173 would authorize the construction of up to 15 highway infrastructure projects, such as toll roads involving private business participation. The Committee amendment provides that these projects are to be eligible for tax-exempt private activity bond financing. Bonds for these projects generally are subject to all Code provisions governing issuance of tax-exempt private activity bonds except (1) the annual State volume limits (sec. 146) and (2) no proceeds of these bonds may be used to finance land. In lieu of the State volume limits, the aggregate amount of bonds that could be issued under this pilot project is $15 billion (as allocated by the Department of Transportation in consultation with the Department of the Treasury).

4. Exclusion from income for employer-provided transportation benefits

The Committee amendment permits employers to offer employees the option of electing cash compensation in lieu of any qualified transportation benefit, or a combination of any of these benefits. Qualified transportation benefits include employer-provided transit passes, parking and vanpooling. Thus, no amount is includible in gross income or wages merely because the employee is offered the choice of cash or such benefits. The amount of cash offered is includible in income and wages only to the extent the employee elects cash. In addition, the Committee amendment increases the exclusion for transit passes and vanpooling to

[8] S. 1173 would authorize expenditures for a Congestion Mitigation and Air Quality Program ("CMAQ") pursuant to which State transportation departments (or other project sponsors) would be permitted to enter into agreements with public and private entities to implement certain environmental projects, including programs to promote the use of alternative fuels by privately owned vehicles by underwriting the costs of converting vehicles to alternative fuels.

The Committee amendment provides that to the extent that payments received under the program are not taxable under present law when received, no credit or other deduction is allowed, and a reduction in basis may be required, with respect to property (or other expenditures) financed directly or indirectly with the CMAQ monies. No inference is intended from this provision as to the treatment of amounts received under other Federal grant programs.

[9] The Committee does not intend that tax deposits terminate as a result of inadvertent administrative errors provided those errors are corrected within a reasonable period and do not evidence a pattern of disregard of this provisions.

$100 per month for taxable years beginning after December 31, 2002. The $100 amount is indexed as under present law.

III. BUDGET EFFECTS OF THE COMMITTEE AMENDMENT

A. COMMITTEE ESTIMATE

In compliance with paragraph 11(a) of Rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the revenue provisions of the Committee amendment. (See the following table.)

ESTIMATED BUDGET EFFECTS OF AN EXTENSION OF HIGHWAY TRUST FUND EXCISE TAXES AND RELATED TRUST FUND PROVISIONS, AS APPROVED BY THE SENATE COMMITTEE ON FINANCE ON OCTOBER 1, 1997

[Fiscal years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	1998–2007
1. Extend Highway Trust Fund excise taxes through 9/30/05	10/1/99						No Revenue Effect						
2. Extend income tax credits for ethanol through 12/31/07 and ethanol excise tax exemptions through 9/30/07, and reduce tax subsidy from 54 cents/gallon to 53 cents/gallon in 2001–2002, 52 cents/gallon in 2003–2004, and 51 cents/gallon thereafter.	1/1/01				10	14	25	29	40	45	45	24	208
3. Extend Highway Trust Fund expenditure authority through 9/30/03	10/1/97						No Revenue Effect						
4. Clarification of tax treatment of environmental grant monies	DOE						No Revenue Effect						
5. Repeal the 1.25 cents/gallon rail diesel tax	5/16/99		−11									−11	−11
6. Tax-exempt bonds for private sector highway infrastructure construction	bia DOE			−2	−5	−7	−10	−13	−15	−17	−18	−13	−85
7. Allow employees to elect between cash compensation, qualified transportation fringe benefits or a combination of both [1].	tyba 12/31/02						−2	−3	−5	−5	−5		−21
8. Increase employer-provided mass transit pass income exclusion to $100 [2]	tyba 12/31/02						−2	−13	−17	−27	−30		−89
Net total			−11	−2	5	7	11		3	−4	−9		2

[1] Estimate includes change in receipts to Social Security trust fund (−$13 million for 1998–2007).
[2] Estimate includes change in receipts to Social Security trust fund (−$34 million for 1998–2007).

Legend for "Effective" column: bia=bonds issued after; DOE=date of enactment; tyba=taxable years beginning after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

B. BUDGET AUTHORITY AND TAX EXPENDITURES

Budget Authority

In compliance with section 308(a)(1) of the Budget Act, the Committee states that the revenue provisions do not involve new or increased budget authority.

Tax Expenditures

In compliance with section 308(a)(2) of the Budget Act, the Committee states that the income tax reduction provisions (tax-exempt bonds for private sector highway infrastructure construction, allow employees to elect between cash compensation and qualified transportation fringe benefits, and increase employer-provided mass transit pass income exclusion) will increase tax expenditures by the amounts shown in the above table. The reduction in the income tax credit for ethanol fuels will reduce tax expenditures by $2 million. The excise tax provisions do not involve tax expenditures under the current statutory definition of tax expenditures.

C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 403 of the Budget Act, the Committee advises that the Congressional Budget Office has submitted the following statement with respect to the Committee amendment.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 8, 1997.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office and the Joint Committee on Taxation (JCT) have reviewed the Committee on Finance's amendment to S. 1173, the Intermodal Transportation Act of 1997. The JCT estimate that this amendment would decrease governmental receipts by $11 million in fiscal year 1999 and have no net effect on receipts over fiscal years 1998 through 2002. CBO concurs with this estimate.

The revenue effect of the Committee's amendment to S. 1173 are summarized in the table below. Please refer to the enclosed table for a more detained estimate of the amendment.

REVENUE EFFECT OF THE COMMITTEE ON FINANCE'S AMENDMENT TO S. 1173

[By fiscal years in billions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2000
Proposed Changes:											
On-Budget	0	−11	−2	5	7	13	6	12	8	5	45
Off-Budget	0	0	0	0	0	−2	−6	−9	−12	−14	−43
Total	1	−11	−2	5	7	11	0	3	−4	−9	2

In accordance with the requirements of Public Law 104–4, the Unfunded Mandates Reform Act of 1995, JCT has determined that the Committee amendment contains no federal intergovernmental mandates. States, local, and tribal governments are exempt from income tax and from the motor fuels excise tax.

In addition, JCT has determined that the amendment contains one federal private sector mandate. The provision to reduce the tax credit or exemption from gasoline excise tax for ethanol users would impose direct costs on the private sector of $208 million over fiscal years 2001 through 2007. Please refer to the enclosed letter for a more detailed account of the mandates in the amendment.

FEDERAL PRIVATE SECTOR MANDATES

[By fiscal years, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2007
Total Mandate Cost	0	0	0	10	14	25	29	40	45	45	208

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 establishes pay-as-you-go procedures for legislation affecting receipts or direct spending through 2007. Because the Committee amendment would affect receipts, pay-as-you-go procedures would apply. These effects are summarized in the table below. Changes in Social Security taxes, which are off-budget, are not included.

PAY-AS-YOU-GO CONSIDERATIONS

[By fiscal years, in millions of dollars]

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2007
Receipts	0	−11	−2	5	7	13	6	12	8	5	45
Outlays						Not Applicable					

If you wish further details, please feel free to contact me or your staff may wish to contact Alyssa Trzeszkowski at 226–2720.

Sincerely,

JAMES L. BLUM
(For June E. O'Neill, Director).

Enclosure.

ESTIMATED BUDGET EFFECTS OF AN EXTENSION OF HIGHWAY TRUST FUND EXCISE TAXES AND RELATED TRUST FUND PROVISIONS, AS APPROVED BY THE SENATE COMMITTEE ON FINANCE ON OCTOBER 1, 1997

[Fiscal years 1998–2007, in million of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1996–2002	1998–2007
1. Extend Highway Trust Fund excise taxes through 9/30/05	10/1/99						No Revenue Effect						
2. Extend income tax credits for ethanol through 12/31/07 and ethanol excise tax exemptions through 9/30/07, and reduce tax subsidy from 54 cents/gallon to 53 cents/gallon to 53 cents/gallon in 2001–2002, 52 cents/gallon in 2003–2004, and 51 cents/gallon thereafter.	1/1/01				10	14	25	29	40	45	45	24	208
3. Extend Highway Trust Fund expenditure authority through 9/30/03	10/1/97						No Revenue Effect						
4. Clarification of tax treatment of environmental grant monies	DOE						No Revenue Effect						
5. Repeal the 1.25 cents/gallon rail diesel tax	5/16/99			−11								−11	−11
6. Tax-exempt bonds for private sector highway infrastructure construction	bia DOE			−2	−5	−7	−10	−13	−15	−17	−18	−13	−85
7. Allow employees to elect between cash compensation, qualified transportation fringe benefits or a combination of both [11].	tyba 12/31/02						−2	−3	−5	−5	−6		−21
8. Increase employer-provided mass transit pass income exclusion to $100 [12]	tyba 12/31/02						−2	−13	−17	−27	−30		−89
Net total			−11	−2	−5	7	11		3	−4	−9		2

[1] Estimate includes change in receipts to Social Security trust fund (−$13 million for 1998–2007).

[2] Estimate includes change in receipts to Social Security trust fund (−$34 million for 1998–2007).

Legend for "Effective" column: bia=bonds issued after; DOE=date of enactment; tyba=taxable years beginning after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

IV. VOTE OF THE COMMITTEE

In compliance with paragraph 7(b) of Rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the vote on the motion to approve the Committee amendment.

The Committee amendment was approved by a voice vote, with a quorum present.

V. REGULATORY IMPACT AND OTHER MATTERS

A. REGULATORY IMPACT

Pursuant to paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the Committee amendment.

Impact on individuals and businesses

The Committee amendment extends the present-law Federal Highway Trust Fund excises for 6 years, October 1, 1999–September 30, 2005, in order to provide funding for the 6-year extension of the Highway Fund authorizations in S. 1173. This extension of existing Highway Fund excise taxes will not change the tax burden on individual or business users of the Federal-aid highway system.

The Committee amendment also extends the income tax credits and partial excise tax exemptions for ethanol fuel, at a reduced subsidy rate beginning in 2001. This will increase the tax burden somewhat for individual and business users of ethanol fuels. (See revenue table in Part IV.A., above, for the estimated budget effects of this provision.)

The Committee amendment extends the authority to make expenditures from the Highway Fund for 6 years, October 1, 1997–September 30, 2003, and updates the purposes for which Highway Fund monies may be expended to include such purposes as included in S. 1173.

The Committee amendment clarifies the income tax treatment of certain environmental grant monies under a Congestion Mitigation and Air Quality Program. No inference is intended as to the treatment of amounts received under other Federal grant programs.

The Committee amendment repeals the 1.25 cents per gallon General Fund tax rate on rail diesel fuel, effective on May 16, 1999.

The Committee amendment provides that tax-exempt bonds may be issued to finance up to $15 billion of highway infrastructure projects, such as toll roads involving private business participation.

The Committee amendment permits employers to offer employees the option of electing cash compensation in lieu of any qualified transportation benefit. The amount of cash offered is includible in income and wages only to the extent the employees elect cash. Further, the Committee amendment increases the exclusion for transit passes and vanpooling to $100 per month for taxable years beginning after December 31, 2002.

Impact on personal privacy and paperwork

The Committee amendment will not affect personal privacy, and should not involve any increase in paperwork above that currently required of individual and business taxpayers.

B. UNFUNDED MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (P.L. 104–4).

The Committee on Finance has reviewed the provisions of the revenue title to S. 1173 ("Committee amendment") approved by the Senate Committee on Finance on October 1, 1997. In accordance with the requirements of Public Law 104–4, the Unfunded Mandates Reform Act of 1995, the Committee has determined that the following provision of the Committee amendment contains Federal private sector mandates: Extension and reduction in ethanol tax credit/excise tax exemption

As indicated in the revenue table (Part IV.A., above), this provision is estimated to increase tax revenue by $208 million over fiscal years 2001–2007, which is the estimated amount that the private sector will be required to spend in order to comply with this Federal private sector mandate. This provision will not impose a Federal intergovernmental mandate on State, local, or tribal governments, as such governmental entities are exempt from income tax and from the motor fuels excise taxes.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that an oversight hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Tuesday, October 28, 1997, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on the potential impacts on, and additional responsibilities for Federal land managers by the Environmental Protection Agency's Notice of Proposed Rulemaking on regional haze regulations implementing section 169A and 169B of the Clean Air Act.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Mark Rey at (202) 224–6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. CRAIG. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Forests and Public Land Management of the Senate Committee on Energy and Natural Resources.

The hearing will take place Thursday, October 30, 1997, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 1253, the Public Land Management Improvement Act of 1997.

Those who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Judy Brown or Mark Rey at (202) 224–6170.

SUBCOMMITTEE ON WATER AND POWER

Mr. KYL. Mr. President, for the information of the Senate and the public I am announcing that the Subcommittee on Water and Power of the Committee on Energy and Natural Resources, will hold an oversight hearing to receive testimony to review the Federal Energy Regulatory Commission's hydroelectric relicensing procedures.

The hearing will be held on Thursday, October 30, 1997, at 2 p.m. in room SD–366 of the Dirksen Senate Office Building.

Those interested in testifying or submitting material for the hearing record should write to the Subcommittee on Water and Power of the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510 attn: Shawn Taylor or Howard Useem at (202) 224–7875.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, October 8, 1997, at 9 a.m. in SR–328A to examine food safety issues and recent food safety legislation proposed by the U.S. Department of Agriculture.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet in executive session during the session of the Senate on Wednesday, October 8, 1997, to conduct a markup of the following nominees: Laura S. Unger, of New York, to be a Commissioner of the Securities and Exchange Commission; Paul R. Carey, of New York, to be a Commissioner of the Securities and Exchange Commission; Dennis Dollar, of Mississippi, to be a member of the National Credit Union Administration Board; Edward M. Gramlich, of Virginia, to be a member of the Board of Governors of the Federal Reserve; Roger Walton Ferguson, of Massachusetts, to be a member of the Board of Governors of the Federal Reserve; and Ellen Seidman, of the District of Columbia, to be a Director of Thrift Supervision.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Wednesday, October 8, 1997, at 9:30 a.m. on the nominations of George Black, James Hall, and John Hammerschmidt to be members of the National Transportation Safety Board.

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

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Commerce, Science and Transportation be authorized to meet on Wednesday, October 8, 1997, immediately following the nomination hearing scheduled at 9:30 a.m. on pending committee business.

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

COMMITTEE ON FINANCE

Mr. CHAFEE. Mr. President, the Finance Committee requests unanimous consent to hold a hearing on S. 1195, the "Promotion of Adoption, Safety, and Support for Abused and Neglected Children [PASS] Act" on Wednesday, October 8, 1997, beginning at 10 a.m. in SD–215 Dirksen Senate Office Building.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 8, 1997, at 10 a.m. and 2:15 p.m. to hold a hearing and a business meeting.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. CHAFEE. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee Special Investigation to meet on Wednesday, October 8, at 10 a.m. for a hearing on campaign financing issues.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, October 8, 1997, at 9:30 a.m., in room 485 of the Russell Senate Building to conduct an oversight hearing on the Indian provisions contained in the tobacco settlement between the Attorneys General and the tobacco industry.

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Nomination of David Satcher to be Surgeon General and Assistant Secretary of HHS during the Session of the Senate on Wednesday, October 8, 1997, at 10 a.m.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, October 8, 1997, at 2:30 p.m., to hold a closed business meeting.

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

SUBCOMMITTEE ON ANTITRUST, BUSINESS RIGHTS, AND COMPETITION

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust, Business Rights, and Competition, of the Senate Committee on the Judiciary, be authorized to meet during the session of the Senate on Wednesday, October 8, 1997, at 2 p.m., to hold a hearing in room 226, Senate Dirksen Building, on: "Competition in the cable and video markets."

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

ADDITIONAL STATEMENTS

SECURITIES LITIGATION REFORM STANDARDS ACT

• Mr. DOMENICI. Mr. President, I am pleased to cosponsor S. 1260, the Securities Litigation Uniform Standards Act of 1997 that was introduced yesterday by Senator GRAMM, DODD, and myself. We were joined by a significant number of the Banking Committee members.

After an extensive series of hearings which established a pattern of widespread abuse of the securities laws by class action lawyers, the Congress, in 1995, passed a major overhaul of the class action rules for frivolous securities litigation. The law is also designed to increase the flow of information to investors.

The Act will be 2 years old at the end of the year. With benefit of these 2

years of experience there is evidence that plaintiffs' lawyers have simply moved their frivolous cases to State court to avoid the new Federal reforms.

A study by Stanford Law School professors Joseph Grunfest and Michael Perino found that since the passage of the Federal reforms in 1995, about 26 percent of class action litigation activity has moved from Federal courts to State courts—an unprecedented shift.

The Stanford study concluded that this shift to State court is calculated to "avoid the substantive or procedural provisions of the 1995 reform act—the very provision that deter abusive lawsuits."

Under State law, plaintiff's lawyers still can engage in practices that were prohibited by Congress in 1995.

State courts still allow "boilerplate" complaints; fishing expeditions in the name of discovery even before the plaintiffs' lawyers establish that they have the barest of facts to support their case.

State courts still allow pet plaintiffs. This is the perverse practice by which the lawyer hires the client, not the more customary arrangement under which a client hires the lawyer.

State courts still allow lawsuits simply if the price of the stock drops. Congress decided in 1995 that stock volatility is not stock fraud.

State courts still allow lawsuits if a prediction about the future of the company doesn't come true—even when the statement is accompanied with appropriate warnings that the prediction may not come true and that it is a prediction.

The lack of safe harbors for predictions about the company's future muzzle CEO's and chill the flow of information.

Corporate disclosures reduce the volatility of share prices and increase the liquidity of stock. Yet, State courts do not have safe harbors for predictions as a result, the information flow to investors is limited because State lawsuits are undermining the "safe harbors" that were crafted in the 1995 Act.

There is a tremendous value to corporate disclosures. Forward looking corporate disclosures dramatically lower the cost of capital. Firms that voluntarily disclose information increase their pool of potential investors, and those investors have a more accurate understanding of the firms' likely future performance. There is an overwhelming consensus in the academic, business and investor communities that these factors greatly enhance a firm's ability to attract capital and therefore contribute to economic growth.

The targets of these State-court securities class actions are the high-tech leaders of the future. These are the companies producing the exciting products, and creating excellent jobs.

One of these lawsuits can cripple a young high-tech company. During our first round of hearings, the general counsel for Intel stated that if Intel had been hit with one of these lawsuits in its early days, there might not be an Intel today. One of these frivolous lawsuits could have put them out of business.

These lawsuits are destructive, and the 1995 reforms were designed to protect innocent companies and to provide more information to investors.

The purpose of this legislation is to make sure that the 1995 act works the way that Congress intended.

The bill creates a very narrow preemption requiring that class action law suits involving nationally-traded securities be litigated in Federal court. This would ensure that remedies available to purchasers and sellers of these nationally-traded securities would be uniform and would not vary depending upon the State in which the purchaser or seller lives.

Specifically, the bill only affects class actions in which damages are sought on behalf of more than 25 people.

The legislation only applies to cases involving nationally traded securities.

State regulators retain full authority to bring enforcement actions.

Private class actions involving nationally traded securities that are filed in State court would be moved to Federal court.

Mr. President, I urge the Senate to expeditiously consider and pass this legislation.●

● Mr. HOLLINGS. Mr. President, occasionally there comes along an individual who inspires everyone with his compassion, dedication, and devotion. Alex English is such a person.

Mr. English was born in Columbia, S.C., amid great poverty. As a child, he faced overt racism from many of the city's white residents; in his neighborhood, there were few role models he could emulate. It would have been easy for Alex English to capitulate to the odds, to become a victim of the oppressive poverty and violence that surrounded him. But he did not.

Instead, Alex English became a basketball player. Not just any basketball player, but one of the greatest in the world. On Monday, September 29, 1997, he was inducted into the Naismith Memorial Basketball Hall of Fame. The hall of fame recognized him for his 15-year National Basketball Association career, during which he made the All-Star Team eight times and the All-NBA second team three times. Mr. English led the NBA in scoring in the 1985–86 season. Today, Alex English is No. 9 on the NBA's all-time scoring list.

But Alex English's greatest attributes are not his feather-soft jump shot or his patented, smooth-as-silk drive to the basket. They are his qualities as a warm and generous person. Alex English was first and foremost a team player, in life and in basketball. At his induction on Monday, he said, "Team play was the most important thing for me. I had players around me who knew their roles; there was no selfishness." This unselfish attitude and self-effacing manner is rare among today's famous athletes.

On and off the court, Alex English's grace and poise always have stood out. Lou Carnesecca, former St. John's coach and 1992 Hall of Fame inductee, noted that Alex "always comported himself so well—with class." Dr. Jack Ramsay, another Hall of Fame coach, seconded Carnesecca's praise. These great coaches are telling us what we in South Carolina already know: as a player and person, Alex English is in a league of his own.

We in South Carolina are proud to call Alex English our own. He has been inducted into the South Carolina Athletic Hall of Fame and the University of South Carolina Hall of Fame, as well as the Colorado Hall of Fame. Fortunately for us, Alex also has been quick to acknowledge his South Carolina roots. "I carry all of you with me," he said to the people of Columbia after his induction on Monday. "Columbia has been a very important part of my career; the people there have always treated me very kindly."

Alex English continues to reside in Columbia, preferring to live quietly among old friends rather than ostentatiously. He has not forgotten his old teammates at Dreher High School and the University of South Carolina. He is known to his neighbors and friends as a humanitarian, philanthropist, businessman, and ambassador of goodwill. He gives generously of his time and money. As George Glymph, Alex English's high school coach said, "When the good Lord wanted a role model for the ultimate professional, family man, warrior, he made Alex." Because of Alex English's contributions, his community—our community—is a better place.

At his induction, Alex English told the press, "I love the people of Columbia dearly." Alex, the feeling is mutual.●

TRIBUTE TO CHARLIE BOWMAN

● Mr. BOND. Mr. President, this year marks the culmination of a distinguished career in health care for an individual whose name has become synonymous with the respect and appreciation accorded Missouri hospitals. Charles L. Bowman joined the Missouri Hospital Association staff on October 1, 1975, as vice president of legislative services. He assumed the presidency in January 1986. During his 22 years of service, his word has been his bond, and he has established a solid reputation of integrity in the legislative arena for

himself, the association and the hospital industry.

Charles Bowman helped shape activities of the Missouri Hospital Association at a time when the health care delivery system was undergoing dramatic changes and health policy was assuming a greater importance on the country's public policy agenda. During this period, he charted an advocacy course for Missouri's hospitals through upheavals in the State tort reform laws, massive changes in reimbursement for the Medicare Program, and complete redesign of Missouri's Medicaid Program.

His interest always has been in developing sound health care policy that helps hospitals serve their communities more fully. He advanced landmark legislation in Missouri that provided consent for emergency health care to be rendered to minors, and legislation that provided a definition of death. He also provided the impetus for a statewide voluntary initiative among hospitals to release hospital charge data so that consumers might become more familiar with the price of health care services.

Charles Bowman has championed equity in reimbursement policy designed to preserve vital access to health care in rural and inner-city communities. And he has been a proponent of health system reform that gives hospitals and other providers the opportunity to organize local delivery systems of coordinated care that will allow seniors and others to continue the relationships with health care providers they have trusted over the years.

Charles Bowman has forged a remarkable partnership between Missouri hospitals and State agencies that led to expansions in health funding for poor Missourians, development of an innovative scholarship program to help increase the number of health care providers in underserved areas of the State, and creation of a process for assessing and improving community health that has become a model for other States.

Through his 22 years of leadership for Missouri hospitals and health systems, Charles Bowman has kept the focus of association activities on improving health care for all Missouri's citizens—by spearheading legislative programs, forging collaborative partnerships and seeking innovative solutions to problems of health delivery. He has been a credible voice for Missouri health and an advocate for a strong, unified health care community in Missouri.

His truly has been a distinguished career of health care service.•

TRIBUTE TO PATRICK CURTIS

• Mr. CLELAND. Mr. President, I rise today to honor a dear friend of mine, Patrick Curtis, who is being honored next week with the 100th star on The Palm Springs Walk of Stars in Palm Springs, CA.

Patrick first set off on the road to stardom when he played Baby Beau Wilkes in Gone with the Wind. As a young actor working his way through film school, he worked on dozens of westerns, the Ma and Pa Kettle comedies, nearly every Tony Curtis film made in the 1950's, and even on the Leave it to Beaver set.

Upon graduating from film school, Patrick received a naval ROTC commission. He later served his country in Vietnam in 1967 and 1968.

Patrick has risen to become a highly successful film director and producer. He has had the opportunity to work with many legends and personal heroes of mine. Recently, he produced Meanwhile, Back at the Ranch, a documentary western about John Wayne, Roy Rogers, Gene Autry, Hoppy, and other six-gun legends.

Even with his busy film schedule, Patrick has found time to give back to his community. He was asked by President Ronald Reagan to serve as president of the Vietnam Veterans Leadership Program, an organization of successful veterans with the purpose of helping veterans who have not been able to mainstream. For his continued support of Vietnam veterans, Patrick has been awarded the prestigious Air Force Association Humanitarian Award. He has also been presented lifetime membership in The Marine Corps League, The Navy League, and The Air Force League.

In addition to his work with veterans, Patrick has worked to gather together talent in the entertainment industry to create public service announcements for groups such as Mothers Against Drunk Driving, DARE, and Activities for Retarded Children—all paid for by funds raised from the entertainment industry.

Mr. President, I would like to honor Patrick Curtis for his outstanding and numerous contributions to the entertainment industry, to America's veterans, and to his community. Patrick's selfless service to his country and community are a great example of what it means to be a great, patriotic American.•

RIGHT TO LIFE OF MICHIGAN BANQUET

• Mr. ABRAHAM. Mr. President, I rise today to honor those of the Region 2 Affiliates of Right to Life of Michigan for their enduring commitment and dedication to one of today's most important social issues.

Mr. President, to those of us who are pro-life, being pro-life means protecting our families and respecting the sanctity of life. It also means maintaining the central role of the family in all our lives. I would like to take this opportunity to thank those of Right to Life of Michigan for their perseverance in support of those goals. Unfortunately, we still must spend much of our time in the political sphere, arguing against laws that promote the taking of unborn human lives, and I am grateful for all their efforts in that area as well.

Ending the tragedy of abortion will not be easy. But groups like Right to Life of Michigan and the National Right to Life Committee are fighting a winning battle. By their example, as well as their arguments, they are showing the power and the beauty of human life.•

MICHIGAN ASSOCIATION OF NON-PUBLIC SCHOOLS ANNIVERSARY

• Mr. ABRAHAM. Mr. President, I rise today to commemorate the Michigan Association of Non-public Schools (MANS) on their 25 years of service to this special group of educators and students. Founded in 1972, MANS has advocated on behalf of non-public schools, established an agenda for their advancement, and given witness to the communities in Michigan regarding their immense social, educational, and economic benefit.

With the voluntary support of over 540 schools, nearly 7,000 instructors and 140,000 students of Michigan's next generation are affected by the outreach and activities sponsored by MANS. Through the Michigan Non-public School Accrediting Association, its affiliated Parent Network, and its organization of school resources, MANS works toward school improvement, encourages greater parental participation, and provides a host of services vital to bringing non-public school students the best education they can receive.

Through the years, MANS has been instrumental in promoting equal education benefits and services for all children. Regular conferences are held and have gained the enthusiastic support of teachers and administrators, with as many as 6,000 participants having attended recent gatherings. Finally, MANS maintains a role as a respected partner and resource for all levels of government whose actions impact education in Michigan.

Mr. President, on behalf of the U.S. Senate, I would like to express appreciation for the many individuals who have given of their time and talent to bring about a better community through MANS. We are thankful for their dedication to Michigan's children.•

ITALIAN-AMERICAN COLUMBUS DAY CELEBRATION (LIVONIA)

• Mr. ABRAHAM. Mr. President, I rise today to celebrate the achievements of Italian-Americans as we join to commemorate the accomplishment of the

first Italian-American, Christopher Columbus. Italian-Americans came to this country with little, but have left a large mark. Therefore, it gives me great pleasure to celebrate with them today, Columbus Day.

Mr. President, certainly everyone in this country is grateful for the courage, dignity, and thrill for exploration given to this Nation by Christopher Columbus. As a grandson of Lebanese immigrants, I am convinced that the various ethnic heritages people bring with them when they come to the United States greatly benefit our country. Indeed, Italian-Americans have taken over where Columbus left off, building this Nation into the great power that it is. Certainly, without the leadership, insight, and continued support of one of this Nation's most valued resources, America would face a terrible emptiness.

Many Italian-Americans have given generously of their time and energy in preparation of this celebration, and they should be commended for their efforts. I am very pleased to have this opportunity to recognize this very meaningful event in the U.S. Senate.•

BYRON CENTER RIGHT TO LIFE BANQUET

• Mr. ABRAHAM. Mr. President, I rise today to honor members of Michigan's Right to Life in Byron Center for their enduring commitment and dedication to one of today's most important social issues.

Mr. President, to those of us who are pro-life, being pro-life means protecting our families and respecting the sanctity of life. It also means maintaining the central role of the family in all our lives. I would like to take this opportunity to thank those of Right to Life of Michigan for their perseverance in support of those goals. Unfortunately, we still must spend much of our time in the political sphere, arguing against laws that promote the taking of unborn human lives, and I am grateful for all their efforts in that area as well.

Ending the tragedy of abortion will not be easy. But groups like Right to Life of Michigan and the National Right to Life Committee are fighting a winning battle. By their example, as well as their arguments, they are showing the power and the beauty of human life.•

DONALD J. BABB

• Mr. BOND. Mr. President, I stand before you today to pay tribute to Mr. Donald J. Babb. Donald recently received the 1997 Shirley Ann Munroe Leadership Development Award, by the American Hospital Association, a distinction given to the rural hospital administrator across the Nation who "displayed outstanding leadership commitment to meet the challenges faced by small/rural hospitals."

Donald was chosen to be the administrator by the first board of directors for the Citizens Memorial Hospital in Bolivar, MO, in the early 1980's. With his experience in hospital administration and construction, Donald has taken what was once just a dream to new heights of reality. In the last 17 years he has built a huge rural facility as executive director of the Citizens Memorial Health Care Foundation. This facility provides excellent health care to more than 75,000 individuals in Bolivar and the surrounding areas. The Citizens Memorial Health Care Foundation now consists of an acute care hospital, three long-term care facilities, a residential care facility, independent living apartments, 12 physician clinics, including six certified rural health clinics—the first created in Missouri—home health, hospice, home medical equipment, homemaker services, a wellness and counseling center, a statewide health maintenance organization, and an extensive outpatient rehabilitation program. Donald also always makes time for his staff, patients, residents, and community members. He meets individually with each new employee and makes regular rounds of all of his health care facilities in the area.

It is a privilege to honor Citizens Memorial Hospital Administrator, Donald J. Babb, on this well deserved award. I know the hospital will continue to improve and grow for years to come. The State of Missouri is lucky to have such a facility and I want to express my sincere appreciation to Donald Babb, who makes Citizens Memorial Hospital excel.•

SERGEANT ALVIN C. YORK

• Mr. FRIST. Mr. President, today is an historic day for it was 79 years ago on this date, October 8, 1918, that Sgt. Alvin C. York faced a battery of German soldiers alone in the Battle of the Argonne. Sergeant York's bravery during World War I captured the imagination of the world. Here at home, he was heralded as a true hero, complete with the largest ticker tape parade New York City had ever seen. President Wilson and General Pershing offered their personal thanks, and Sergeant York received this Nation's Medal of Honor.

But home for Alvin York, despite his new found fame, was the hills of Tennessee in Fentress County. The values instilled in him by his family remained with him throughout his life, and he used his platform as a hero of the Tennessee hills to better the lives of his neighbors and friends. Sergeant York founded an industrial and agricultural school in Fentress County, built a church and Bible school, and when money ran short, he helped to pay the teachers' salaries himself.

Today, 79 years later, we salute the memory of Alvin C. York and his heroic deeds as a young soldier far from home on the battlefield in France. Despite his great fame, home and family were far more important to him. His heroism extends far beyond the battlefield. For the values that he lived each and every day as a citizen of Fentress County, TN, are values for all of us to emulate in our daily lives.

Mr. President, the Sergeant York Historical Association, of which I am proud to serve on the board of directors, is committed to keeping the memory of Sergeant York alive. I commend the association for its efforts to ensure that the York homeplace, his grist mill, his papers, and the history of World War I are not forgotten, but will live on for generations to visit, enjoy, and appreciate a piece of our Nation's fabric.

Sergeant York was a World War I hero, but in truth, he is a hero for all time.•

MEDICARE BENEFICIARY FREEDOM TO CONTRACT ACT

• Mr. MURKOWSKI. Mr. President, I rise in support of the Medicare Beneficiary Freedom to Contract Act of 1997. This legislation protects the right of the elderly to be treated by the physician of their choice.

Great reform of Medicare was achieved during the 1997 Balanced Budget Act: regulations were streamlined, greater flexibility was given to rural health care, and, most important, the Medicare trust fund—on the verge of bankruptcy—was salvaged for an additional 10 years.

However, due to the administration's threat to veto the entire Balanced Budget act, the conference committee to the act added a requirement clearly infringing on the rights of senior citizens. The President's provision prohibits providers who privately contract from treating Medicare patients for a period of 2 years. Therefore, upon enactment of the 1997 Balanced Budget Act, it is now unlawful for a doctor to take a private payment from a Medicare-eligible patient if during the previous 2 years he has billed Medicare for any service rendered to a patient over the age of 65.

What is the reality of the President's provision?

The reality is that it will be almost impossible for a senior citizen to contract privately for medical services because few or no physicians are going to be able to make ends meet if they can't accept Medicare patients for 2 years. The reality is that, unlike every other insured American, senior citizens have no option but to receive the services that their insurance carrier, Medicare, recognizes and is willing to pay for. In essence, upon turning the age of 65, you have now lost a significant right—a

right of choice in who provides your health care.

Mr. President, even in the socialized medical system of Great Britain, choice is offered to the elderly. In Great Britain, a senior citizen has the choice to pay privately for his or her medical services. Don't the elderly of America deserve that same choice?

To remedy this situation, I have sponsored legislation introduced by Senator KYL of Arizona and Senator NICKLES of Oklahoma. This legislation explicitly provides that any Medicare beneficiary can enter into an agreement with the physician or practitioner of their choice for any health care service and for any length of time when they choose to pay for such services out of their own pocket. In brief, the bill will ensure that Medicare-eligible beneficiaries who choose to pay out of pocket will have an unrestricted right to the health care provider of their choice. I cosponsored a similar bill 2 years ago.

The American Medical Association has strongly endorsed this legislation. In a letter dated September 18, 1997, the AMA executive vice-president writes:

The AMA believes that it is essential that Medicare-eligible seniors have the unfettered right to spend their own money to buy health care if and as they so choose, irrespective of coverage under the Medicare program. * * * (this) bill is an urgently needed clarification of the law and would greatly further the goal of providing Medicare beneficiaries with more choices in their pursuit of health care.

I ask my colleagues to join me in support of this important legislation.●

CHANGES TO THE APPROPRIATIONS COMMITTEE ALLOCATION

● Mr. DOMENICI. Mr. President, section 203 of House Concurrent Resolution 84, the Concurrent Resolution on the Budget for fiscal year 1998, allows the chairman of the Senate Budget Committee to adjust the allocation for the Appropriations Committee to reflect new budget authority and outlays provided for the renewal of expiring contracts for tenant- and project-based housing assistance under section 8 of the United States Housing Act of 1937.

I hereby submit revisions to the 1998 Senate Appropriations Committee budget authority and outlay allocations, pursuant to section 302 of the Congressional Budget Act.

The revisions follow:

	Budget authority	Outlays
Current allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	256,036,000,000	283,243,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total allocation	807,721,000,000	832,262,000,000
Adjustments:		
Defense discretionary		
Nondefense discretionary	−486,000,000	
Violent crime reduction fund		
Mandatory		
Total allocation	−486,000,000	
Revised allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	255,550,000,000	283,243,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total allocation	807,362,000,000	832,383,000,000

CHANGES TO THE BUDGET RESOLUTION AGGREGATES AND APPROPRIATIONS COMMITTEE ALLOCATION

● Mr. DOMENICI. Mr. President, section 314(b)(2) of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect additional new budget authority and outlays for an earned income tax credit compliance initiative.

I hereby submit revisions to the budget authority, outlays, and deficit aggregates for fiscal year 1998 contained in sec. 101 of House Concurrent Resolution 84. The revisions follow:

	Deficit	Budget authority	Outlays
Current aggregates	173,341,000,000	1,390,786,000,000	1,372,341,000,000
Adjustments	121,000,000	127,000,000	121,000,000
Revised aggregates	173,462,000,000	1,390,913,000,000	1,372,462,000,000

I hereby submit revisions to the 1998 Senate Appropriations Committee budget authority and outlay allocations, pursuant to sec. 302 of the Congressional Budget Act, in the following amounts:

	Budget authority	Outlays
Current allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	255,909,000,000	283,122,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total allocation	807,721,000,000	832,262,000,000
Adjustments:		
Defense discretionary		
Nondefense discretionary	127,000,000	121,000,000
Violent crime reduction fund		
Mandatory		
Total allocation	127,000,000	121,000,000
Revised allocation:		
Defense discretionary	269,000,000,000	266,823,000,000
Nondefense discretionary	256,036,000,000	283,243,000,000
Violent crime reduction fund	5,500,000,000	3,592,000,000
Mandatory	277,312,000,000	278,725,000,000
Total allocation	807,848,000,000	832,383,000,000

QUORUM CALL

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

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

The bill clerk proceeded to call the roll.

Mr. COATS. I ask unanimous consent to rescind the call of the quorum on the condition of asking the Senator from Montana if he will allow that to happen for the purpose of speaking in morning business on something not related at all to campaign finance.

Mr. BAUCUS. I object.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent further proceedings under the quorum call be dispensed with.

Mr. BAUCUS. I object.

The PRESIDING OFFICER. The objection is heard.

The bill clerk proceeded to call the roll.

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

Mr. BAUCUS. Mr. President, reserving the right to object. I would love to hear the speech by the Senator from Oklahoma. I wish I could have heard the speech of the Senator from Rhode Island. Very respectfully, I must object.

The PRESIDING OFFICER. Objection is heard.

The bill clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 5 Leg.]

Abraham	Burns	Gorton
Akaka	Chafee	Inhofe
Baucus	Coats	
Biden	Dorgan	
Lott	Murray	Stevens
McConnell	Santorum	Warner

The PRESIDING OFFICER. A quorum is not present.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. LOTT. Mr. President, I move that the Senate now stand in adjournment.

Mr. BAUCUS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

VOTE ON MOTION TO ADJOURN

The PRESIDING OFFICER. The question is on agreeing to the motion. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Florida [Mr. MACK] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 54, nays 45, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—54

Abraham	Enzi	Lott
Allard	Faircloth	Lugar
Ashcroft	Frist	McConnell
Bennett	Gorton	Murkowski
Bond	Gramm	Nickles
Brownback	Grams	Roberts
Burns	Grassley	Roth
Byrd	Gregg	Santorum
Campbell	Hagel	Sessions
Chafee	Hatch	Shelby
Coats	Helms	Smith (NH)
Cochran	Hutchinson	Smith (OR)
Collins	Hutchison	Snowe
Coverdell	Inhofe	Specter
Craig	Inouye	Stevens
D'Amato	Jeffords	Thomas
DeWine	Kempthorne	Thurmond
Domenici	Kyl	Warner

NAYS—45

Akaka	Feinstein	Lieberman
Baucus	Ford	McCain
Biden	Glenn	Mikulski
Bingaman	Graham	Moseley-Braun
Boxer	Harkin	Moynihan
Breaux	Hollings	Murray
Bryan	Johnson	Reed
Bumpers	Kennedy	Reid
Cleland	Kerrey	Robb
Conrad	Kerry	Rockefeller
Daschle	Kohl	Sarbanes
Dodd	Landrieu	Thompson
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Wellstone
Feingold	Levin	Wyden

NOT VOTING—1

Mack

The motion was agreed to.

ADJOURNMENT UNTIL TOMORROW

The PRESIDING OFFICER (Ms. COLLINS). The Senate stands adjourned. It will reconvene at 12 noon on Thursday, October 9, pursuant to the provisions of Senate Resolution 3.

Thereupon, the Senate, at 6:05 p.m, adjourned until Thursday, October 9, 1997, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate October 8, 1997:

THE JUDICIARY

GARR M. KING, OF OREGON, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF OREGON VICE HELEN J. FRYE, RETIRED.

NORMAN K. MOON, OF VIRGINIA, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF VIRGINIA VICE JACKSON L. KISER, RETIRED.

FEDERAL EMERGENCY MANAGEMENT AGENCY

JAMES HUDSON BAILEY, OF WISCONSIN, TO BE DEPUTY DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE HARVEY G. RYLAND, RESIGNED.

DEPARTMENT OF STATE

CHRISTOPHER C. ASHBY, OF CONNECTICUT, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ORIENTAL REPUBLIC OF URUGUAY.

JAMES A. LAROCCO, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE STATE OF KUWAIT.

U.S INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

MARK ERWIN, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1999, VICE GORDON D. GIFFIN, TERM EXPIRED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

CARL H. LEONARD, OF VIRGINIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

DONALD BOLYSTON CLARK, OF NEW HAMPSHIRE
TONI CHRISTIANSEN-WAGNER, OF COLORADO
KATHLEEN DOLLAR HANSEN, OF VIRGINIA
DONALD L. PRESSLEY, OF VIRGINIA
HENRY W. REYNOLDS, OF FLORIDA
JOHN A. TENNANT, OF CALIFORNIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE.

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

HILDA MARIE ARELLANO, OF TEXAS
PRISCILLA DEL BOSQUE, OF OREGON
RONALD D. HARVEY, OF TEXAS
PETER BENEDICT LAPERA, OF FLORIDA
GEORGE E. LEWIS, OF WASHINGTON
WAYNE R. NILSESTUEN, OF MARYLAND
JOY RIGGS-PERLA, OF VIRGINIA
DAVID LIVINGSTONE RHOAD, OF VIRGINIA
F. WAYNE TATE, OF VIRGINIA

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE, AND FOR APPOINTMENT AS CONSULAR OFFICERS AND SECRETARIES OF THE DIPLOMATIC SERVICE, AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR:

JOANNE T. HALE, OF CALIFORNIA

DEPARTMENT OF STATE

PHYLLIS E. OAKLEY, OF LOUISIANA, TO BE AN ASSISTANT SECRETARY OF STATE, VICE TOBY TRISTER GOTI.

BETTY EILEEN KING, OF MARYLAND, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SESSIONS OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS DURING HER TENURE OF SERVICE AS REPRESENTATIVE OF THE UNITED STATES OF AMERICA ON THE ECONOMIC AND SOCIAL COUNCIL OF THE UNITED NATIONS.

SOCIAL SECURITY ADMINISTRATION

STANFORD G. ROSS, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2002, VICE WILLIAM C. BROOKS.

THE JUDICIARY

MICHAEL B. THORNTON, OF VIRGINIA, TO BE A JUDGE OF THE U.S. TAX COURT FOR A TERM OF 15 YEARS AFTER HE TAKES OFFICE, VICE LAPSLEY WALKER HAMBLEM, JR., RETIRED.

HOUSE OF REPRESENTATIVES—*Wednesday, October 8, 1997*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

The Scriptures tell us that for everything there is a season and a time for every matter under Heaven. We pray, almighty God, that we will use our time with vitality and enthusiasm so that we are stewards of the days we have been given to be Your people and do those good works that flow from a grateful heart. We admit that we do not always use our days in ways that reflect Your will for us, but we earnestly pray that we will experience in our daily tasks the joys and opportunities of love to You, O God, and doing what we can to be of service to the people all about us. May Your peace that passes all understanding, be with us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MCNULTY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MCNULTY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 5 of rule I, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Missouri [Mr. BLUNT] come forward and lead the House in the Pledge of Allegiance.

Mr. BLUNT led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize fifteen 1-minutes on each side.

WHITE HOUSE VIDEOTAPES

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, let us go to the videotape. There we can see President Clinton schmooze with John Huang and Roger Tamraz at fundraisers held at the White House. The White House staff has videotaped 44 or more of these events, probably to help secure President Clinton's place in history.

I hope the White House has videotaped other history-making scenes by this administration, like when President Clinton supported the Internal Revenue Service over the taxpayers by threatening a veto of commonsense efforts to reform the IRS. That gesture will be remembered by every taxpayer in America. I hope the White House has videotaped the Vice President's claim that there was no controlling legal authority when he described why he broke campaign finance laws. Some Members of this House might want to keep that videotape really close at hand.

Mr. Speaker, when it comes to this White House, I say let us go to the videotape.

SUPPORT THE VENTO-RAHALL AMENDMENT TO THE AMERICAN LAND SOVEREIGNTY PROTECTION ACT

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, today we have a chance to vote on a good amendment, the Vento-Rahall amendment. We have the so-called American Land Sovereignty Protection Act which breaks really two treaties and repeals a protocol with hundreds of nations. The United States has led efforts of hundreds of nations to, in fact, provide the conservation and recognition of our areas.

But in this bill, last night we were able to offer an amendment which deals not just with conservation but deals with exploitation. We think if the Congress is going to approve the conservation measures in this Congress, it ought to also approve foreign firms that seek to exploit this, exploit our resources, and there are many of them. We know under the 1872 mining law that Canadian, United Kingdom, Danish, and Australian firms are coming in here and getting billions of dollars worth of important assets for mere thousands of dollars.

The Vento-Rahall amendment today gives us a chance to vote on that, to vote to provide parity; that is to say, if we are going to have conservation votes, we ought to have votes when we have exploitation.

MORE ON THE IRS

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, the IRS wants to repent. They know they have been a little hard on Americans, but they are sorry and they will not do it anymore. The IRS is starting to begin to sound like campaign reform.

It starts out, "We did not do it. Nobody saw us. You cannot prove anything. We did not do it." Then the truth starts to become apparent and the excuses change. "Ok, we might have had some problems but it was not wrong." Then it is, "Yes, we did it but we will not do it anymore."

That is about where the IRS is today. They have done something wrong. Quotas for their IRS agents, singling out individuals like Paula Jones, harassing small business men and women, striking fear across America.

And some people like Martin Grimes of Wichita, an RV salesman, are just plain mad. In his last $3,500 check that he got for commission, $1,400 of it went directly to the IRS. Mr. Speaker, there are many good people who are working at the IRS who have been put in a very bad situation by their management. It is time to cut the IRS code and flatten the tax.

SUPPORT PUBLIC SCHOOLS

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, Democrats strongly oppose spending taxpayer dollars on private and religious schools and have argued for making the necessary improvements in public schools instead. This week the Republicans hope to pass a bill that would make Washington, DC the first victim in a grand scheme to undermine public schools through taxpayer funded vouchers for private or religious schools. As much as $45 million in Federal funds would be made available to pay for private education for about 3

percent of the District of Columbia's students.

Mr. Speaker, in my opinion it makes no sense to take away $45 million that could be made available to the city of Washington to improve basic skills or to fix deteriorated buildings in the public schools and instead use this money for private schools. With 9 out of 10 children in America attending public schools, Democrats understand that we need to rebuild and reform public schools, not destroy them and waste public funding on private schools. I hope that my Republican colleagues will join us in moving a positive agenda for public education rather than wasting our time on vouchers.

IN SUPPORT OF HOUSE POSITION ON FOREIGN OPERATIONS BILL

(Mr. BLUNT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUNT. Mr. Speaker, yesterday this body instructed our conferees working with the Senate on the foreign operations bill to stay with the House position that relates to taxpayer dollars spent for abortion. Abortion is an issue that there are many differences of opinion of on the floor of this House, but there has generally been broad agreement that taxpayers' dollars should not be spent for abortions in the United States. We need to ensure that that same policy is extended beyond our borders and with taxpayers money that is sent to other countries.

Certainly it was disturbing just a few days ago when the Vice President said that the biggest environmental danger in Third World countries was too many children, too many children in Mexico, too many children in Africa, too many children in Asia. That should not be the position of our Government. Our conferees need to stand firm. Taxpayers' dollars should not be used for abortions in America. They should not be used for abortions overseas.

COINCIDENCE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, Patricia Mendoza heckled the President; she got audited. Kent Brown sued the First Lady; he got audited. The National Center for Public Policy criticized the White House; they got audited. Billy Dale got the White House mad; he got audited. Paula Jones refused a cash settlement; she got audited.

If that is not enough to tax your disgust, Shelly Davis, the author of Unbridled Power, who testified about IRS abuses before the Senate, got a notice in the mail yesterday; she is being audited.

Unbelievable. After all this, an IRS spokesman said, coincidence, all coincidence. I say, Mr. Speaker, the IRS has turned into a bunch of political prostitutes.

I want to apologize to all the hookers in America for having associated them with the IRS. I say beam me up, dot com, coincidence this.

A COMMISSION TO OVERSEE THE IRS

(Mr. ROGAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGAN. Mr. Speaker, I associate myself with the general comments of the gentleman from Ohio. He is absolutely right, Mr. Speaker. In light of the hearings we had on the IRS, it is clear that there is immediate need for reform.

We Republicans have joined with some Democrats in urging a citizens oversight commission for the IRS. Incredibly, the White House has opposed this. The President's Chief Economic Advisor, Gene Sperling, called the proposal for citizen oversight of the IRS "a recipe for conflict of interest" and "a serious step backward". The President's comments were even worse than those of his advisor. He said, "I believe the IRS is functioning better today than it was five years ago." The President claimed that a citizens commission to oversee it would mean "less accountability" and "less trust in the agency."

I cannot conceive of how the IRS could possibly have less accountability and less trust from the American people than it does today. This administration has its head in the sand on this issue. The IRS must be held accountable by taxpayers and citizens, not by the White House and bureaucrats.

CRUMBLING SCHOOLS

(Mr. BLAGOJEVICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLAGOJEVICH. Mr. Speaker, we have the privilege here in America to live in what is arguably the wealthiest country in the world. In fact, when we compare the wealth of our country with other countries in the span of human history, we are probably easily among the wealthiest. We are fortunate to live in a country that offers that kind of well-being.

Yet across America our school buildings are crumbling. Fourteen million American students this morning went to school in crumbling school buildings. Education in my view is not only a proper role for government, it is a moral imperative for those of us who are involved in government. It is a scandal and it is a shame that in one of the wealthiest countries in human history we can allow crumbling school buildings to exist in the United States of America.

This Congress recently passed an appropriation for $21 billion for B–2 bombers, B–2 bombers that cannot even fly in the rain. Yet this very Congress denied $5 billion to help improve our crumbling school buildings. We must get our priorities straight. Public schools need the help of the Federal Government and crumbling school buildings are a national scandal.

REAUTHORIZATION OF THE ENDANGERED SPECIES ACT

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, I come before the House today, to be followed by my good friend, the gentleman Michigan [Mr. DINGELL] to discuss the need to reauthorize the Endangered Species Act. I believe the time is now to reauthorize this granddaddy of all environmental laws.

It is vital that any piece of legislation that is developed is done so in a bipartisan way. I want to congratulate also the Senate in their effort to craft such a bill. This process must recognize the needs of people who are impacted by ESA as well as the issue of declining species.

I want to commend my colleague, the gentleman from Alaska [Mr. YOUNG], chairman of the Committee on Resources, and the ranking member, the gentleman from California [Mr. MILLER] for their recent efforts to craft a bipartisan bill.

This process has been supported by the involvement of my friend [Mr. DINGELL] as well as the gentleman from Louisiana [Mr. TAUZIN] and the gentleman from California [Mr. POMBO].

We must set aside partisan politics. We must set aside personal interest and do what is right for the people of this country and for the species which this legislation protects.

HONEST TAXPAYING CITIZENS SHOULD NOT HAVE TO FEAR IRS

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, how many honest American citizens are going to be terrorized by the IRS before the IRS changes the way it does business?

Everyone knows that it is not just the tax cheats who panic when the IRS comes around to conduct an audit. Ordinary American citizens who pay taxes are driven to panic as well. It should not be that way.

Tax cheats should feel the cold, unrelenting power of the IRS when their

misdeeds are found out, but honest citizens who do their best to comply with an extremely complicated Tax Code should have nothing to fear from an audit.

But the IRS knows that many people who work for a living, who have family obligations, and are living from paycheck to paycheck do not have either the time or the money to do battle with the IRS when the auditors want to play hard ball. IRS agents know that and they can count on that advantage.

But an ordinary citizen who is not a tax cheat simply does not have the money to pay for all the legal leadership necessary to defend himself against the IRS. It is not a fair fight. It is a recipe for abuse and it must stop.

SUPPORT PUBLIC SCHOOL SYSTEM

(Ms. VELÁZQUEZ asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. VELÁZQUEZ. Mr. Speaker, our public schools are under attack. Across the country there are students trying to learn in conditions that we should be ashamed of: crumbling walls, leaky roofs, and overcrowding.

The Republicans' response to this crisis is amazing. They want to take money out of the public school system and give it to private schools.

A recent poll shows that the vast majority of Americans oppose Republicans' attempt to use tax dollars for private schools. The American people want to be able to provide all our children with a first class public education, but the Republicans do not. They want to allow public schools to continue to deteriorate while using taxpayers' dollars to subsidize private schools.

Mr. Speaker, we must not allow the Republicans to tear down our public school system. We must continue our commitment to providing every child in this country with a quality education.

NOW IS THE TIME FOR REAL ACTION IN REFORMING IRS

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, the Internal Revenue Service is bullying the American taxpayer, and it is time for this practice to stop.

I appreciate what my colleagues in both the Senate and the House have done to look into this problem with the IRS. Now it is time for real action. The Congress needs to build on the current momentum and take advantage of this opportunity for true tax reform.

To police the tax system, our government employs over 110,000 IRS agents at an annual cost of $9.8 billion a year. A fair, simpler tax system would eliminate the need for this tremendous and unethical bureaucracy.

The American taxpayers have known this for years, that the IRS needs drastic reform. Now it is time for the Congress to help the taxpayers of America and simplify the Tax Code. Let us give the taxpayers the relief they deserve.

CONGRESS SHOULD NOT ABANDON OUR PUBLIC SCHOOLS

(Mr. RODRIGUEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODRIGUEZ. Mr. Speaker, they are at it again. The House majority has planned to help only a select few of the students that exist. Nine out of ten students attend our public school system. Once again, 9 out of 10 students attend our public school systems. We have to be responsive to those individuals, and our obligation as elected officials is to those people that attend our public school system.

We have to assure that they have the resources. We have to make sure our teachers have the training that is required. We have to make sure that our buildings are adequate and, at the same time, we have to make sure that they have access to the latest technology.

As taxpayers, our obligation is to the public schools, not to the private or religious schools. The majority's plan to abandon our public schools is not an option. Vouchers are not the answer. Abandoning our public schools will only make it worse.

What we need is a commitment of repairing our buildings, a commitment to our students that are out there, commitment to our teachers, a commitment to our communities. We must work for all our students that are out there. Let us not abandon our schools.

CAMPAIGN FINANCE REFORM IS ALIVE

(Mr. HUTCHINSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUTCHINSON. Mr. Speaker, some individuals have misinterpreted yesterday's vote in the Senate as an indication that campaign finance reform is dead. I think they are deceiving themselves. There was no knockout punch. It was a draw.

Campaign finance reform is alive and it is a golden opportunity for the House and our House colleagues to prove that. The spotlight will turn to the House and whether we can follow through on our promises to take the electoral process out of the hands of the highest bidder and put it back in the hands of the American bidder.

I applaud Speaker GINGRICH's comments that he will give campaign finance reform its due in the House, and the gentleman from California [Mr. THOMAS] for asserting that he will hold hearings on the reform effort and examine the different campaign finance bills, including the bill introduced by myself and my friend, the gentleman from Maine, Mr. TOM ALLEN.

Mr. Speaker, there has been some heated debate on this issue. Let us take that debate out of the pages of the newspapers and put it on the floor of the House of Representatives. Let us make it an open debate, hear all the sides, hear the viewpoints, and decide which direction we are going; and, Mr. Speaker, after that debate, then we can decide just how our campaigns should be run, by the highest bidder or by the American public.

VOTE "YES" ON FARR AMENDMENT TO H.R. 901

(Mr. FARR of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FARR of California. Mr. Speaker, I rise this morning because the second vote we are going to take today is on H.R. 901, and I have an amendment to that bill that is on the floor. It is the second vote we will take. It amends the Land Sovereignty Act.

I rise as a private landowner to urge my colleagues to protect private property rights. I rise as a former county supervisor to ask my colleagues to protect local control. I rise as a former member of the State legislature to ask my colleagues to protect State rights. And I rise as a Member of Congress to ask my colleagues to vote for that amendment to protect our information sources.

Vote "yes" on the Farr amendment, the second vote this morning.

PRESIDENT CLINTON READY TO IMPOSE NEW ENERGY TAXES

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, there he goes again. President Clinton has stepped up efforts to force compliance with the treaty limiting greenhouse gas emissions. And with a knee-jerk reaction, how does he propose to accomplish this goal? Simply by raising taxes. That is right, a tax increase. A tax increase on energy.

The ink is not even dry on the newly enacted tax cut package and the President is proposing a new tax, a green tax, that will place an unbearable burden on our most vulnerable citizens. And for what? The treaty exempts 132 of the 166 nations of this world. This places the entire burden of reducing greenhouse emissions on the industrialized nations. That is us. This will not

eliminate greenhouse gases, it merely changes the point of origin, the point of production.

By itself the Clinton-Gore-Browner Treaty will have a devastating effect on the American workers, but now the President wants to add insult to injury with his green tax. I ask the President to think hard about his ill-conceived green tax.

EVERY AMERICAN CHILD DESERVES A QUALITY EDUCATION

(Mr. GREEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN. Mr. Speaker, I want to disassociate myself with any of this green tax stuff, but what I am here for this morning is to talk about the fact that every American child deserves a quality education. Quality education needs to be available to all students whether or not they can afford it.

Many families in our districts cannot afford to send their children to private schools even with vouchers. School vouchers only address a small percentage of the children and they take away scarce dollars from public education.

It is not our American heritage to make quality education only available to a few select children and then forget the rest. Unlike other countries, we strive to educate everyone, not just the elite. Education needs to be available to all Americans, not just the ones who can afford it. That is why in our Nation's recent history public education is for everyone.

In a recent poll, 71 percent of Americans want to reform public education. Almost the same number support public education. We need to listen to the American people. They want to improve our public schools. There are problems in public schools and we need to address these problems, but let us fix public education, not experiment with our Nation's future.

WHITE HOUSE SHOULD FORGET ABOUT ENERGY TAX INCREASE

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, just when we think our pocketbook is safe for a while, those folks over at the White House begin to dream up yet another new tax for the American people. Apparently, those same liberal economists who gave us the largest single peacetime tax increase in American history back in 1993 are now hard at work putting together an energy tax scheme that will increase the price of gasoline by up to 25 cents per gallon and the cost of home heating and electricity by hundreds of dollars a year.

Here is what one anonymous Clinton administration official reportedly said about this possible new energy tax. Obviously, we would want to do it in a way that is least obvious to consumers, but, any way we do it, consumers are going to pay the cost. That is scary.

Mr. Speaker, working Americans are finally going to benefit from some tax relief next year, thanks to the work of this Congress. Let us let them enjoy it and let us urge President Clinton to forget about any new taxes.

VOUCHERS PROVIDE PARENTS WITH A FALSE CHOICE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, our Republican friends are promoting a plan to take taxpayers' dollars out of the public school system and to put it into private schools, benefiting the few and the wealthy. The majority of the American people oppose this idea for a very good reason. This proposal would steal money from the public schools, money that could be used to fix leaky roofs or buying new textbooks or computers for our kids.

My Republican colleagues like to use the term "school choice." But vouchers provide parents with a false choice. Vouchers do not even come close to covering the high cost of tuition at the best private schools, making the voucher useless for working families and providing the greatest benefit for wealthy families who can already afford the cost of that tuition.

Democrats will oppose Republican efforts to try out this new experiment, because our children are not guinea pigs. We are not going to experiment with their lives and with their future. I urge my colleagues to oppose the Republican voucher plan.

AWESOME POWER OF IRS HAS CORRUPTING INFLUENCE ON ITS AGENTS

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, what does it say about the IRS when its own agents fear the IRS? The IRS is an agency that puts extraordinary pressure on good people to do the wrong thing, even to the point of using criminal intimidation tactics to break the hard working men and women of America.

There is an old saying out there that power corrupts and absolute power corrupts absolutely. Well, the awesome power of the IRS has had a corrupting influence on its own agents and everyone knows that unchecked power that is accountable to no one is a guarantee of abuse.

Notice how IRS agents who have had the courage to come forward and expose the outrage never say they are talking about a few bad apples or even the occasional rogue acts who give everyone a bad name. No, these courageous agents have all willingly said the IRS has a corporate culture that gives a green light to bullies, gives free rein to intimidation tactics and positively institutionalizes a quota mentality where success is not defined by honest work but by how much money can be seized. This agency is a national disgrace.

CAMPAIGN FINANCE REFORM

(Mr. SNYDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SNYDER. Mr. Speaker, yesterday the Republican leadership in the Senate successfully blocked meaningful campaign finance reform. So what do the rules now mean? It means that it is perfectly legal for us to donate, or a corporation or a union, this amount of money to the political party of our choice.

That might create some confusion in our minds about what that means for us. Does that mean that if we are an individual making $24,000, $25,000 a year, is it legal to donate $1 billion to the political party of our choice? Yes, it is. If we are a small business that grosses $100,000 a year, is it legal to donate $1 billion to the political party of our choice? Yes, it is. If we are a retiree living on a fixed income, is it legal for us to donate $1 billion to the political party of our choice? Yes, it is.

Those are the rules. Those are the rules the Republican leadership blocked from being changed yesterday.

□ 1030

WHERE ARE THE KEY WITNESSES?

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, a great article today in the Los Angeles Times: "The Hubbell Satellite Finds a New Star 25,000 Light-years Away," an amazing story.

I have got an idea. I am writing the UCLA scientist team who pulled this together saying: "Dear Scientists: I read with much interest and excitement your discovery of a star located 25,000 light-years away from Earth. I congratulate you on this amazing feat.

"I also have a question for you: We, in Congress, have been trying to hold hearings to determine if certain people gave a certain administration illegal contributions. Our problem is that key witnesses have inconveniently disappeared. This upset lots of good Democrats and Republicans who want to get to the bottom of this scandal.

"Question: Do you think that we could use the powerful infrared eyes of your amazing telescope to find the following people?" And I have them listed here. These are Charlie Trie, Ming Chen, Stanley Ho, John Muncy, Ng Lap Seng, folks who are big Democratic donors who have disappeared.

If we could use the Hubbell, we could find these folks and get to the bottom of this scandal. I hope the scientists write us back and tell us we can use the telescope.

IMPORTANCE OF EARLY CHILDHOOD DEVELOPMENT

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, I rise today to discuss the importance of early childhood development.

A few months ago, I attended the White House Conference on Early Childhood Development. Recent research suggests that the first 3 years of life are crucial for a child's emotional and intellectual development. The formation of neuropathways in the brain is directly related to the quality of care young children receive in the first 3 years of life.

Early and developmentally appropriate care and education are vital to the health and well-being of our children. But today, one-quarter of all children in this country are growing up in poverty. Teachers and principals of Maine elementary schools tell me that so many kids today lack the basic social skills that allow ordinary interaction with others.

We have had lots of rhetoric about education. What is missing is the national will to leave no child behind and the resources to make it happen. I believe that a country that can support the salaries of the NBA and NFL and major league baseball can take better care of our kids.

TRIBUTE TO CARLINVILLE HIGH SCHOOL PRINCIPAL DICK SPOHR

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, the building was destroyed by fire. The walls were the only thing left standing. In September 1987, the Carlinville High School, which lies in the 20th District of Illinois, was destroyed by fire.

In a move that is common in my area of Illinois, Carlinville High School Principal Dick Spohr rallied students, parents, and community leaders. Principal Spohr organized a community-wide effort to rebuild the school so that classes could resume immediately.

Ten years later, Mr. Spohr was named the 1997 Illinois Principal of the Year by Metlife Insurance and the National Association of Secondary School Principals. However, this kind of effort is nothing new for Mr. Spohr, who believes that people make up the real school. It is the teachers, the parents, the staff, and especially the students.

As Congress tackles the tough issues, like the voucher system, national testing, and higher education reauthorization, each Member must keep in mind Mr. Spohr's sacrifice and resolve. Principal Spohr believes in the system and is always willing to give the students the freedom to make their own mistakes and rejoice in their own victories.

IN SUPPORT OF PUBLIC EDUCATION OF ALL OUR CHILDREN

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, from the early days when the word was, "Go west, young man and young woman," and as the wagons circled in the West, the one-room schoolhouse was a symbol of opportunity for Americans. Those new Westerners, those pioneers, wanted to make sure that all of our children had the opportunity to be educated.

But, Mr. Speaker, what do we have today? We have our Republican friends pulling the plug on public education. Whom do they have as a guinea pig? Washington, DC, with the misguided proposal for 2,000 children, in a city with multitudes of children, some $3,200 voucher as a bribe to accept this thing called vouchers.

It is easy to escape from boosting the quality of public education, easy to escape from reinforcing the teaching of math and science throughout this Nation, easy to escape from rebuilding the infrastructure of our schools, fixing leaking roofs. The whole idea is to pull the plug on public education.

Well, Mr. Speaker, we will not stand for it. I am here to say that I stand for public education and the education of all of our children.

RAISING PRIVATE BONDING AUTHORITY

(Mr. HAYWORTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYWORTH. Mr. Speaker, I listen with sadness to my colleague, the gentlewoman from Texas [Ms. JACKSON-LEE], because good people can disagree, and to impugn the motives of those who simply want to give parents parental choice, all parents parental choice.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. HAYWORTH. I have 1 minute, ma'am, and I will use my 1 minute.

Ms. JACKSON-LEE of Texas. I wish you would yield for false statements.

Mr. HAYWORTH. Mr. Speaker, I ask that the gentlewoman's words be taken down.

Ms. JACKSON-LEE of Texas. If he is accusing me, I will interrupt him.

Mr. HAYWORTH. Mr. Speaker, I regret to ask that the gentlewoman's words be taken down. She just issued a false statement.

Mr. Speaker, I will be happy to withdraw the request in the spirit of civility.

The SPEAKER pro tempore (Mr. CALVERT). Does the gentleman insist that the words be taken down?

Mr. HAYWORTH. No, Mr. Speaker. If I can indeed control the time and offer my point of view, I will be glad to do it.

The SPEAKER pro tempore. Does the gentleman withdraw his demand?

Mr. HAYWORTH. With respect to the civility of the House and with the knowledge that I control the time, I will withdraw the request.

Mr. Speaker, as I was saying, good people may disagree. It is sad when people cannot allow free and open debate.

What I am simply saying to my colleague, the gentlewoman from Texas [Ms. JACKSON-LEE], and to all my colleagues who may disagree with me on a myriad of issues, is that there is nothing wrong with parental choice, there is nothing wrong with giving parents of every race and political persuasion and every ethnic group a chance to decide how best to educate their children.

And for those who want to join with me to help educate in the public sector, as we should, I would invite them to cosponsor the Education Land Grant Act that I am working on for public schools and to join with my colleague, the gentleman from Georgia [Mr. LEWIS], and me in raising the private bonding authority through private banks and financial houses from $10 million to $25 million so we can get a handle on education.

The fact is, education is too big a problem to ignore and we will all do better when we quit impugning each other's motives.

NO CONSULTATION WITH RANKING MINORITY MEMBER

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise more in disappointment than in anger. I am the Democratic member of the task force on the contested election in the 46th District, the district of the gentlewoman from California [Ms. SANCHEZ]. I have not taken to the well of the House or to the podium upstairs in the press gallery to talk about the disturbing pattern that has developed in this investigation.

Several days ago, the House Oversight Committee adopted a resolution providing for the issuance of interrogatories. The resolution clearly stated that there would be consultation with the ranking minority member. There was none. There was no discussion regarding the process or the substance of these interrogatories, directly contrary to the resolution of the committee.

What happened last week, unfortunately, is consistent with the pattern that has been established in this case. It has not been, I repeat, it has not been, a fair one. It has not been a process which has reflected a desire to proceed in a cooperative way to effect the ends of a fair investigation.

SENATE FINANCE COMMITTEE HEARINGS ON IRS ABUSES

(Mrs. MYRICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MYRICK. Mr. Speaker, when was the last time that the American people saw such a spectacle as last week, when the Senate Finance Committee conducted hearings on the IRS abuses? Listen to some of the shocking things that we heard.

IRS agent Jennifer Long, a 15-year veteran with the agency, actually told the Senators that the management of IRS systematically concluded that Americans who reported less than $20,000 in income a year were tax cheats because nobody can live on that income.

Well, I have got some people back home who would totally disagree with that, especially seniors who live on fixed incomes every day, and they get by on a lot less than that.

IRS agents are not told to go out and be just, to be fair, to use good judgment to enforce their laws. No; they are told to go out and raise as much money as possible. If they do not shake down enough money, their careers could be in jeopardy.

And now the White House is asking the very same agency that is out of control to reform itself. Maybe this is the most amazing spectacle of all.

STOP ATTACKS ON PUBLIC EDUCATION

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, the Republican assault on education is nothing new. The gentleman from Georgia [Mr. GINGRICH] and the radical Republican right have a plan to dismantle public education, abolish the Department of Education, cut the school lunch program, cut funding for safe and drug-free schools, for teacher training, for Head Start. To these attacks on our children, Democrats have said "no."

Now Republicans have a new scheme: Drain funding from public education and give it to a privileged few to attend private school. Reward the few and punish the many. That is the Republican plan. To that I say "no" and Democrats say "no." Democrats believe in investing in education for all of our children, improving, reforming, and strengthening our public schools.

Mr. Speaker, 99 percent of our children attend public school. We need to work to improve our public schools. Stop attacks on public education, Mr. Speaker. Our children deserve better.

PARTIAL-BIRTH ABORTION BAN ACT OF 1997

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 262 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 262

Resolved, That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and to consider in the House a single motion that the House concur in each of the Senate amendments. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.

The SPEAKER pro tempore. The gentlewoman from North Carolina [Mrs. MYRICK] is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from New York [Ms. SLAUGHTER] pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for the purpose of debate only.

Mr. Speaker, yesterday afternoon, the Committee on Rules met to grant a rule that provides for a motion to concur to the Senate amendments to H.R. 1122, the Partial-Birth Abortion Ban Act of 1997 in the House. It is a simple rule that provides 1 hour of debate on the motion equally divided between the chairman and ranking minority member of the Committee on the Judiciary.

Supporting this rule and the motion to agree to the Senate amendments will allow us to complete the long legislative process on this bill. H.R. 1122 would then be ready to be sent to the other end of Pennsylvania Avenue, where the President will again have the opportunity to end the cruel procedure known as partial-birth abortion.

During the Committee on Rules hearing yesterday, we heard impassioned pleas to make two amendments in order, one by the gentlewoman from New York [Mrs. LOWEY] and one by the gentleman from Maryland [Mr. HOYER]. Neither of those amendments were ruled in order.

I respect their heartfelt sentiments on this emotional issue. But I would like to point out that if we went through the normal legislative process, going to conference with the other body and working out our differences, the subsequent conference report would not be amendable either.

It may be alleged that the majority on the Committee on Rules is trying to cut off debate on this issue. Nothing could be further from the truth. We are merely trying to complete this legislative process in a timely manner.

The two proposed amendments have not gone through the normal process. They have both expanded the scope of the bill and contain language that should be carefully deliberated by my colleagues so that we are all completely sure what they mean.

□ 1045

With respect to H.R. 1122 and the Senate amendments, the two substitute amendments offered by the minority are irrelevant. The amendments would ban third-trimester abortion except to save the mother's life or health.

While that may sound perfectly reasonable, the vast majority of partial-birth abortions are performed in the fifth and sixth month of pregnancy, not the third trimester. Further, the health exemption would effectively permit all abortions. The Supreme Court interprets health abortions so broadly as to include all those related to social, psychological, financial, or emotional concerns. I realize that the Hoyer amendment defined health in another manner.

The gentleman from Florida [Mr. CANADY], chairman of the Subcommittee on the Constitution, provided testimony that indicated that there was still a great deal of latitude given to abortionists to determine if the health exemption applied.

Despite all the attention that will be given to what is not on the floor today, I would now like to focus on what is going to be on the floor today, a ban on the brutal procedure known as partial-birth abortion, with protection for the life of the mother, and let me be perfectly clear that if her life is in jeopardy, the ban does not apply, and fines and possible prison terms for physicians who violate the ban and perform this atrocity.

This resolution will allow us to vote on accepting three acceptable, simple Senate amendments which delete some language in the life exception. The bill still bans partial-birth abortion unless it is necessary to save the life of the mother, clarifies the definition of partial-birth abortion, and allows a physician to present evidence in court from

the State medical licensing authority on whether the partial-birth abortion was necessary to save the life of the mother.

There is little debate about the brutality of this procedure. In fact, the gruesome and violent partial-birth abortions are unconscionable. It has been confirmed that thousands of these procedures are performed every year. Many of those are elective and performed on healthy mothers with healthy babies. More than 80 percent of the American people and the American Medical Association support banning this practice. We live in a civilized society, one that cannot consciously condone or tolerate such inhumane and uncivilized procedures.

I strongly urge my colleagues to support this rule and the Senate amendments to H.R. 1122. It is time we complete our work on this important bill, and take a step closer to banning this most monstrous type of abortion.

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

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

Mr. Speaker, I rise in strong opposition to this rule. This rule would allow the Congress to take up once again one of the most shameful bills that has ever come before this Chamber. In their war against a woman's right to choose, antichoice forces have shown that they are willing to sacrifice a woman's health and her future fertility to pursue the extreme agenda by passing H.R. 1122.

The House will be asked today to adopt the Senate amendments to H.R. 1122. These amendments consist of three minor changes that were made in order to secure the controversial endorsement of the American Medical Association.

These changes do not alter the substance of the bill, which seeks for the first time ever, ever, Mr. Speaker, to make a specific medical procedure a Federal crime. Rather, these changes provide further protection for doctors who may face prosecution under this proposal if it becomes law. Evidently, antichoice advocates are more interested in protecting a doctor's license than a woman's health.

I would like to bring my colleagues' attention to part of a letter I received from a Texas women's health clinic. It states:

> Please do not make the mistake of thinking that the AMA speaks for all physicians on this issue. It does not speak for the American College of Obstetricians and Gynecologists, the doctors most intimately concerned with women's reproductive health; it does not speak for the 13,000 members of the American Women's Medical Association; and it does not speak for us, doctors who provide abortions to the women who need them.

Less than a year ago the President made it clear that he will veto any bill that does not pass the test of the four women who visited him in his office, explaining that the procedure we are discussing today was necessary to preserve their health, their lives, and their reproductive ability. This bill fails that test once more.

It is not the role of Congress to determine the appropriateness of medical procedures. The doctor-patient relationship has been accepted as totally private in this country. Congress is inserting itself into the most private of decisions, and saying that we are more competent than our women and their doctors to make medical judgments.

As one of the few Members of Congress with a background in public health, I can tell the Members this most assuredly is not the case. I would like to read from a letter dated October 3 from the American College of Obstetricians and Gynecologists.

They state:

> This organization, representing 38,000 physicians dedicated to improving women's health, continues to oppose the Partial-Birth Abortion Ban Act of 1997, and urges the House of Representatives to reject this legislation.

These physicians believe that H.R. 1122, as amended, continues to represent an inappropriate, ill-advised, and dangerous intervention into a medical decision.

The amended bill still fails to include an exception for the protection of the health of the woman. Further, the amended bill still violates a fundamental principle at the very heart of the doctor-patient relationship: that the doctor, in consultation with the patient, based on what the patient's individual circumstances are, must choose the most appropriate method of care for the patient.

This bill removes decisionmaking about medical appropriateness from the physician and from the patient. This bill is vague and broad. With the potential to restrict other techniques in obstetrics and gynecology, it fails to use recognized medical terminology and fails to define explicitly the prohibited medical techniques it criminalizes. Moreover, the ban applies to all stages of pregnancy. It thus would have a chilling effect on medical behavior and decisionmaking with a potential to outlaw techniques that are critical to the lives and health of American women.

Let us defeat this rule and defeat the previous question. If the previous question is defeated, I intend to offer an amendment that would make in order the Hoyer amendment, which was the same language offered by Senator DASCHLE during Senate consideration. It would ban all postviability abortions except where continuation of the pregnancy would endanger the life of the mother or risk grievous injury to her health.

Mr. Speaker, I urge my colleagues to defeat this rule, to defeat the previous question, and also to get rid of those Senate amendments to H.R. 1122.

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

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], our illustrious chairman of the Committee on Rules.

Mr. SOLOMON. I thank the gentlewoman from North Carolina for yielding time to me, Mr. Speaker.

Mr. Speaker, I would rise in support of this rule and the Partial-Birth Abortion Ban Act. I would just take exception to the statement of the gentlewoman from Rochester, NY, that this is the most shameful bill ever brought to this floor. I think what is shameful is the fact that these heinous procedures are allowed against about-to-be-born helpless children. For us to delay even another hour would be, in itself, shameful.

Mr. Speaker, this rule will allow the House to consider a motion to agree with the Senate amendments, and this is the right procedure to use in this case because if the Senate-passed version is changed in any way, in other words, the legislation has to go back to the Senate for further action, and if that happens, that means that the window of opportunity for laying this bill on the desk of the President just will not happen this year.

Is it right to delay this bill? Some say, why can we not do it in January or February? I would just pose the question, how many partial-birth abortions would take place across this country between now and next January, February, or March? Given that our colleagues in the other body have no germaneness rules, who knows what could be hooked onto this legislation and just how long it could be tied up.

As we get into this debate, I want to provide just a little of the history of this legislation. In the last Congress, a similar bill was passed by both the House and Senate. After President Clinton vetoed the bill, the House voted to override the veto by a vote of 285 to 137, overwhelming. The Senate fell short of the two-thirds vote necessary to override the veto, with a vote of 58 to 40. In this Congress, the House passed this bill by an even wider margin of 295 to 136, which is more than sufficient to override the veto, far more.

On May 20 the Senate passed the bill with amendments by a vote of 64 to 36, again, widening that margin of support, just three votes short of the two-thirds necessary to override the veto. We are getting very close to crossing the goal line with this bill. I firmly believe we are going to make it.

The issue presented by this legislation is absolutely crystal clear: do we support or do we oppose the procedure called partial-birth abortion. For me, that answer is without doubt. As my

hero, Ronald Reagan, stated so well, we cannot diminish the value of one category of human life, the unborn, without diminishing the value of all human life. There is no cause more important, said Ronald Reagan.

With regard to this legislation, there are at least two things that are different in this Congress from the last Congress, which gives both pro-choice advocates and pro-life advocates, who oppose this heinous procedure, which gives us hope that we are going to make it this time.

In the last Congress, when the President vetoed the bill, he justified that veto by contending that partial-birth abortions occur only rarely, and only when necessary to save the life of the mother. That is what the President said. That was his reason for vetoing the legislation.

It has since become clear that much of the information which the President relied on in reaching that conclusion was erroneous. The information was so wrong that one of the strongest supporters of partial-birth abortion admitted publicly that he deliberately misled the American people, he deliberately misled this Congress, and he deliberately misled the President of the United States in making that statement on which he vetoed the bill.

On February 25 of this year Ron Fitzsimmons, the executive director of the second largest abortion provider in the Nation, admitted, and many Members saw this, and if not, I will recall it to them, admitted on Nightline, and later in the New York Times, and we have the publication of the New York Times, that he lied through his teeth, he lied through his teeth, about this terrible procedure. Partial-birth abortions do in fact happen far more often than previously acknowledged, and on healthy mothers bearing healthy babies. That is what he said.

There is a second thing that is different in this Congress from the last Congress. That is, the number of votes against partial-birth abortions has increased in both the House and Senate, which I have just outlined. This legislation is picking up momentum.

In order to build on that momentum, I would ask Members, whether they are pro-life or pro-choice, because we all gather together on this important issue, to support the rule and support the Partial-Birth Abortion Ban Act.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Maryland, a very respected Member on the other side of the aisle.

Mr. HOYER. Mr. Speaker, I appreciate the gentleman's thoughtful statement, and I am well aware of his strong feelings on this. But I want to pursue, if I might, just a couple of questions, because of the difficulty of this.

Mr. SOLOMON. Mr. Speaker, if the gentleman would let me reclaim my time, we are pressed with the time that we are allocating. If the gentleman would like to get his time, I will stay here and answer any questions, even though I have to go to the Committee on Rules in a few minutes. So I must reclaim, and ask the gentleman to get his time. I will be glad to speak to the gentleman.

Ms. SLAUGHTER. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Speaker, I rise in strong opposition to this rule. I have great respect for Members of Congress who are genuinely pro-life. Some even believe if a woman is the victim of incest or rape, the Federal Government should prevent her from terminating the pregnancy. While I strongly disagree with that opinion, I can respect those who honestly believe it. But what I cannot respect is a bill that is designed for sound bites, not saving babies.

We all know this bill will pass today. Why? Because it is designed for maximum impact in 8-second sound bites and 30-second attack ads.

□ 1100

If we want to save babies, we do not outlaw one type of abortion procedure and allow all other types of late-term abortion procedures to be perfectly legal. That is why this bill might be good politics, but it will not save one baby.

If someone wants a late-term abortion under this bill, their doctor can just use a procedure not outlawed by the bill. As someone who helped pass, as a Texas Senator, a ban on late-term abortions in Texas in 1987, I think it is tragic that the supporters of this bill would not even allow us to offer an amendment similar to the Texas law, an amendment that would have outlawed all late-term abortion procedures, not just one procedure, and providing an exemption in rare cases where the mother's life or health are endangered. Denying us that amendment might have been good politics, but it is terrible policy.

The consequences of that political decision are real. First, now, today, we have a bill that will not prohibit all late-term abortion procedures, so no babies will be saved.

Second, the bill will be vetoed by the President, and is unconstitutional, because it has no health exception and limits women's choices in the second trimester, even before viability. Federal judges have already stopped such similar bills in 10 States across this Nation.

Third, women in tragic, tragic cases where their fetus has zero chance of survival, zero chance, will be forced by the Federal Government and politicians to go through a procedure that can endanger her health and stop her from ever having babies again.

I may be in the minority vote today, Mr. Speaker, but I, for one, am not willing to sacrifice one woman's fertility, one woman's chance to have the joy of having a baby in order to pass a sound bite bill that is unconstitutional. That is simply a price that no woman in America should have to pay for my political convenience or anyone else's.

Mr. Speaker, while I can respect genuine pro-life, I will not sit by silently and let some proponents of this bill suggest that those of us who oppose this bill support taking a healthy baby, just moments before a normal childbirth, and crushing the baby's skull. That is deceitful, it is dishonest, and it is wrong. It is not true, and they know it.

I strongly oppose late-term abortions. If there is one done for frivolous reasons, it should be illegal, but when a woman's health is in danger, I, like many Americans, believe that difficult choice should not be made by politicians in Washington, DC, but by a woman, her family, and her doctor.

Mr. Speaker, the reality is this: We could have passed 2 years ago, 2 years ago, the bill that pro-lifers supported in Texas as far back as 1987. That law would be saving babies today. Instead, because of the proponents' approach, their political approach, we have no Federal law. We could pass that Texas bill on this House floor today. The President would sign it tomorrow, and it could save babies the day after that. But sadly, this Committee on Rules has chosen not to even give us Members of the House the right to cast that vote of conscience and belief. That is wrong.

Mr. Speaker, the real tragedy is that to some, the politics of this bill has become more important than saving babies.

I believe it is time to save babies' lives, not sound bites. That is why I hope the President will once again have the courage to veto this bill, so that we can finally work together to pass a bill that will save babies rather than political careers.

Finally, Mr. Speaker, regardless of my colleagues' position on this difficult emotional issue, if Members of Congress believe that we should all have the right to express a vote of deep conscience and conviction, then my colleagues should oppose this unfair closed rule.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I thank the gentlewoman for yielding me this time. I want to express my gratitude to the Committee on Rules for bringing forward this rule.

Comments have been made about whether the proponents of this bill are

doing what they can to reduce abortions. It has been suggested that another proposal which has been advanced by the President would actually be more effective in dealing with reducing abortions. I will leave it to the candid judgment of the people of this country whether it is the supporters or the opponents of this bill who are interested in reducing the number of abortions performed in America. I think the record of those who are supporting this bill speaks pretty clearly on that subject.

It has been contended that partial-birth abortion is, in some cases, necessary to protect the health of the mother. That is simply untrue. Partial-birth abortion is never necessary to protect the health of a woman. Hundreds of obstetricians and gynecologists and maternal fetal specialists have come forward to unequivocally state that partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both.

The American Medical Association, which is on record in support of abortion rights, supports banning partial-birth abortion because it is not necessary and it is, and I quote,"not good medicine."

Furthermore, in an American Medical News article, Dr. Warren Hern, a late-term abortionist, disputed the safety of partial-birth abortion. I want to quote directly from this article. It says even some in the abortion-provider community find the partial-birth abortion procedure difficult to defend. "I have very serious reservations about this procedure," said Colorado physician Warren Hern, M.D.

The author of "Abortion Practice," the Nation's most widely used textbook on abortion standards and procedures, Dr. Hern specializes in late-term procedures. He opposes the bill, he said, because he thinks Congress has no business dabbling in the practice of medicine. But of the procedure in question, he says, "You really can't defend it. I'm not going to tell somebody else that they should not do this procedure. But I'm not going to do it."

Dr. Hern's concerns center on claims that the procedure in late-term pregnancy can be safest for a pregnant woman and without this procedure, women would have died. "I would dispute any statement that this is the safest procedure to use," he said.

Turning the fetus to a breech position is potentially dangerous, he added. "You have to be concerned about causing amniotic fluid embolism or placental abruption if you do that."

Pamela Smith, M.D., director of medical education, Department of Ob-Gyn at Mount Sinai Hospital in Chicago, added two more concerns: cervical incompetence in subsequent pregnancies caused by 3 days of forceful dilation of the cervix and uterine rupture caused by rotating the fetus within the womb.

Partial-birth abortion is used by some abortionists for their own convenience. It is never necessary to partially deliver a live child and jam scissors into the back of that child's head to preserve a mother's health. Think about it. Look at what they do. How is partially delivering the child, jamming scissors in the child's head, in any way calculated to protect the health of the mother? If the pregnancy must be terminated because of the health of the mother, if the child must be delivered, the child can be delivered without stabbing the child in the back of the head.

This is an argument that has absolutely no merit. It is an argument that is being advanced in defense of a procedure that simply cannot be defended.

Ms. SLAUGHTER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, the women who undergo this late-term abortion procedure do so, they do so when they are left with no other choice. Often, this procedure is the only one which will save the life of the mother and preserve her fertility so that one day, in fact, she can have the chance to have another healthy child.

I received a letter from one of my constituents who underwent this procedure. The child that she was carrying was the victim of a chromosomal abnormality so rare that it does not even have a name. Her child was missing genetic information, was missing internal organs, and her digestive system was in difficulty.

After meeting with her rabbi, with a genetics counselor, talking with her doctor and with her family, my constituent decided to have this procedure because her doctor told her that it would preserve her ability to have another child.

She is now the proud mother of a young girl, realizing, fulfilling the dreams of herself and her family to be able to have a baby. She deeply mourns the child that she lost, but she is grateful that she had the chance to have that baby girl, a chance that she would not have had if she had been forced to carry that pregnancy to term.

This bill would have taken that decision out of the constituent's hands and out of the hands of her doctors, and yes, there are many, many doctors who believe that what my colleagues on the other side of the aisle are trying to do is to take the decision out of the hands of the doctors.

This is the most painful decision that any woman, any family will ever have to make. Families deserve to make it for themselves, and that is why I oppose this bill and this rule.

If my colleagues on the other side of the aisle truly wanted to ban this procedure, they would have made in order a Democratic alternative that would have included an exemption in the cases when the health of the mother is at risk. They refuse to deal with the issue of the health of the mother. The President has said that he will veto any bill that does not include a health exemption, and indeed, he has already vetoed a virtually identical bill.

Instead, what they do is they insist on playing partisan politics with women. We are not going to stand for it. The President is not going to stand for it, and my friends, the women of America are not going to stand for it. I urge my colleagues to oppose this rule and to oppose this bill.

Mrs. MYRICK. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, what we just heard was a very unfortunate story, but the most unfortunate thing about the story is the woman was lied to by her physician, for in fact there is never a medical reason to care for any anomaly associated with pregnancy in this way.

This debate is not going to be centered around truth. It has not been. There is never an indication to use this procedure to save the life of a woman. And if, in fact, that were not true, the bill still protects for that. So it is a specious argument to say that partial-birth abortion is required to save the life of a woman. It is just absolutely untrue.

Now, why would I say that? I have cared for every imaginable type of anatomic, genetic defect in the over 3,200 babies that I have cared for, let alone the other 1,000 or so pregnancies that did not come to fruition. Why? Why do we have the partial-birth abortion? We have the partial-birth abortion as a convenience to abortionists.

Now, it makes good rhetoric to say that this saves the life of a woman; it makes good rhetoric to say that this is the only way we can in fact allow that choice for that woman in a very unfortunate situation, but it is not medically true, it is not scientifically true. But it philosophically supports the idea that no matter what we want, if we want to terminate a life at any time, for any reason, for any cause, then we ought to do this.

The argument ought to be on the basis of what people think, and if one really believes that, then one ought to stand up and say that. Some 80 percent of the babies that have been aborted this way were absolutely normal, nothing wrong with them. Look at Bergen County, NJ. Look at the data. It is truly representative of what goes across this country, it is truly representative of what happens in the reproductive field in this country. It is OK if in fact one believes that one ought to be able to terminate a life at any time, for any reason, in any way, but stand up and say that. Do not distort what the medical information is.

□ 1115

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. COBURN. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I understand what the gentleman is saying. His representation is that the doctor did not tell the patient the truth.

Mr. COBURN. Mr. Speaker, reclaiming my time, absolutely.

Mr. HOYER. Mr. Speaker, if the gentleman would continue to yield, in the instance if one accepts the premise that the condition existed, I would ask the gentleman what alternative would he have recommended.

Mr. COBURN. Mr. Speaker, again reclaiming my time, easy. The doctor would do the same thing in terms of preparing, if the life need to be terminated for the life of the woman, which in fact in this case I do not know the details, I cannot say.

Mr. HOYER. Mr. Speaker, I ask the gentleman to accept that as a premise.

Mr. COBURN. Mr. Speaker, if the gentleman would continue to yield, accepting that as a premise, that in fact if the life of the woman was in danger, could it have been done? Easy. It is called prostaglandin induction, and without putting the woman at risk.

The other false statement is that this procedure is known to put the woman's fertility at risk, not ensure her future fertility. Every major obstetrical textbook says doctors should not forcefully dilate the cervix. This procedure forcefully dilates the cervix.

Mr. HOYER. Mr. Speaker, if the gentleman would continue to yield, I did not get the term. What would have been the result?

Mr. COBURN. Mr. Speaker, again reclaiming my time, spontaneous abortion that would have occurred without a puncture vacuum evacuation of the cranium.

Mr. HOYER. Mr. Speaker, if the gentleman would again yield, and the fetus or the child would not have survived?

Mr. COBURN. Mr. Speaker, reclaiming my time, I do not know, and the gentleman does not know. Many times babies have been born in my care that would not survive. We chose not to make the decision on what their survival would be. Physicians are not that accurate in terms of life and death. We obviously are human, and we make those mistakes.

My point is, this woman, if in fact she needed to be evacuated, could be evacuated in many ways other than this method.

Mr. HOYER. Mr. Speaker, if the gentleman would again yield, I would ask the doctor, I am correct then that eliminating this prior would not necessarily eliminate the abortion?

Mr. COBURN. Mr. Speaker, reclaiming my time, it would not. The gentleman is correct.

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

Mr. Speaker, if I may add for just a moment to what the doctor has said, if the doctor does not know, how does he expect Members of Congress to make this decision? Why should we be doing that?

Mr. COBURN. Mr. Speaker, will the gentlewoman yield?

Ms. SLAUGHTER. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, it is not a matter of knowing life or death; it is a matter of knowing techniques that are used. There is a very big difference in saying that we can use a procedure that is a convenience to the abortionist that is heinous, that is totally cruel and inhumane, versus the methods that are available that are not.

Ms. SLAUGHTER. Mr. Speaker, reclaiming my time, I would ask the gentleman whether it bothers him at all as a physician that the Congress of the United States is outlawing for the first time and making a Federal crime a medical procedure?

Mr. COBURN. Mr. Speaker, if the gentlewoman would continue to yield, this is not a medical procedure in my estimation. This is murder. This has nothing to do with medicine. It has to do with murder at the convenience of the abortionist.

Ms. SLAUGHTER. Mr. Speaker, reclaiming my time, I am saddened beyond measure every time we debate this issue. Every one of us who has been brought up by a woman that we consider brilliant and wonderful suddenly decides here that the women in the country do not have any sense at all and, if this Congress did not act, they might do something really dreadful.

Well, for all of my colleagues who have never had the honor of carrying a baby, let me say it does not work that way. Women who undergo this procedure want these babies desperately. The fact that at almost the point of birth they find that they cannot carry that baby to term is heartbreaking for them.

Mr. Speaker, I pray that none of my colleagues, and none of their family members, ever have to reach that decision. But for heavens sake, I do not believe it is the province of the House of Representatives to determine whether or not that woman can get that procedure. In fact, I would wager to my colleagues, if that decision were to be made, a woman and her family facing that and this procedure was outlawed, I do not believe that the doctor would stop it.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Speaker, there truly is no rest for the weary. And I tell my colleagues, the women of this country are weary. They are just plain tired of the constant stream of attacks launched by the Republican leadership in this House.

Mr. Speaker, today's assault on women is especially dangerous. It is dangerous because it puts women's health at risk.

I rise in opposition to this rule today because it does not allow an amendment to safeguard the health of women in this country. The health of women should be what this bill is about, Mr. Speaker. Instead, this bill makes complicated medical pronouncements while ignoring the health of women, those who are most affected.

That is why the American College of Obstetricians and Gynecologists, the American Nurses Association, and the American Medical Women's Association all strongly oppose this legislation. These groups oppose the bill, Mr. Speaker, because it will hurt women, plain and simple, hurt women.

Mr. Speaker, it continues to amaze me that Members of this House have so little faith in women, the very people who bear and raise the children of this country, so little faith that they would deny them access to the lifesaving procedures out of some ridiculous notion that pregnant women do not care about their children, that they wait until the last moment to abort a pregnancy.

Mr. Speaker, I urge my colleagues, put women ahead of politics. I urge my colleagues, defeat the previous question. I urge my colleagues to let the decisions be made between the women and their doctors.

Mrs. MYRICK. Mr. Speaker, I yield 15 seconds to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I would just remind the body that the testimony before Congress is that over 80 percent of these that are performed were elective. That is the testimony before the committees of this Congress.

Ms. SLAUGHTER. Mr. Speaker, I yield 15 seconds to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I would ask the gentleman from Oklahoma [Mr. COBURN], in that testimony, was the testimony as to at what stage that was done?

Mr. COBURN. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Oklahoma.

Mr. COBURN. Mr. Speaker, it was across the stage, most of them more than viable, greater than 22½ weeks.

Mr. HOYER. Postviability?

Mr. COBURN. Postviability.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman from New York [Ms. SLAUGHTER] for her courage and leadership in defending women of America, their lives and their safety.

Mr. Speaker, I rise in strong opposition to the amended version of H.R.

1122. This bill, in its original form and as amended, puts at great risk women's health and future fertility. The bill provides no exception to protect a woman's health. It would prevent a qualified doctor from using a medical procedure that could be the most medically appropriate one to save the life and health of a woman.

This House of Representatives lacks the extensive medical qualifications needed to determine what is in the best interest of the patient. Why are we in the House of Representatives now choosing and deciding about medical procedures? It is ridiculous.

Mr. Speaker, this bill forces qualified physicians to make a choice between their best medical judgment and a prison sentence. Doctors should not have to fear criminal prosecution for providing what they have determined to be the most compassionate care possible for a woman in an excruciating circumstance, and that circumstance is that the baby is not viable, that the baby is lost, that people who have been joyfully expecting a new baby have to face the terrible reality that the baby is not going to survive. This is just the most helpful way in terms of the woman to proceed, if the doctor, the woman, and her family decide to go this way.

Mr. Speaker, I urge my colleagues to protect the health of the woman and vote against this legislation which is both unconstitutional and inappropriate.

Let me say that I understand how difficult this issue is for all of us. It is not easy to have this kind of discussion. But I believe that this is not an issue that rests with Congress. This legislation destroys the family's right to face a devastating circumstance with safety and dignity.

The President will not sign a bill that threatens this right. This decision is appropriately made by the woman. I urge my colleagues to vote "no".

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Speaker, I would remind the gentlewoman from California [Ms. PELOSI] that the American Medical Association has not recognized this procedure as a medically necessary procedure.

Mr. Speaker, I rise in strong support today of this rule on H.R. 1122, which will ban this partial-birth procedure.

Each day we have an opportunity to craft legislation in this Chamber that is going to affect the lives of men and women and children all across this Nation. Today is no different. But today we have an opportunity also to restore some morality to this country.

Mr. Speaker, I believe that the decision that we are faced with, after hearing the graphic illustrations, after listening to the testimony, after listening to the gentleman from Oklahoma [Mr. COBURN] having delivered 2,200 babies, state that this is not a necessary medical procedure; listening to former people who were in charge of this issue who used to be pro-abortion who have now voted in favor of outlawing this procedure. The testimony is clear. The evidence is direct. There should be no divisiveness on this issue.

Protecting the life of unborn children after viability should not be an issue. As a Nation, as a family, we should come together on this issue. We should come to agree on this issue. Postviability abortion is wrong. Partial-birth abortions are wrong. Killing the unborn baby is wrong.

Mr. Speaker, this is not about the life of the mother. We have already heard from the testimony of Dr. COBURN and other people that there are other ways and other procedures and other things that can be done. Taking the life of an unborn child once viability is proven is clear-cut murder. It is wrong. We should not allow it.

We must come together as a body, we must come together as a Nation, to heal this situation. Today we have that opportunity. Vote in favor of H.R. 1122.

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

Mr. Speaker, I would like to put on the record a comment. Although Dr. COBURN has his opinion, that is just one doctor.

I would like to say that a panel convened by the American College of Obstetricians and Gynecologists says that while it is not the only option, "An intact D&X may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman, and only the doctor, in consultation with the patient, based upon the woman's particular circumstances, can make this decision."

Mr. Speaker, if we believe this is murder, we should be filing criminal charges, and I do not see anybody doing that.

Mr. Speaker, I yield 2 minutes to the gentleman from West Virginia [Mr. WISE].

Mr. WISE. Mr. Speaker, like most Americans, I wrestle with this issue more than any other. It hits in every possible way, moral, physical. It is a gut-wrenching issue.

Like most Americans, I oppose late-term abortion. Like most Americans, I would support late-term abortion only to save the life of the mother or to protect her health, to protect her from serious health endangerment.

This legislation does not do this. This legislation does not seek to protect the health of the mother. If people wanted to truly ban late-term abortions, we would not ban one procedure, we would ban all late-term abortions, which I have voted for, except to save the life of the mother or to protect her from serious health risks.

Mr. Speaker, agonizing about this, I called three physicians across the country, three ob/gyn's. I respect the opinion of the gentleman from Oklahoma. They do not agree with him. That is a fair statement that there is not agreement on this. But those three ob/gyn's who have done a wide range of deliveries, who each of them have been delivering babies at least 23 years, all of them said that this procedure in limited circumstances was necessary.

In fact, I believe in each case they had performed the procedure in many, many years of deliveries only twice, and in two cases at least then necessary to protect the health of the mother, because the child was going to be born dead, was hydrocephalic, and they felt there was no other way to do it and to protect the life of the mother.

The American College of Obstetricians and Gynecologists disagrees with what this Congress is about to do today. I have heard about the American Medical Association, but the physicians that actually deliver the babies, they disagree and they think that this is a bad piece of legislation.

Mr. Speaker, we can all agree that late-term abortions should not be allowed except when the mother's life or her health would be seriously in danger. But I cannot vote for this legislation, because that means I have to look a woman in the eye and say, even though there may have been a medical procedure that would have protected your health, the Congress voted not to let it be done.

Mrs. MYRICK. Mr. Speaker, I would like to inquire of the amount of time left for each side, please.

The SPEAKER pro tempore (Mr. CALVERT). The gentlewoman from North Carolina [Ms. MYRICK] has 7¾ minutes remaining, and the gentlewoman from New York [Ms. SLAUGHTER] has 8¾ minutes remaining.

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

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. SCOTT].

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Mr. SCOTT. Mr. Speaker, I rise in opposition to the rule because the rule leaves out the possibility that we can consider a bill that is constitutional. This bill is clearly unconstitutional, and State laws have been thrown out recently because the Supreme Court has said that we cannot restrict a woman's right to choose if the restriction endangers the life and health of the mother.

Mr. Speaker, nine State lawsuits have been decided just this year that have thrown out similar State laws. For example, in Michigan the court said that such a ban "would operate to eliminate one of the safest post-first-trimester abortion procedures," and the court therefore found that a

woman would have to go into riskier procedures and they threw out the law.

In Nebraska the ban was unconstitutional because it would subject patients to "appreciably greater risk of injury or death." That law was enjoined just this year.

In Montana, just this year, the court concluded that there would be an increase in the amount of risk and pain that must be suffered, and they enjoined the implementation of the law.

Louisiana, they found that it would be unduly burdensome by virtue of banning the safest, most common procedures used after the first trimester.

Mr. Speaker, State after State after State concluded that the law was unconstitutional. We need to defeat the previous question so that we can consider the amendment to be offered by the gentleman from Maryland that would make the law constitutional so that we can consider a constitutional law. I would hope that we would defeat the previous question, adopt the Hoyer amendment, or defeat the rule.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. TIAHRT]).

Mr. TIAHRT. Mr. Speaker, I have often wondered what would happen if Congress based our decisions on truth and logic. Today we are debating a rule for banning partial-birth abortion. Some will say the procedure is necessary but the gentleman from Oklahoma, Dr. COBURN, was very clear. He says that it is unnecessary, and he has delivered 3,200 children. I think he probably knows what he is talking about. Some will say it is needed to allow for the health of the mother. That is really undefined. It could mean a headache or perhaps an emotional strain.

The truth is this procedure is not needed. Its purpose is very simple. It is for the convenience of performing abortions. It is to satisfy a very specific group here in America, the abortion industry. That is why in my estimation an abortionist from Wichita, KS, traveled to Washington, DC, to attend a Presidential coffee, contributed $25,000 to the Democratic National Party, following the President's veto of the partial-birth abortion ban.

There is a letter then from the Pope condemning the President for this veto. It is very interesting the Pope has only written about six such letters this century, all the Popes this century. And they include people like Ayatollah Khomeini, Muámmar Qadhafi, Adolf Hitler, tyrants, all tyrants who placed a very low value on human life.

The opposition to this rule and the opposition to this ban is very simple. It is merely support for the abortion industry, purely to support those who want the convenience of this procedure. It is not necessary medically. It is not needed for the health of the mother. It is just a convenience for the abortion industry. That is the truth and the logic behind this debate. That is the truth and logic behind these arguments, simply to support the abortion industry.

I say to my colleagues, let us support H.R. 1122. Let us support this rule and let us ban this hideous procedure that is not necessary, not for medical reasons, not for political reasons, purely to support the abortion industry.

Ms. SLAUGHTER. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE of Texas. Mr. Speaker, this issue is one that generates a great deal of emotion. I appreciate that we all may agree and disagree. I think the strength of our democracy belongs in that opportunity to agree and disagree and to have our voices be heard.

I am compelled to speak on this issue, one, because the law does indicate that a woman in this Nation has a right to choose. I am distressed that our leaders did not see fit to provide an open rule so that all of our views could be expressed. I do not ask my colleagues to agree with me but I do ask them to allow me the opportunity to vote on my position and the rights of women to choose.

Yesterday afternoon at the Committee on Rules both the gentlewoman from New York [Mrs. LOWEY] and the gentleman from Maryland [Mr. HOYER] offered amendments. The committee, however, did not see fit to make either of these amendments in order. This should have been an open rule.

Mr. Speaker, I ask that this rule be opposed and defeated and, in the alternative, that these amendments be allowed so that all of our voices and all of our views can be represented, and the law can be represented, and a woman's right to choose.

Mr. Speaker, I rise today to voice my opposition to the closed rule on H.R. 1122 that is before us. There is a great deal of emotion surrounding the debate on H.R. 1122. While I may not agree with some of my colleagues views on this issue, I respect that those views are both thoughtful and deeply held. I believe that the strength of our democracy lies in the fact that we open the door to all voices and all opinions—both those that we disagree with and those that we do not.

It is for this reason that I am compelled to speak. I am distressed that this rule does not respect or acknowledge the divergence in our views. I do not ask my colleagues to agree with me on the issue of abortion, or to vote with me, but I do ask that they allow me the opportunity to cast a vote that reflects my views.

Yesterday afternoon at the Rules Committee meeting, both Representatives LOWEY and HOYER offered amendments to H.R. 1122. The committee, however, did not see fit to make either of these amendments in order. I would like to say that I was surprised upon hearing this decision, but I cannot. Once again the committee has issued a restrictive rule that denies the Members of this Congress the opportunity to vote on an alternative to their favored legislation.

I find it particularly interesting that the committee has denied this House a vote on Mr. HOYER's amendment in the nature of a substitute. That amendment would have banned all abortions in the final trimester allowing only a very narrow exception for the life and physical health of the mother. In fact, this is a much broader ban than that currently in H.R. 1122. It seems to me that if the goal of this bill's sponsors was truly to protect life, then they would support the Hoyer amendment.

My colleagues this rule does not respect the divergence of our views. It does not allow Members to cast a vote for an alternative that reflects those views. For these reasons, I urge my colleagues to vote against this rule on H.R. 1122.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. BARCIA].

Mr. BARCIA. Mr. Speaker, I rise today in support of the amendments to the Partial-Birth Abortion Ban Act. I urge my colleagues to really think for a moment about what we are debating here today.

This is not a bill that will end a persons's choice. This is not a vote that will overturn Roe versus Wade. This vote will not end a person's right to terminate their pregnancy. And this vote will not endanger the lives of pregnant women across this country.

This vote will save innocent children from having their lives ended before they have a chance to speak. This vote will simply prohibit one and only one type of particularly gruesome abortion, a type of abortion where a live baby, one that could usually survive outside the womb, is partially delivered, then has the first vision of light snuffed out forever.

With modern medical procedures available, we must ask ourselves if it is necessary to sacrifice innocent children because it is convenient or easier for the parents. I do not think so and neither do millions of Americans across this country who believe, just as I do, that life is too precious to waste.

A couple from Michigan could have chosen to abort their baby when they were told that the baby had a tumor that endangered her life. When she was only 4 inches long, Sarah Elizabeth was briefly removed from her mother's womb so doctors could remove the growing tumor. Sarah's heart stopped beating during the surgery and the surgeon performed CPR for 20 minutes to revive her before returning her to the safety of the womb. In July 1996, Sarah was delivered and is now a healthy toddler. Time and time again medical miracles like Sarah's show us that a child in the womb is a unique, irreplaceable and precious human being deserving of our help and protection.

Unfortunately, even as lives like Sarah's are being saved by scientific breakthroughs, other children's lives

are being extinguished by partial-birth abortions. The care Sarah received from a conscientious surgeon provides a stark contrast to the treatment her mother might have legally have chosen, a partial-birth abortion.

Sarah was not in perfect physical health when she was growing in her mother's womb. She had a life-threatening condition. But she, like every other precious unborn baby, was always a perfect child in need of love and care.

Support this bill and give thousands of children like Sarah at least a chance at life.

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

I want to urge Members to defeat the previous question. If it is defeated, I will offer an amendment to the rule that will make in order an amendment in the nature of a substitute offered in the Committee on Rules yesterday by the gentleman from Maryland [Mr. HOYER]. The amendment is the same language offered by Senator DASCHLE during Senate consideration.

Members of this House deserve an opportunity to vote on this substitute. Vote "no" on the previous question.

Mr. Speaker, I include the text of the amendment:

AMENDMENT TO HOUSE RESOLUTION 262

Strike all after the resolved clause and insert in lieu thereof the following:

"That upon adoption of this resolution it shall be in order to take from the Speaker's table the bill (H.R. 1122) to amend title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and to consider in the House, any rule of the House to the contrary notwithstanding, a single motion offered by Representative Hoyer of Maryland that the House concur in the amendments of the Senate with an amendment. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the proponent and an opponent. The previous question shall be considered as ordered on the motion to final adoption without intervening motion or demand for division of the question.".

HOYER AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 1122 AS AMENDED BY THE SENATE

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Abortion Ban Act of 1997".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) As the Supreme Court recognized in *Roe* v. *Wade*, the government has an "important and legitimate interest in preserving and protecting the health of the pregnant woman . . . and has still another important and legitimate interest in protecting the potentiality of human life. These interests are separate and distinct. Each grow in substantiality as the woman approaches term and, at a point during pregnancy, each becomes compelling".

(2) In delineating at what point the Government's interest in fetal life becomes "compelling", *Roe* v. *Wade* held that "a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability", a conclusion reaffirmed in *Planned Parenthood of Southeastern Pennsylvania* v. *Casey*.

(3) *Planned Parenthood of Southeastern Pennsylvania* v. *Casey* also reiterated the holding in *Roe* v. *Wade* that the government's interest in potential life becomes compelling with fetal viability, stating that "subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother."

(4) According to the Supreme Court, viability "is the time at which there is a realistic possibility of maintaining and nourishing a life outside the womb, so that the independent existence of the second life can in reason and all fairness be the object of State protection that now overrides the rights of the woman."

(5) The Supreme Court has thus indicated that it is constitutional for Congress to ban abortions occurring after viability so long as the ban does not apply when a woman's life or health faces a serious threat.

(6) Even when it is necessary to terminate a pregnancy to save the life or health of the mother, every medically appropriate measure should be taken to deliver a viable fetus.

(7) It is well established that women may suffer serious health conditions during pregnancy, such as breast cancer, preeclampsia, uterine rupture or non-Hodgkin's lymphoma, among others, that may require the pregnancy to be terminated.

(8) While such situations are rare, not only would it be unconstitutional but it would be unconscionable for Congress to ban abortions in such cases, forcing women to endure severe damage to their health and in some cases, risk early death.

(9) In cases where the mother's health is not at such high risk, however, it is appropriate for Congress to assert its "compelling interests" in fetal life by prohibiting abortions after fetal viability.

(10) While many States have banned abortions of viable fetuses, in some States it continues to be legal for a healthy woman to abort a viable fetus.

(11) As a result, women seeking abortions may travel between the States to take advantage of differing State laws.

(12) To prevent abortions of viable fetuses not necessitated by severe medical complications, Congress must act to make such abortions illegal in all States.

(13) Abortion of a viable fetus should be prohibited throughout the United States, unless a woman's life or health is threatened and, even when it is necessary to terminate the pregnancy, every measure should be taken, consistent with the goals of protecting the mother's life and health, to preserve the life and health of the fetus.

CHAPTER 74—ABORTION PROHIBITION

Sec.
1531. Prohibition.
1532. Penalties.
1533. State regulations.
1534. Rule of construction.

1531. Prohibition.

(a) In General: It shall be unlawful for a physician to abort a viable fetus unless the physician certifies that the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health.

(b) Grievous Injury:

(1) In general: For purposes of subsection (a), the term "grievous injury" means—

(A) a severely debilitating disease or impairment specifically caused by the pregnancy; or

(B) an inability to provide necessary treatment for a life-threatening condition.

(2) Limitation: The term "grievous injury" does not include any condition that is not medically diagnosable or any condition for which termination of pregnancy is not medically indicated.

(c) Physician: In this chapter, the term "physician" means a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by the State in which the doctor performs such activity, or any other individual legally authorized by the State to perform abortions, except that any individual who is not a physician or not otherwise legally authorized by the State to perform abortions, but who nevertheless directly performs an abortion in violation of subsection (a) shall be subject to the provisions of this section.

(d) No Conspiracy: No woman who has had an abortion after fetal viability may be prosecuted under this section for a conspiracy to violate this section or for an offense under section 2, 3, 4, or 1512 of title 18, United States Code.

1532. Penalties.

(a) Action by Attorney General: The Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General may commence a civil action under this chapter in any appropriate United States district court to enforce the provisions of this chapter.

(b) Relief:

(1) First offense: Upon a finding by the court that the respondent in an action commenced under subsection (a) has knowingly violated a provision of this chapter, the court shall notify the appropriate State medical licensing authority in order to effect the suspension of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(d), or shall assess a civil penalty against the respondent in an amount not exceeding $100,000, or both.

(2) Second offense: If a respondent in an action commenced under subsection (a) has been found to have knowingly violated a provision of this chapter on a prior occasion, the court shall notify the appropriate State medical licensing authority in order to effect the revocation of the respondent's medical license in accordance with the regulations and procedures developed by the State under section 1533(d), or shall assess a civil penalty against the respondent in an amount not exceeding $250,000, or both.

(3) Hearing: With respect to an action under subsection (a), the appropriate State medical licensing authority shall be given notification of and an opportunity to be heard at a hearing to determine the penalty to be imposed under this subsection.

(c) Certification Requirements: At the time of the commencement of an action under subsection (a), the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney specifically designated by the Attorney General shall certify to the court involved that, at least 30 calendar days prior to the filing of such action, the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General or United States Attorney involved—

(1) has provided notice of the alleged violation of this section, in writing, to the Governor or chief executive officer and attorney

general or chief legal officer of the State or political subdivision involved, as well as to the State medical licensing board or other appropriate State agency; and

(2) believes that such an action by the United States is in the public interest and necessary to secure substantial justice.

1533. Regulations.

(a) Regulations of Secretary for Certification:

(1) In general: Not later than 60 days after the date of enactment of this chapter, the Secretary of Health and Human Services shall publish proposed regulations for the filing of certifications by physicians under section 1531(a).

(2) Requirement: The regulations under paragraph (1) shall require that a certification filed under section 1531(a) contain—

(A) a certification by the physician (on penalty of perjury, as permitted under section 1746 of title 28) that, in his or her best medical judgment, the abortion involved was medically necessary pursuant to such section; and

(B) a description by the physician of the medical indications supporting his or her judgment.

(3) Confidentiality: The Secretary of Health and Human Services shall promulgate regulations to ensure that the identity of the mother described in section 1531(a) is kept confidential, with respect to a certification filed by a physician under section 1531(a).

(b) Action by State: A State, and the medical licensing authority of the State, shall develop regulations and procedures for the revocation or suspension of the medical license of a physician upon a finding under section 1532 that the physician has violated a provision of this chapter. A State that fails to implement such procedures shall be subject to loss of funding under title XIX of the Social Security Act.

1534. Rule of Construction.

(1) In general: The requirements of this chapter shall not apply with respect to post-viability abortions in a State if there is a State law in effect in the State that regulates, restricts, or prohibits such abortions to the extent permitted by the Constitution of the United States.

(2) State law: In paragraph (1), the term "State law" includes all laws, decisions, rules or regulations of any State, or any other State action having the effect of law.

(b) Clerical Amendment: The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 73 the following new item:

74. Prohibition of post-viability abortions 1531. * * *

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Ms. ROS-LEHTINEN. Mr. Speaker, partial-birth abortions involve killing partially delivered babies, usually from the fifth month on into the later stages of pregnancy. This gruesome procedure consists of partially delivering the live baby feet first, with only the head inside the mother's womb, and then stabbing the child at the base of the skull.

Partial-birth abortions are performed mainly on healthy babies of healthy mothers. The American Medical Association says that the partial delivery of a living fetus for the purpose of killing it outside the womb is ethically offensive to most Americans and doctors. The AMA could find no identified circumstance in which the procedure was the only safe and effective abortion method.

The worst tragedy of partial-birth abortions is that most are done for strictly elective reasons. We must take action to end this heinous act of killing the innocent unborn.

Ms. SLAUGHTER. Mr. Speaker, I yield the balance of my time to the gentleman from Maryland [Mr. HOYER].

The SPEAKER pro tempore (Mr. CALVERT). The gentleman from Maryland [Mr. HOYER], is recognized for 5½ minutes.

Mr. HOYER. Mr. Speaker, I rise in opposition to this rule. This rule precludes the one opportunity that Members will have to vote against late-term abortions, elective or otherwise.

Hear me now, Mr. Speaker. Voting against this rule will be the only opportunity they have to vote against late-term abortions.

Why do I say that? The American press has done a disservice to the American people in characterizing the bill before us as a late-term abortion bill. It is not. It does not mention late term. It is not about late term. It is about a procedure.

The gentleman from Oklahoma [Mr. COBURN] was accurate on that matter. I want to refer to some of the things that the gentleman from Oklahoma [Mr. COBURN] said, because the Republicans rightfully point to a man who has experience and, therefore, can speak with more experience than the rest of us.

First of all, he said that this bill that is pending before us does not preclude a single abortion, not one. It does not preclude one abortion, if we vote and pass this bill and the President signs it. It does prohibit a procedure.

I further asked the gentleman from Oklahoma how many of these abortions, as a matter of fact, he said, that were done through this procedure were elective. He said approximately 80 percent, that has been repeated a number of times, were elective.

I say to my colleagues, if they vote against the rule and allow the Hoyer amendment to be offered, they will have an opportunity to preclude every one of those 80 percent abortions that, as the gentleman from Oklahoma [Mr. COBURN] said, most were done postviability.

Let me make my statement absolutely accurate. Every postviability elective abortion, not just done with this procedure but any procedure, will be outlawed. I want my colleagues to understand, voting against this rule and voting for the Hoyer amendment, which is the Daschle-Snowe, Democratic minority leader and Republican Senator from Maine, the Daschle amendment, is the only opportunity we will have to vote against late-term abortions and have the Federal law essentially like 43 other States.

This is not an isolated judgment nor an independent act or amendment. This is an amendment that 43 legislatures have essentially said ought to be the law. What does it say? It says that it permits a postviability abortion only if the life of the woman is endangered, to that extent it tracks the Hyde language, or if carrying the fetus to term would present the, and I quote, risk of grievous injury to her physical health. It therefore precludes any claim that this is a Mack truck exception for mental health.

□ 1145

It specifically requires grievous physical risk. The amendment defines grievous injury as meaning that the continuation of the pregnancy would directly result in, and again I quote from the Hoyer-Daschle amendment, a severely debilitating disease or impairment, or prevents a physician from providing necessary treatment for a life-threatening condition; for example, a fast spreading cancer, the treatment of which, aggressive chemotherapy, would be incompatible with carrying a healthy fetus to term.

My colleagues, this imposes a $250,000 fine and possible revocation of license on the doctor who violates this.

I want to make it very clear to everybody in this House I am opposed to late term elective abortions. They should not happen in America. If, on the other hand, we have at risk the life of the mother, that is a wrenching judgment that the mother and her physician will have to make, and I will not interpose my judgment in that critical situation.

So I ask the Members of this House to give us an opportunity to state clearly the policy of the United States of America that late-term abortions are against public policy. The only way we can do that is to vote against this rule so that this amendment can be offered to this bill.

Mrs. MYRICK. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Speaker, I would ask a question of the last speaker. How does the gentleman's definition in his bill trump the Supreme Court, which defined health in Doe versus Bolton as a state of emotional well-being? How does his mere statute trump the Supreme Court's definition of health?

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Maryland.

Mr. HOYER. How does the Hyde statute, sir?

Mr. HYDE. Mr. Speaker, reclaiming my time, I do not talk about the Supreme Court.

Mr. HOYER. If the gentleman will continue to yield, nor do I.

Mr. HYDE. Does the gentleman not have an answer to my question?

Mr. HOYER. I do.

Mr. HYDE. Well, let us hear it, I am running out of time.

Mr. HOYER. It enunciates the policy of 43 States, I tell my friend from Illinois, and I think we should enunciate it as a Federal Congress as being the appropriate and right policy to preclude late-term abortions.

Mr. HYDE. I welcome the gentleman to the ranks of pro-lifers.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, I want to talk about Mike and Nancy Johnson from Muscogee, OK. I have delivered five babies for them. One of their babies had a tremendous anencephalic complicated cystic structure on its brain. Now, this procedure that is supposedly so important that it has to be there for the life and health of a woman could have been used on her. But I want to tell my colleagues what they chose to do. They chose to deliver that baby. And in the delivery room, as that baby was born, I placed it in the hands of the father, and over the next 2 hours that baby was comforted in its death.

I want to contrast that with the idea of a child dying in its father's arms, with the idea of a physician ramming a hole in the back of a skull and sucking the brains out of a child. Tell me, my colleagues, which way is the right way to do it?

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. CALVERT). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of agreeing to the resolution.

The vote was taken by electronic device, and there were—yeas 280, nays 144, not voting 9, as follows:

[Roll No. 499]

YEAS—280

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Flake
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kildee
Kim
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Mollohan
Moran (KS)
Murtha
Myrick
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—144

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Bishop
Blagojevich
Blumenauer
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gilman
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hinchey
Hinojosa
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (WI)
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Kolbe
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran (VA)
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Pelosi
Price (NC)
Rangel
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—9

Foglietta
Gephardt
Gonzalez
Hilliard
Lewis (KY)
Nethercutt
Payne
Schiff
Visclosky

□ 1209

Messrs. KIND, SHAYS, SERRANO, HORN, GILMAN, and NEAL of Massachusetts changed their vote from "yea" to "nay."

Ms. KAPTUR and Mr. TURNER changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. VISCLOSKY. Mr. Speaker, I was unavoidably detained and unable to vote on rollcall vote Nos. 497 through 499. Had I been present, I would have voted "no" on roll call No. 497, passage of H.R. 629, to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact; "yes" on rollcall No. 498, the Vento amendment to H.R. 901, to exempt sites nominated under the Convention on Wetlands of International Importance from the provisions of the bill; and "yes" on rollcall No. 499, ordering the previous question on H. Res. 262, the rule governing House consideration of the Senate amendments to the Partial Birth Abortion Ban Act.

The SPEAKER pro tempore (Mr. CALVERT). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1215

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 262, I call up the bill (H.R. 1122), to amend

title 18, United States Code, to ban partial-birth abortions, with Senate amendments thereto, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of the Senate amendments is as follows:

Senate amendments:

Page 2, line 16, strike out all after "injury" down to and including "purpose" in line 17.

Page 3, after line 10 insert:

(3) As used in this section, the term "vaginally delivers a living fetus before killing the fetus" means deliberately and intentionally delivers into the vagina a living fetus, or a substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus.

Page 3, after line 23, insert:

(d)(1) A defendant accused of an offense under this section may seek a hearing before the State Medical Board on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness or injury.

(2) The findings on that issue are admissible on that issue at the trial of the defendant. Upon a motion of the defendant, the court shall delay the beginning of the trial for not more than 30 days to permit such a hearing to take place.

Page 3, line 24, strike out "(d)" and insert "(e)".

MOTION OFFERED BY MR. CANADY OF FLORIDA

Mr. CANADY of Florida. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. CANADY of Florida moves that the House concur in each of the Senate amendments to the bill H.R. 1122.

The SPEAKER pro tempore. Pursuant to House Resolution 262, the gentleman from Florida [Mr. CANADY] and the gentlewoman from New York [Mrs. LOWEY], each will control 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the legislation under consideration.

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

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise to urge the House to vote for the motion to concur in the Senate amendments to H.R. 1122, the Partial-Birth Abortion Ban Act of 1997, a bill which bans an abortion procedure in which a living baby is partially delivered before the abortionist kills the baby and completes the delivery.

Under H.R. 1122, an abortionist who violates the ban would be subjected to fines or a maximum of 2 years imprisonment or both. The bill also establishes a civil cause of action for damages against an abortionist who violates the ban.

Mr. Speaker, thousands of partial-birth abortions are performed each year, primarily in the fifth and sixth months of pregnancy, on the healthy babies of healthy mothers. The infants subjected to partial-birth abortion are not unborn. Their lives instead are taken during a breech delivery.

A breech delivery, a procedure which obstetricians use in some circumstances to bring a healthy child into the world, is perverted and made into an instrument of death. The physician, traditionally trained to do everything in his power to assist and protect both mother and child during the birth process, deliberately kills the child in the birth canal.

H.R. 1122 would end this cruel practice which bears an undeniable resemblance to infanticide.

The Senate amendment to H.R. 1122 makes three acceptable changes to the House-passed version of the bill. The first amendment deletes superfluous language in the life exception included in the act. The bill still bans partial-birth abortion unless it is necessary to save the life of the mother.

The second amendment clarifies the definition of partial-birth abortion. H.R. 1122 defines "partial-birth abortion" as "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery." The Senate amendment further clarifies that "partially vaginally delivers a living fetus before killing the fetus" means "deliberately and intentionally delivers into the vagina a living fetus, or substantial portion thereof, for the purpose of performing a procedure the physician knows will kill the fetus, and kills the fetus."

The third Senate amendment allows the physician who is prosecuted for performing a partial-birth abortion to present evidence in court from the State medical licensing authority on whether the partial-birth abortion was necessary to save the life of the mother.

The Senate voted to approve these three clarifying amendments to H.R. 1122 and passed the Partial-Birth Abortion Ban Act in May of this year. Shortly thereafter, the American Medical Association House of Delegates voted to support H.R. 1122 with the Senate amendments because partial-birth abortion, quote, "is not good medicine."

As we have discussed in prior debates in this House, the realities of partial-birth abortion are truly horrible to contemplate, they are truly horrible to discuss. The partial-birth abortion procedure is performed from around 20 weeks to full term. It is well documented that a baby is highly sensitive to pain stimuli during this period and even earlier.

In his testimony before the Subcommittee on the Constitution in 1995, Prof. Robert White, director of the division of neurosurgery and brain research laboratory at Case Western Reserve School of Medicine, stated, "The fetus within this time frame of gestation, 20 weeks and beyond, is fully capable of experiencing pain." After analyzing the partial-birth abortion procedure, Dr. White concluded, "Without question, all of this is a dreadfully painful experience for any infant subjected to such a surgical procedure."

Abortion advocates have claimed that partial-birth abortion is rare and only used in extreme circumstances. That has been a focus of the debate that has been waged against the ban on partial-birth abortion. But this claim is contradicted by the evidence.

Dr. Martin Haskell, an Ohio abortionist, told the American Medical News that the vast majority of the partial-birth abortions he performs are elective. He stated, and I quote, "And I'll be quite frank: Most of my abortions are elective in that 20–24 week range. In my particular case, probably 20 percent are for genetic reasons. And the other 80 percent are purely elective."

Another abortionist, Dr. McMahon of California, used the partial-birth abortion method through the entire 40 weeks of pregnancy. He sent the Subcommittee on the Constitution a graph which showed the percentage of "flawed fetuses" that he aborted using the partial-birth abortion method. The graph shows that even at 26 weeks, half the babies that Dr. McMahon aborted were perfectly healthy, and many of the babies he described as "flawed" had conditions that were compatible with long life, either with or without a disability. For example, Dr. McMahon listed nine partial-birth abortions performed because the baby had a cleft lip.

In September 1996, the Sunday Record, a newspaper in Bergen, NJ, reported that in New Jersey alone, at least 1,500 partial-birth abortions are performed each year, 3 times the supposed national rate. Moreover, doctors say only a minuscule amount are for medical reasons.

The article quotes an abortionist in New Jersey who describes his partial-birth abortion patients as follows: "Most are Medicaid patients, and most are for elective, not medical reasons: people who didn't realize, or didn't care, how far along they were. Most are teenagers."

Ron Fitzsimmons, the executive director of the second largest trade association of abortion providers in the country, admitted that he intentionally lied through his teeth when he told a Nightline camera that partial-birth abortion is rare and performed only in extreme medical circumstances.

The New York Times reported that Mr. Fitzsimmons "says the procedure

is performed far more often than his colleagues," that is, other advocates in the abortion rights community, "have acknowledged, and on healthy women bearing healthy fetuses." "The abortion rights folks know it," he said.

Ron Fitzsimmons' admission makes clear that the pro-abortion lobby has engaged in a concerted and ongoing effort to deceive the Congress and the American people about partial-birth abortion. They attempted to hide the truth, they attempted to conceal the facts about this procedure because they knew that the American people would be outraged by the facts.

When President Clinton vetoed H.R. 1833, the Partial-Birth Abortion Ban Act of 1995, he claimed that women needed partial-birth abortion for their health and future fertility. That claim has been proven to be completely false.

Former Surgeon General C. Everett Koop has said, "In no way can I twist my mind to see that the late-term abortion as described, you know, partial birth, and then destruction of the unborn child before the head is born, is a medical necessity for the mother. It certainly can't be a necessity for the baby. So I am opposed to partial-birth abortion."

In addition, a group of over 400 obstetricians and gynecologists and maternal-fetal specialists have unequivocally stated, and I quote, "Partial-birth abortion is never medically indicated to protect a woman's health or her fertility. In fact, the opposite is true: The procedure can pose a significant and immediate threat to both the pregnant woman's health and her fertility."

The American Medical Association agrees with these doctors that partial-birth abortion is not good medicine and supports banning the procedure. I point out the American Medical Association is on record in strong support of abortion rights, but even they recognize that this procedure simply falls outside the pale.

However, the President has remained unmoved by these facts. He still threatens to veto this bill. He has tried to change the subject by supporting a purported ban on abortion in the seventh month of pregnancy and later. Of course, unfortunately, the President's supposed ban includes a broad health exception that would give the abortionist unfettered discretion to decide when an abortion would be performed.

The proposal would allow the abortionist to perform postviability abortions using any method, including partial-birth abortion, if the abortionist certified in his or her best medical judgment that the continuation of the pregnancy would threaten the mother's life or risk grievous injury to her physical health. Of course, the continuation of any pregnancy does involve at least some degree of risk, however small.

Dr. Warren Hern, a third-trimester abortionist in Colorado, says of this proposal, "I will certify that any pregnancy is a threat to a woman's life and could cause grievous injury to her physical health." Dr. Hern, using his best medical judgment, believes that any pregnancy threatens a mother's life and risks grievous injury to her physical health. He has said it unequivocally.

Dr. Hern is one of the leading experts on abortion in this country. He has written a textbook on the subject. He is a recognized authority. Now, if Dr. Hern signed a paper that asserted this belief, he would satisfy the certification exception in the President's proposal.

Mr. Speaker, all of this demonstrates beyond any doubt that the President's proposal would not do anything to stop any abortion. Furthermore, the President's proposal, which covers only postviability abortions, does not even purport to affect the vast majority of partial-birth abortions which take place in the fifth and sixth months of pregnancy, not in the third trimester.

To sum it all up, the President's proposal is a sham. Mr. Speaker, the President knows that partial-birth abortions are primarily performed before the seventh month of pregnancy, in the fifth and sixth months, on thousands of healthy babies of healthy mothers. His purported ban would not protect one of these babies. We will not allow the President to change the subject from the disturbing facts of partial-birth abortion, as he has attempted to do. The President is supporting an indefensible procedure that should not be allowed in a civilized society.

I would ask my colleagues to look at partial-birth abortion. We have described this procedure in this House before, but I ask my colleagues to consider again what is involved when an abortionist performs the procedure known as partial-birth abortion.

In the first step of this horrible procedure, the abortionist, guided by ultrasound, grabs the live baby's leg with forceps. In the next step, the baby's leg is pulled into the birth canal. The abortionist then delivers the baby's entire body, except for the head.

□ 1230

Of course, if the head came out, none of the rest of this could happen. If the head came out and the abortionist took any action against that child, that would undoubtedly be considered murder under our law. Then, after the baby is delivered, except for the head, the abortionist jabs scissors into the baby's skull. The scissors are then opened to enlarge the hole.

I ask my colleagues to look at this critical stage of this horrible procedure. This is what is going on when a partial-birth abortion is performed. Then, in the final stage of partial-birth abortion, the scissors are removed and a suction catheter is inserted into the hole which has been created by the abortionist in the baby's head, and the baby's brains are sucked out and the delivery is completed.

I ask the Members, how could jamming those scissors into the skull of the baby, into the back of the baby's head, be possibly required for the health of the mother? It simply makes no sense. The claims made by the President and other supporters of partial-birth abortion about the mother's health belong with all the other falsehoods that have been a part of the campaign against this bill, and are advanced by people who are desperate to escape from reality in their quest to defend the indefensible. They cannot defend this, therefore they are attempting to create a cloud of confusion and deceive the American people.

In this House we deal with many issues. We have hundreds of votes here. The issues come and go. Most of the votes we will cast here will soon be forgotten. Even those that seem rather important to us at the moment will fade away. They will become a distant memory. But I believe that today's vote on partial-birth abortion will be remembered. The Members of this House will not be able to escape responsibility for the votes they cast on this important issue. History will also remember the President, whose veto had to be overridden in order to protect helpless infants from this gruesome procedure.

I appeal to my colleagues, put aside all the myths that have been generated in this debate in opposition to this bill, put aside all the distortions, put aside all the misinformation that has been disseminated. Look at the facts, consider the truth, and face up to the reality of partial-birth abortion. This is it. This procedure cannot be defended.

I would ask that my colleagues support the Senate amendments to the Partial-Birth Abortion Ban Act, and help bring this cruel, this brutal practice to an end in America.

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

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

Mr. Speaker, I rise in strong opposition to the bill. This is the fifth time that the House will vote on this issue. Unfortunately, it will not be the last. As my colleagues know very well, the President will veto this legislation because it does not contain an exception to ensure the health of American women, so we will be back here again next year.

We have repeatedly tried to offer an amendment to protect the health of the mother to this bill on the floor of this House, and the Republican leadership has consistently blocked us. We offered to sit down and work with the Republican leadership to craft a health

exception that we could all accept. The Republican leadership refused. The President will sign this legislation if it contains an exception that would protect the health of the mother, but the Republican leadership will not even give us a chance to put one in this legislation.

The Republican leadership does not want to ban this procedure. Unfortunately, it wants a political issue. Republicans would rather debate this again and again and again, rather than send the President a bill that he can sign into law.

Mr. Speaker, do not take my word for it. Let us listen to the words of Ralph Reed. On May 21 he told the New York Times that this was, and I quote, "A winning, gold-plated issue going into the 1996 election." No pious words about the defenseless unborn, no handwringing over moral decay, just a winning gold-plated issue. This, Mr. Speaker, sadly, is pure politics, plain and simple.

Mr. Speaker, we will hear a great deal today about the AMA and its endorsement of this bill. We will hear that changes made to the bill in the Senate have improved it. Nonsense. The Senate amendments are window dressing that provide cover to doctors while leaving women, frankly, out in the cold. The AMA struck a very cynical bargain with the Republican leadership to endorse this bill.

Thankfully, Mr. Speaker, the AMA is not the final word on this issue. The American College of Obstetricians and Gynecologists, ACOG, the health professionals who actually deliver babies and care for women, oppose this legislation. The American College of Obstetricians and Gynecologists oppose this legislation. Let us not forget, Mr. Speaker, that the AMA represents the doctors, not the women.

So while the changes made to this bill in the Senate may make it marginally more difficult to throw doctors in jail when they are making these very difficult decisions, they will do nothing, absolutely nothing, to save the lives or preserve the health of women.

So we are left with the same bill that we have voted on four times before, the same bill that puts the lives and health of women at risk, the same bill that violates the Constitution of the United States of America and tramples on the rights of American women. Women from around the Nation testified before Congress that this procedure protected their lives and their health, women like Tammy Watts, Claudia Addes, Maureen Britel, women who would have been harmed by this bill.

These women, Mr. Speaker, desperately wanted to have children. They had purchased baby clothes. They had picked out names. They did not abort because of a headache. What an insult, Mr. Speaker. They did not choose to abort because their prom dress did not fit. They chose to become mothers, and only terminated their pregnancies because of tragic circumstances.

Mr. Speaker, who in this body will stand in judgment of them? Which of the Members will stand in the operating room and limit their options? Who, at the agonizing moment, will decide? That is the question? Who is going to make this decision, the Congress of the United States, or the women and families of America?

The courts have been very clear on this question, and have consistently found bills of this type to be unconstitutional. Lawsuits have been filed in 10 States challenging State statutes similar to the bill before us. In 10 States courts have ruled that the laws were unconstitutional, struck them down, limited their scope, or enjoined them.

Mr. Speaker, when the House debated this issue in March, the distinguished gentleman from Florida [Mr. CANADY] assured us that this bill was constitutional and consistent with Roe. Since then this ban has been struck down, changed, or enjoined on constitutional grounds in 10 States, 10 States. States have moved ahead, passed these bans, and they have been struck down again and again. The courts have clearly spoken. This bill violates a woman's constitutionally protected right to choose.

Unfortunately, we know that the antichoice majority will not let a little thing like the Constitution of the United States of America stand in the way of their abortion ban. Mr. Speaker, the anti-choice Republican leadership has been waging war on the reproductive rights of American women since taking over this House in 1994.

In the last Congress alone, the leadership voted to limit abortion rights more than 50 separate times, a new record. It is clear that this leadership wants to ban every abortion, that is the ultimate goal, procedure by procedure, trimester by trimester. They want to rollback Roe versus Wade and push American women back into the back alley.

Mr. Speaker, we have a different vision. We will continue to fight to ensure that women are able to obtain safe, legal abortions, and we will work as hard as we can to reduce the number of abortions by providing women with greater access to family planning and contraceptives. We will work to empower women to make responsible choices about their own bodies.

Unfortunately, Mr. Speaker, the Republicans have chosen to make our bodies their battleground, and they will not succeed.

Mr. Speaker, I am pleased to yield 3½ minutes to my colleague, the gentleman from Virginia [Mr. SCOTT], the distinguished ranking member of the Subcommittee on the Constitution.

Mr. SCOTT. Mr. Speaker, I think it is important that we focus on what this bill does. It prohibits one procedure. Nothing in the bill affects the decision to have any abortion. If this bill passes, women who decide to have a legal abortion will still be able to get that abortion. Some will just have to be subjected to other procedures that their doctors conclude will be more likely to kill, maim, or sterilize them.

We have heard, and I assume we will hear more, graphic descriptions of this procedure, but the fact is that other alternatives which will be used have not been described graphically today, and probably will not be. So the point of this bill is not to reduce the number of abortions. In fact, the point of today's vote will not even be to enact a bill, because this version is clearly unconstitutional, so much so that similar laws in the States have been thrown out at least nine times this year alone.

Mr. Speaker, though abortion has always been a controversial issue, the fact is that since 1973 the Supreme Court decision Roe versus Wade decreed that abortion will be legal in this country. Roe, which is still the law of the land, held that a woman's right to have an abortion before fetal viability is a fundamental right.

The State may, however, prohibit post-viability abortions, but only if there is no substantial threat to the life or health of the mother. In Planned Parenthood versus Casey, 1992, the court reaffirmed this holding. Mr. Speaker, other Supreme Court decisions have added to this concept by prohibiting regulations that jeopardize a woman's health by chilling the physician's exercise of discretion in determining which abortion method may be used.

So interference with a physician's exercise of discretion jeopardizes the woman's health, and is therefore as dangerous as it is unconstitutional. Although the health of the mother must remain a primary interest in order to pass constitutional muster, today's bill includes no provision which allows an exception from the ban in those cases where the other methods pose serious health risks to the mother. The Partial-Birth Abortion Ban Act will not prevent a single abortion. It simply prevents one procedure which, in certain circumstances, is the safest procedure available.

Mr. Speaker, many of us support a total prohibition on post-viability abortions as long as it is consistent with Roe versus Wade, by protecting the health of the mother. But this bill only prohibits one procedure, not the decision to undergo the abortion. Therefore, if this bill passes, the only effect, as I have said, will be that some people will have to undergo a more dangerous procedure which will increase their chances of them being killed, maimed, or sterilized.

□ 1245

I hope that my colleagues will work to prevent this result.

This debate should not be about politics, it should be about the woman who may need this procedure to protect her health and reproductive ability but may not have access to it because Congress decided that it should play doctor and politics. Let us put women's health first and defeat the bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I rise in strong support of this partial-birth abortion ban.

Mr. Speaker, this has little to do with Roe versus Wade, little to do with politics, little to do with the majority versus the minority, and everything to do with banning a procedure that is, in effect, legalized infanticide. Let there be no doubt about what we are trying to do in this Chamber today.

Mr. Speaker, 295 of my colleagues, Democrats and Republicans, and men and women, some pro-choice and pro-life, have come together not to get into the rhetoric and the hyperbole but to try to do something to cut down on the number of abortions that take place in this country.

Mr. Speaker, the AMA has now endorsed this bill that I strongly support. Former Surgeon General C. Everett Koop, who has taken on big tobacco and fought for little children, has said this about partial-birth abortion: "Partial-birth abortion is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both."

Mr. Speaker, I think that states pretty much the case, and 64 Republicans and Democrats out of 100 in the Senate have agreed. We need to talk, Mr. Speaker, about ways to eliminate the large number of abortions in this country, to reduce the number of abortions in this country. We need to do it by passing this bill. We need to do it by talking about funding birth control methods.

Mr. Speaker, we have heard that we have voted already four times on this act. We should vote 40 times or 400 times to pass what is morally, ethically, and, I think, soundly politically the right thing to do. Let us pass this bill today and put it on the President's desk.

Mrs. LOWEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado [Ms. DEGETTE].

Ms. DEGETTE. Mr. Speaker, last spring a woman came to my office with her infant son whom she loved, and you could tell the love was obvious. Tragically for this woman, this was not the first pregnancy she had had. She had lost a previous baby months along in the cycle through no fault of her own, and she had used this procedure after consulting with her husband, her family, and her doctor.

Mr. Speaker, not very many women are forced to use this procedure. In 1992, the most recent year for which we have statistics, only 0.4 percent of all abortions take place after 26 weeks when this procedure becomes necessary. Like the women in my office, like the women that my colleagues have talked about today, every single one of these women who are facing these late-term procedures are facing threats to their life or threats to their health or they are carrying a fetus with severe abnormalities that will not survive. That is why the American College of Obstetricians and Gynecologists opposes this legislation even now, and that is why this piece of legislation is unconstitutional and should not be passed.

Mr. Speaker, the terms are so vague that like the 10 States that have struck down the State legislation, this legislation will not be held constitutional and should not be passed.

Mr. Speaker, I have a question as a new Member of Congress. Why are we voting on this piece of legislation again and again and again and again and again? It is all we have talked about in my first 10 months of Congress.

Mr. Speaker, the reason is clear. In the 1998 elections, the Republicans think they can saddle people with this. The women of America are not going to accept it. The women of America need to make this decision in consultation with their families and their doctors. Let us move beyond this to rational family planning so we can avoid unwanted pregnancies.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. WELDON].

Mr. WELDON of Florida. Mr. Speaker, I rise in strong support of H.R. 1122, the partial-birth abortion ban. I have spoken out repeatedly in support of this ban, and I will continue to do so however long it takes to get the necessary two-thirds majority in both the House and the Senate so that we can override the President's veto.

It was in 1993 when I was still practicing medicine when I first read about this procedure. It was published in the American Medical News. I had seen all of my patients for the day, I was sitting down at my desk, and, frankly, I was shocked and amazed that in a country that is supposed to be founded on the principle that we are endowed by our Creator with the right to life, that a procedure this barbaric would be legal and, furthermore, that some people who purport to be legal scholars would argue that it is somehow protected in our Constitution. It is nowhere mentioned anywhere in our Constitution.

I want to address two very important issues; No. 1, these so-called tragic circumstances. In that original article that appeared in the AMA News, the originators of this procedure admitted that 85 percent of the time it was on perfectly healthy fetuses and in the other 15 percent, the majority of them were cleft lip and cleft palate.

How many millions of Americans in this country who have a loved one with cleft lip or cleft palate would like to know that this kind of barbaric procedure could be done on a baby for a deformity as simple as that? It is absolutely tragic to me to think that somebody would make that kind of an argument.

Mr. Speaker, I am not finished. I also want to discuss this other so-called health exception. They had a health exception in California prior to Roe versus Wade, and they did thousands and thousands of abortions every year because we all know, I am a doctor, any doctor can say it is needed for health. That is a loophole you can drive a truck through.

This procedure is barbaric. I encourage all of my colleagues to vote in support of the bill.

Mrs. LOWEY. Mr. Speaker, I yield 10 seconds to the distinguished gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, I would say to the doctor, he is also a Congressman and there is a constitutional basis for this measure that we have. Look at the fifth amendment, then read the U.S. Supreme Court decision.

Mrs. LOWEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas [Ms. JACKSON-LEE], a member of the committee.

Ms. JACKSON-LEE of Texas. Mr. Speaker, there are physicians and people of many walks of life in this House, but though we come with different experiences, we do not stand for the thousands upon thousands of physicians across the Nation who deal with patients, in this instance women, women who are expecting and looking forward to the blessed day. As we debate this issue, none of us can stand in their shoes.

I am saddened that we now come for the fourth time to deny the opportunity for a mother who wants to bear children again to be protected and to have her health protected in a private and personal and religious and family decision.

Take the story of Eileen Sullivan, someone who brought tears to my eyes as she testified before the House Committee on the Judiciary. I ask you to stand in her shoes. Eileen Sullivan from Los Angeles, a Catholic with 10 brothers and sisters, Eileen had long awaited her first child. She and her husband were devastated at 26 weeks of pregnancy that testing revealed overwhelming fetal abnormalities in their son, including an improperly formed brain, a malformed heart, no lungs, and nonfunctioning liver.

Mr. Speaker, did she rush to have an abortion? No, she did not. She took test after test after test. And I imagine, as a devout Catholic, she prayed

and prayed and prayed, and yet the prognosis was: "Eileen, if you and your husband want a healthy child, we must terminate this pregnancy." In the law of the land, she had the right to choose. She did not voluntarily do so.

So Eileen had a procedure, a medical procedure for which, under this bill, the physician would be held liable and accountable, upon which the family decision, the prayer that was made that helped them to decide this.

Mr. Speaker, I simply say this is a bad piece of legislation. It is difficult to decide, but I would ask that my colleagues vote on behalf of Eileen. Vote against this legislation and give life.

Mr. Speaker, I rise today in opposition to H.R. 1122. The issue raised by this legislation is a very difficult and emotional issue for all of us here in this body. It is one that I, and I am sure many of my colleagues, have given a great deal of consideration. There is no question, however, but that I must oppose this legislation.

H.R. 1122 raises many concerns, but two in particular are worthy of discussion. First, as currently written this legislation is unconstitutional. Second, the legislation makes no provision for the protection of a mother's health.

Last May, the Senate passed H.R. 1122, the Late-Term Abortion Ban Act only making three minor amendments to the House-passed version. We are asked today to agree to these amendments. The Senate amendments are purely cosmetic, however, and do nothing to answer my concerns. While these amendments provide the physician additional protections, they do nothing to extend protection to the health and well-bring of American women and their families. As currently written, H.R. 1122 provides no exception to protect a woman's health and makes no distinction between abortions before and after fetal viability.

As a Member of Congress, I have, sworn to uphold the U.S. Constitution. H.R. 1122 is unconstitutional and we, in Congress, should not attempt to undercut the law of the land as set forth by the U.S. Supreme Court in Roe versus Wade.

In Roe versus Wade, the Supreme Court held that women had a privacy interest in electing to have an abortion. This right is qualified, however, and so most be balanced against the State's interest in protecting prenatal life. The Court determined that post-viability the State has a compelling interest in protecting prenatal life and may ban abortion, except when necessary to preserve the woman's life or health. In line with this decision, 41 States have already passed bans on late term abortions, except where the life or health of the mother is involved.

In Planned Parenthood versus Casey, the Court held that the States may not limit a woman's right to an abortion prior to viability when it places an undue burden on that right. An undue burden is one that has "the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus."

H.R. 1122 in its current form interferes with a woman's access to the abortion procedure that her doctor has determined to be safest for her, and so unduly burdens her right to choose. It is therefore inconsistent with the principles outlined in Roe and Casey, which have been reaffirmed by every subsequent Supreme Court on this issue, and so is unconstitutional.

Partial birth abortions are performed because a physician, with the benefit of his expertise and experience, determines that, given a woman's particular circumstances, this procedure is the safest available to her; that this is the procedure most likely to preserve her health and her future fertility. Only a doctor can make this determination. We, in Congress, should not interfere with the close relationship that exists between a doctor and his or her patient.

It is a tragic fact that sometimes a mother's health is threatened by the abnormalities of the fetus that she is carrying. She is faced with a terrible decision whether to carry a fetus suffering from fatal anomalies to term and in so doing jeopardize her own health and future fertility or whether to abort the fetus and preserve her chances of bringing a later healthy life into the world.

When a woman is faced with this type of painful circumstance, it is one that she should face free from Government interference. This is too intimate, too personal, and too fragile a decision to be a choice made by the Government. We should protect the sanctity of the woman's right to privacy and of the home by letting this choice remain in her hands. Families and their physicians, not politicians, should make these difficult decisions. It is a decision that should be between a woman, her spiritual leader and her god.

Proponents of the partial birth abortion ban maintain that this procedure is never the only option to save the life or preserve the health of a woman. ACOG, The American College of Obstetricians and Gynecologists stated that while this procedure may not be the only option to save a woman's life and health, it may be the best option.

I am reminded of the story of King Solomon. In that story Solomon is faced with deciding between two women who claim that a certain child is their own. The power and authority to determine to whom the child belongs rests with King Solomon, but he gave the mothers the power to choose the child's fate and from this decision the life of the child was saved.

Many of my colleagues have worked hard to amend the ban so that it would provide an exception to protect the mother when the continuation of the pregnancy would put her physical health at risk. This was rejected. Without such a provision, I am unable to support this ban. For these reasons I urge my colleagues to join me in opposing H.R. 1122.

Mr. CANADY of Florida. Mr. Speaker, I yield 2½ minutes to the gentleman from Oklahoma [Mr. COBURN].

Mr. COBURN. Mr. Speaker, "We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America."

Mr. Speaker, we have heard a whole lot about the American College of Surgeons and the American College of Obstetricians and Gynecologists. That is the same organization that refused to suggest that women who are pregnant get an HIV test, knowing that in fact it could prevent HIV infection from the baby, the same organization that ruled we should do that after this Congress stood up and morally said they should do it. So, they do not lead on what is right and wrong. They follow. They have already proven that they follow.

We have a choice. The child just described by the gentlewoman from Texas [Ms. JACKSON-LEE], there was a choice there. There was a choice that the doctor could end a life early through a very gruesome and horrible procedure, or there was a choice that a baby could have been delivered and died in its mother's and father's arms. We do have choices. There is no question about it.

Mr. Speaker, who is looking out for the infant girls that consume 85 percent of the elective abortions used on this procedure?

The thing that saddens me most about this debate, and I am tired of the debate as well, is we will not be truthful about what we are talking about. The truth is that this is never needed. The truth is that we have a lot of people who believe, and are respected in their belief, that women ought to be able to abort any baby any time for any reason.

The unfortunate thing is that there is not the integrity in this House, or the honesty, to stand up and say that is what I believe. So, therefore, we use disinformation, deceit, and untruth to cover what the real facts of the issues are.

So, Mr. Speaker, when, in fact, Members decide on whether or not we ought to be involved in banning a procedure that the vast majority of physicians in this country know is not needed to accomplish the purpose, they should ask themselves whether we are leaders or we are followers.

I do stand in the shoes every weekend and defend women and their rights and care for them and their problem pregnancies. I do know what I am talking about. It is a moral, ethical issue. It has nothing to do with the practice of medicine.

Mrs. LOWEY. Mr. Speaker, I yield 2¼ minutes to the gentleman from Massachusetts [Mr. FRANK], a distinguished member of the committee.

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Indiana [Mr. ROEMER] said he is for this bill because he wants to reduce the number of abortions. This bill, of course, does not by any means reduce the number of abortions. It does say doctors cannot do one procedure versus another. This deals with one procedure. It does not purport even to ban abortion under any circumstances but simply says, do not use this procedure.

Now, when we ban one procedure and allow the others, we make this one mistake. On this bill, the majority has consistently refused to accept an amendment which says this procedure can be used if the doctor believes it is necessary to avoid grievous physical harm to the mother.

So I ask my colleagues to understand, this is a bill which says that even if there will be grievous physical harm in the opinion of the doctor, he has to use a different procedure.

Mr. Speaker, I am told the chairman of the committee, who is here, has said: Well, but we cannot just restrict it. Once we say "health," the Court will automatically say "mental health." That is simply, wholly untrue.

Mr. Speaker, when the Court interpreted health to mean mental health, they were not talking about a statute which specifically modified health with the word "physical." The Court has held that there is a general constitutional right of the health of the mother to be taken into account, and they have defined that as mental or physical.

□ 1300

If that governs, the whole bill is out. Understand, if that interpretation governs, then all health, all abortions are out. We are apparently believing here, the majority, that we cannot ban this particular procedure and make an exception. What we are saying is, OK, we will make an exception to the exception and if grievous physical harm will come, then it will be allowed. No, there is no argument that the court would not recognize that. The court has defined health when it was unmodified. There is not a single decision that suggests that the court will look at the words "grievous physical health consequences" and interpret those away. So either we must believe that the court will impose health, including mental health, across the board, or we must recognize the validity of this.

Without the amendments we have offered, by refusing to let us offer an amendment, the majority says not simply that we will ban the procedure but we will ban it even to avoid, if it is necessary, to avoid grievous physical health consequences. That is what this is about, whether or not grievous physical health consequences should be allowed into the bill.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, make no mistake about it, abortion is violence against children. The partial-birth method is an extraordinarily heinous manifestation of this violence. Today those who kill babies by jamming scissors in a baby's skull followed by insertion of a hose to suck out their brains have an unfettered license to kill.

Nurse Brenda Pratt Schaffer, who worked with the infamous Dr. Haskell, described the end of the life of one 6-month-old in this way, and I quote:

"The baby's body was moving. His little fingers were clasping together. He was kicking his feet. All the while his little head was still stuck inside. Dr. Haskell took a pair of scissors and inserted them into the back of the baby's head. Then he stuck the high-powered suction tube into the hole and sucked the baby's brains out. I almost threw up," she said, "as I watched him do these things."

To mitigate this cruelty, Mr. Speaker, this cruelty to children, some States, about 15, have already enacted partial-birth bans into law but litigation has mostly precluded enforcement. Other States are considering such a ban. And in Florida, Missouri, and my own State of New Jersey, where at least 1,500 of these partial-birth abortions are done each year in northern New Jersey alone, the bills were sadly vetoed by our Governors.

Mr. Speaker, the United States needs a national law to ban this violence against kids. Today we can do that. Today we can revoke the license to kill babies in this fashion and protect at least some kids from this kiddie holocaust called abortion on demand. If the President vetoes the bill, he and he alone empowers abortionists to murder kids in this hideous way.

Let's not forget, Mr. Speaker, the leadership of the pro-abortion movement has been savvy in masking the violence and cruelty to baby girls and boys killed by abortion in general and this method in particular. But they have been exposed once again and by one of their own.

Members please recall that Ron Fitzsimmons, the ex-director of the National Coalition of Abortion Providers, has publicly confessed that he "lied through (his) teeth" when he told a TV interviewer, according to the New York Times, that partial-birth abortion was "used rarely and only on women whose lives were in danger or whose fetuses were damaged."

According to the AMA News and the New York Times, Mr. Fitzsimmons now says that his party line defense of this method of abortion was a deliberate lie—and that in the vast majority of cases, the procedure is performed on a healthy mother with a healthy fetus that is 20 weeks or more along.

Most in the media believed and amplified as true the falsehoods and lies put out by Planned Parenthood Federation of America, the Alan Guttmacher Institute, the ACLU, NARAL, the National Family Planning and Reproductive Health Association, NOW, the National Republican Coalition for Choice, People for the American Way, Population Action International, Zero Population Growth [ZPG], to name a few signers of an October 25, 1995 letter to Members of Congress which stated:

This surgical procedure is used only in rare cases, fewer than 500 per year. It is most often performed in the case of wanted pregnancies gone tragically wrong, when a family learns late in pregnancy of severe fetal anomalies or a medical condition that threatens the pregnant woman's life or health.

These groups lied to us. And it's not the first time these groups have lied to us. Dr. Bernard Nathanson, a former abortionist and a founder of NARAL has said lying and junk science are commonplace in the pro-abortion movement. It is the way they sell abortion to a gullible public. Dr. Nathanson said that in the early days, they absolutely lied about the number of illegal abortions; today, he says they lie about the link of abortion and breast cancer—there is a link; and they lie about the safety of abortion. And of course, the big lie on partial-birth abortion has been exposed. The procedure is not rare—it is common—and it is used with devastating consequences on perfectly healthy mothers and babies.

In the debate on partial-birth abortion last year, remember the big lie about how anesthesia kills the baby? That falsehood was exposed by the president of the American Society of Anesthesiologists, Dr. Norig Ellison, who explained before the Senate Judiciary Committee:

I believe this . . . to be entirely inaccurate. I am deeply concerned, moreover, that the widespread publicity given to Dr. McMahon's testimony may cause pregnant women to delay necessary and perhaps life-saving medical procedures, totally unrelated to the birthing process, due to misinformation regarding the effect of anesthetics on the fetus. . . .

Mrs. LOWEY. Mr. Speaker, I yield 15 seconds to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Speaker, of those 15 States that have passed the law the gentleman advocates, 9 have been found to be unconstitutional.

Mrs. LOWEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. Mr. Speaker, we can learn from our elders. Our first citizens, native Americans, have a phrase that I think bears repeating in this place: Do not judge a person until you have walked a mile in their moccasins.

So I say to the Members who are pushing this ban, they are probably very sincere but most of them do not know what they are talking about. They do not know the agony of a late failed pregnancy. They do not know in what circumstances a physician may have to counsel a family in order to protect the health of a particular woman. They do not know about the choices families must make when they have to choose between a woman's health and a badly damaged fetus.

So, my colleagues, I say it is time we step into the shoes of those women, of those families, of those doctors. It is time politicians stop making decisions that are best made by families, by women, by physicians. It is time to get the Government off the backs of our citizens. It is time to listen to the

38,000 Members of the American College of Obstetrics and Gynecology, because they do know and they are opposed to this ban. I would urge my colleagues to join those doctors and oppose this ban.

Mrs. LOWEY. Mr. Speaker, may I inquire of the Chair the time remaining?

The SPEAKER pro tempore. The gentlewoman from New York [Mrs. LOWEY] has 10 minutes remaining, and the gentleman from Florida [Mr. CANADY] has 7 minutes remaining.

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

Mr. Speaker, we continue to oppose this bill for two very simple reasons. It endangers the life and health of American women. It is blatantly unconstitutional. The antichoice majority has trumpeted the AMA's support for this bill, but the changes made to this bill to win the AMA's support do nothing, nothing to protect the lives and health of American women.

Again, I want to remind my colleagues, whether one believes that the Constitution should say more or should say less, the point is that 10 courts have struck down, even, or changed abortion bans like the one before us because they violate Roe versus Wade. Ten courts have spoken. Why will not Congress listen? This bill tramples on Roe versus Wade and is a direct assault on the constitutionally protected right to choose.

Mr. Speaker, let me be very clear. As a mother, as a new grandmother, I respect and celebrate life with every ounce of my soul, with every ounce of my being. I find it very offensive when year after year my colleagues and I will go to the leadership, will go to the Committee on Rules and say, let us craft a bill that the President will sign. Let us craft a bill that will focus on postviability abortions, will disallow postviability abortions except as they protect the health and the life of the mother.

But unfortunately, the majority again, time and again, will not work with us to help craft this bill. So year after year this procedure, which they say they abhor, continues when we want to make sure that postviability we are eliminating a procedure except to save the life and health of the mother, which is consistent with Roe versus Wade.

I would ask my colleagues again, work with us. Let us craft the language that the President can sign, and we can get this enacted into law, that we feel is reasonable and that will protect a woman's life and health.

Mr. CONYERS. Mr. Speaker, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I wanted to thank the gentlewoman for her leadership, not just today but year after year, on this subject matter. I am hoping somebody raises the fact that the AMA has switched its position, because I have got the letter they sent NEWT GINGRICH on the same day they switched their position, detailing what they wanted for the switch.

That AMA, that is the American Medical Association. And what did they want? Well, they wanted some compromises. They detailed a plan to stall or minimize any cuts that might come from the physicians' incomes. Let us not wax lyrical about the AMA is now on the side of the conservatives in this country. They just sold out, very elementary, dear Watson, it happens in the Congress and in the body politic with great frequency.

Once again, we all know that the issue is about the health of the mother. The opponents keep trying to hope they can override our resistance. The Supreme Court still states what the law of the land is, and for all the doctors on the Republican side that do not know the fifth amendment is severely connected to this subject matter, believe me, it is.

Mrs. LOWEY. Mr. Speaker, I thank the distinguished ranking minority leader.

Mr. CANADY of Florida. Mr. Speaker, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Florida.

Mr. CANADY of Florida. Mr. Speaker, the gentlewoman raised an issue about proposed amendments dealing with the mother's health. The problem with the amendment that the President has proposed which would deal with the mother's health is that it would first not deal with the vast majority of partial-birth abortions at all, because it is restricted on its face to postviability abortions and most partial-birth abortions occur before viability. Furthermore, the President's proposal would give unfettered discretion to the abortionist to decide.

Mrs. LOWEY. Reclaiming my time, Mr. Speaker, I would rather the gentleman speak on his time since I have limited time.

Mr. Speaker, I yield 2 minutes and 30 seconds to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Speaker, I thank the gentlewoman for yielding me the time and for her extraordinary leadership on a very hard bill to manage and carry, but one that has to be carried.

I want to make three points. One goes to the futility of this bill based on its unconstitutionality. The other goes to who gets protected. The final goes to the intolerable trade-off that this bill forces and that cannot be condoned under any circumstances. Why are we here on a bill that is unconstitutional on its face?

We have not had to deal with the exception for health of the mother in the Hyde amendment and other matters because we had not focused on postviability. But the Supreme Court has been clear. I want to quote the language, that a bill is unconstitutional if it "fails to require that maternal health be the physician's paramount concern." That is where the Catholic church has always been. That is where all of us have always been, if ever there is that kind of tragic decision to be made.

We must face that now as we have not had to because we are focusing postviability.

Why are we here on a bill that protects physicians and not women? The doctors got language that satisfied them and jumped ship. I thought they were supposed to have a paramount duty to their patients as well.

They better watch out, because there is language in this amendment that I think leaves them in jeopardy as well. It must be found that no other medical procedure would suffice. I can imagine that going before committee of doctors in the hospital, particularly when we consider how reluctant physicians are ever to use this procedure.

And finally, this forces the intolerable tradeoff of mother for fetus. It comes down on the side of fetus. It requires sacrifice of the mother because whatever the state of her health, it cannot be taken into consideration. For these reasons, I do not see how in good faith this body can pass this bill.

Mrs. LOWEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in closing, again I just want to reach out to the gentleman from Florida [Mr. CANADY] and the gentleman from Illinois [Mr. HYDE], and ask them to work with us to craft a bill that would protect the health and the life of the mother. We could have had a bill today. This was first introduced in 1995.

□ 1315

It was vetoed by the President. It came back five times. We could have a bill today.

And I want the gentleman to know that I respect the passion of the opponents on this issue just as I hope the gentleman would respect the passion of women such as myself who have given birth to beautiful children, who is now a grandmother and respects life and celebrates life. I wish the gentleman would have more respect for those women like Claudia Addes, who suffered the pain of losing a child when she desperately wanted a child.

I am saying to the gentleman, with respect, let us sit down and work out a bill that would protect those women, protect all the women who may face this very difficult tragedy in their lives at some future time. I hope no one close to the gentleman ever faces that decision.

Let us work together, let us craft the bill, protect the women and the families who have to face these difficult decisions and, Mr. Speaker, let us not put

a doctor in the terrible position of making this decision that he does not or she does not feel is the correct decision.

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I wish I had more time to answer the gentlewoman from New York. She is a wonderful person. She is a sincere person. Her motives are most noble, and I wish everyone on her side would understand this is not politics. This is a tough issue for anybody.

We happen to believe in protecting the unborn child. We happen to think the health of the mother does not equal the life of the unborn. That is not a good trade-off. That is where we get stuck.

We hear from doctors, like Dr. Hearn, who wrote the book on abortion, that if a woman is pregnant she is in a life-threatening condition. Do we want him to make the decision on what is grievous physical health? We have problems, but it is not that we are not willing to negotiate on them.

Mr. Speaker, abortion is not mentioned in the Constitution. The abortion license was an invention by seven Supreme Court justices. But cruel and unusual punishment is in the Constitution. And by any definition, partial-birth abortion is cruel and unusual punishment, punishment for the capital crime of being unloved and unwanted.

Every abortion happens over somebody's dead body. We hear a lot about the woman, and we should, but we do not hear a scintilla about the little girl baby, the little boy baby whose heart is beating wildly and who is flailing, their having been almost delivered and who want to live. We do not hear about them.

Every abortion results in a violent death, whether the abortionist uses dilatation and curettage or the chemical warfare of saline injection which scalds the little baby to death that is called salting out, or RU-486 chemical warfare against the little baby, or the infamous suction machine, abortion means violent death in the womb. But partial-birth abortion adds a gruesome dimension to this cruelty by reaching the level, or should I say the depth, of infanticide.

A word about truth. America is committed to truth. "We hold these truths," that great Virginian Jefferson wrote. "The truth will make you free," we tell our children. How many times have we sung the majestic words from the "Battle Hymn of the Republic," "His truth goes marching on?" Well, Mr. Speaker, the whole case for partial-birth abortion is based on deception and untruth.

And that is not surprising, because the history of the pro-abortion rights movement is replete with one falsehood after another. And I frankly get tired of being lied to.

Bernard Nathanson, a doctor who ran the biggest abortion clinic in America, wrote a book called "Aborting America." And he said "I cannot escape the notion that I have presided over 60,000 abortions." But concerning the number of back-alley abortions, he said we made the figures up. He is a founder of the National Abortion Rights Action League. He and a man named Lawrence Lader concocted figures because they sounded good about back alley abortions as a justification for their organization dedicated to legalizing abortion. "We made up the figure 10,000 because it had a nice round sound to it." That was a lie.

Roe versus Wade was a lie. Norma Jean Corvey, who was Jane Roe, said she never was raped. The case was presented as a rape situation to make it more poignant. But later, when she became pro-life, she admitted that she lied; that she was not raped. So the foundation of Roe versus Wade was a lie.

Then we have partial-birth abortions, where Planned Parenthood told us that anesthesia kills the little baby. The baby does not feel pain. The mother is anesthetized. The anesthesiologists came in and went ballistic. They said enough anesthesia to kill the little baby would kill the mother. "We do not want people to shy away from taking anesthesia" they told us. That is a lie.

Then, of course, we have the famous Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, who in an article in the American Medical News said on the night in November 1995, when he was on "Nightline," he "lied through his teeth." He lied through his teeth about how many of these abortions are done and at what time in the pregnancy. So deception. Lies. I get tired of it.

Now, we are not stopping abortion, as the gentlewoman points out, but we are stopping a loathsome, grisly byproduct of the mindset that treats people as things and as objects. We are saying halt this cruelty now and not tomorrow.

I want to address the President, if I may presume to do so. On June 12 in 1987 at the Brandenburg Gate, Ronald Reagan challenged General Secretary Gorbachev. He said, "Mr. Gorbachev, tear down this wall." And as a result of that wall finally coming down, a new birth of freedom, that wonderful phrase, suddenly appeared for millions of people.

Well, there is another challenge that I would like to make, and I do not presume to be Ronald Reagan nor do I ascribe the President as Mr. Gorbachev, but the challenge is as noteworthy as the Berlin Wall, and that is because it means life and death to thousands of endangered tiny defenseless humans, sign this bill, Mr. President, then the prayers of millions and even the inaudible prayers of the little yet-to-be-born will be answered.

Mr. President, stand between them and a gruesome death. Cruel and unusual punishment. We can provide them with life and with hope, and I ask the President if he has not been lied to enough by these people who are so fearful that the abortion license will be encapsulated a little bit more than it is, be a little less free, a little less wanton. They are so fearful of that, they will not give an inch.

This procedure is inhuman. Animals of the forest would not treat their young this way. So all we say is we have been lied to enough. This does not impair abortions. They will go on merrily every day. We will get to them.

Mr. President, sign this bill.

Mr. UNDERWOOD. Mr. Speaker, I rise in strong support for this legislation which bans partial-birth abortions. Over the past year, the House expressed its opposition to this procedure: not once, not twice, but three times. The decision before us today is simple: do we ban this procedure which is incredibly inhumane and incredibly brutal? I join the National Right to Life Committee, the U.S. Catholic Conference, the American Medical Association, and many others in saying no to partial-birth abortions.

According to Ron Fitzsimmons, executive director of the National Coalition of Abortion Providers, and other sources, it is estimated that partial-birth abortions are performed about 5,000 times. Do we really want to sanction the termination, no the killing of 5,000 babies? Have we given up on these unborn babies before they have a chance to live? Sadly, the majority of partial-birth abortions are performed in the 5th and 6th months of pregnancy, on healthy babies of healthy mothers. What has happened to our sense of morality and our sensibility?

The arguments that this bill does not take into account the health of the mother are not valid. This bill is narrowly crafted to outlaw only partial-birth abortions; the bill still leaves in place other legitimate medical procedures to protect the life and health of the mother. In September 1996, the former Surgeon General C. Everett Koop issued a statement that "partial-birth abortions is never medically necessary to protect a mother's health or her future fertility. On the contrary, this procedure can pose a significant threat to both."

Mr. Speaker, the babies involved in this procedure are alive and experience great pain when they are subjected to partial-birth abortions. As a civilized society, we should outlaw this medical procedure; we should not be engaged in sanctioning the killing of human beings; once again, we should say no to partial-birth abortions. I urge my colleagues to join me in supporting the ban on partial-birth abortions.

Mr. LEVIN. Mr. Speaker, I do not favor late-term abortions and feel none should be allowed, whatever the procedure, unless necessary to preserve the life of the mother or prevent serious

consequences to her health. The bill we are considering today, like a similar bill I opposed last year, not only fails to address all late-term abortions, but it does not protect a woman from the severe health consequences which may be associated with tragic pregnancies.

For the majority, the repeated consideration of this legislation is not about reducing abortions in America. If that were the goal, the majority would allow for the consideration of a bill which protects a mother's health, as required by the Supreme Court in post-viability abortions, and a bill would be passed by this House and signed into law by the President.

We are asking the majority to be sensitive to and protective of the health of mothers who find themselves in medically and personally tragic situations. I am voting against moving the previous question so that we can consider the Hoyer amendment and ban all late-term abortions while ensuring the protection of a woman's life and health.

Mr. ABERCROMBIE. Mr. Speaker, today I rise in opposition to H.R. 1122, the Partial-Birth Abortion Ban Act. H.R. 1122 has been amended in an effort to clarify the bill's intentions. Yet, H.R. 1122 fails to provide women with the basic protections established in Roe versus Wade.

The new definition of what constitutes a partial-birth abortion is vague, convoluted, and confusing. What is a partial delivery of substantial proportion, for example? Doctors and lawyers will not have a clear idea of what is being banned.

H.R. 1122 gives any accused physician the right to have his or her conduct reviewed by the State Medical Board before a criminal trial begins. The provision does not give the State Medical Boards the authority to issue advisory positions. The provision only allows the State Medical Boards to comment on the doctor's conduct with respect to the necessity of saving the life of the woman. They cannot comment on whether or not the procedure meets the definition of a partial-birth abortion. Possible conflict of interest in the makeup of the medical boards is not addressed. The provision falsely implies that doctors have some type of protection; they do not. Doctors still have to go through criminal proceedings.

In Roe versus Wade, the U.S. Supreme Court recognized a woman's constitutional right of choice. Roe also established that this right is limited after viability, at which point States may ban abortion as long as an exception is provided for cases in which the woman's life or health is at risk. H.R. 1122 fails to make the distinction between pre- and post-viability abortion.

Forty States and the District of Columbia ban post-viability abortions. The U.S. Supreme Court has struck a balance between a woman's right to choose and the protection of potential life. H.R. 1122 unfortunately does not clarify the distinction.

Intervening in a lawful medical decision is inappropriate, ill advised, and dangerous. It is always in order to question laws and write legislation which may alter existing statutes. H.R. 1122 does not address what is now lawful in a manner which meets the necessary criteria for changing the law.

Mr. ADERHOLT. Mr. Speaker, I rise today in support of H.R. 1122 as amended by the Senate.

This bill would help to fight what Pope John Paul recently called an abominable crime and the shame of humanity—the crime of abortion.

On the Pope's recent visit to Brazil he asked, "How many times did we hear Mother Teresa's lips proclaim the priceless value of life from the moment of conception in the maternal womb? Death has silenced those lips, but Mother Teresa's message in favor of life continues to be more vigilant and convincing than ever."

It is my belief that our creator will not hold this Nation guiltless for our contribution to the killing of the unborn. Indeed, the Bible tells us in Proverbs that God hates "hands that shed innocent blood." Certainly, there can be none more innocent than the unborn.

And this procedure is particularly horrific. It has been called the closest thing to infanticide. I will not go into the gruesome details of this procedure but I believe that it is telling that many who support abortion on demand, do not support this procedure.

There are few moral questions that come before this body that are more clear-cut and simple than this one. The question we will vote on today is whether your support a method of abortion that involves partially delivering a baby and then killing it, or do you support allowing a newborn to live. Pure and simple.

I am proud to stand today with those who support life. I urge my colleagues to honor the words of the Pope and Mother Teresa by supporting life—and to vote in favor of the ban on partial birth abortions.

I yield back the balance of my time.

Mr. NADLER. Mr. Speaker, let there be no mistake. The amendments that we are considering here today do not make this bill acceptable. They do not provide the critical exception necessary to protect women in tragic circumstances from serious harm to their health.

This bill is still unconstitutional, and is still in direct violation of the fundamental rights described in Roe versus Wade.

This bill would still criminalize doctors for using their best medical judgment to protect the lives and health of women.

This bill would still give a father who abused or abandoned a woman the right to sue her if she and her doctor determine that she needs to have this procedure. Not only does this bill infringe on the constitutional right to choose, but it rewards abusive fathers.

This bill is still fundamentally flawed, because it is based on the principle that politicians, not doctors, ought to make medical judgments about what procedures are appropriate.

I would urge every pro-choice Member who may be inclined to vote for this bill to carefully consider exactly why they are pro-choice. If you are pro-choice because you believe it is a woman's decision, not the government's, about whether or not to have an abortion, then I urge you to vote against this bill. If you believe that sometimes abortions are necessary to protect the health of a woman, then you ought to vote against this bill. If you believe that doctors should not be denied the option of using a medical procedure that they deem appropriate, then you must reject this bill. If you believe in the fundamental principles of Roe versus Wade, then you must not support this bill which severely restricts a woman's right to choose to have an abortion of a fetus that cannot live outside of the womb.

This bill, unfortunately, is not about protecting women's lives. Instead, it is the result of a multimillion dollar campaign aimed at fundamentally limiting women's rights. If this bill becomes law, it will most certainly be challenged in the courts and the result may be a reexamination of Roe versus Wade. So I hope my pro-choice colleagues, who may be inclined to vote for this bill, realize that they are in effect asking the Supreme Court to reexamine the issues resolved by Roe versus Wade.

Make no mistake, this bill is not about one particular procedure. It is about the right to choose. I urge my colleagues to defend a woman's right to choose, and to reject this dangerous bill.

And let me close by quoting a letter from a woman in New York City who faced a tragic situation involving a fetus with a severely deformed heart, and who would have been affected by this legislation had it already become law. She writes,

> You must hear our voices before you vote on this misguided bill, as well as the voices of other mothers and fathers who weep over their empty cribs. We are not bad people. We are extremely unfortunate, suffering families trying to cope with personal tragedies. Please don't deepen our wounds by taking away our choices. Please vote against H.R. 1122.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to the bill, and I yield myself such time as I may consume.

This is the fifth time that the House will vote on this issue. Unfortunately, it won't be the last. As my colleagues know, the President will veto this legislation because it does not contain an exception to ensure the health of American women. So we will be back here again next year.

We have repeatedly tried to offer a health amendment to the bill on the floor of this House—and the Republican leadership has consistently blocked us. We offered to sit down and work with the Republican leadership to craft a health exception that we could all accept. The Republican leadership refused. The President will sign this legislation if it contains a health exception—but the Republican leadership won't even give us the chance to put one in.

The GOP leadership doesn't want to ban this procedure—it wants a political issue. Republicans would rather debate this again and again and again rather than send the President a bill that he can sign into law. But don't take my word for it—take Ralph Reed's. On May 21, he told the New York Times that this was a quote, winning gold-plated issue going into the 1996 elections.

No pious words about the defenseless unborn, no handwringing over moral decay. Just a winning gold-plated issue. This is pure politics, plain and simple.

My colleagues, you will hear a great deal today about the AMA and its endorsement of this bill. You will hear that changes made to this bill in the Senate have improved it.

Nonsense. The Senate amendments are window dressing that provide cover to doctors while leaving women out in the cold. Sadly, the AMA struck a very cynical bargain with the Republican leadership to endorse this bill.

Thankfully, Mr. Speaker, the AMA is not the final word on this issue. The American College of Obstetricians and Gynecologists, ACOG, the health professionals who actually deliver babies and care for women, oppose this legislation. And let's not forget, my colleagues, that the AMA represents doctors—not women. So while the changes made to this bill in the Senate may make it marginally more difficult to throw doctors in jail, they will do nothing—absolutely nothing—to save the lives or preserve the health of pregnant women.

So, we are left with the same bill that we have voted on four times before. The same bill that puts the lives and health of women at risk. The same bill that violates the Constitution and tramples on the rights of American women.

Women from around the Nation testified before Congress that this procedure protected their lives and health. Women like Tammy Watts, Claudia Addes, and Maureen Britel. Women who would have been harmed by this bill.

These women desperately wanted to have children. They had purchased baby clothes. They had picked out names. They did not abort because of a headache. They did not choose to abort because their prom dress did not fit. They chose to become mothers and only terminated their pregnancies because of tragic circumstances.

Who in this body will stand in judgment of them? Which of you will stand in the operating room and limit their options? Who, at the agonizing moment, will decide—the Congress of the United States or the women and families of America?

The courts have been very clear on this question, and have consistently found bills of this type to be unconstitutional.

Lawsuits have been filed in 10 States challenging State statutes similar to the bill before us. In 10 States, courts have ruled that the laws were unconstitutional and struck them down, limited their scope, or enjoined them.

Mr. Speaker, when the House debated this issue in March the distinguished gentleman from Florida assured us that this bill was constitutional and consistent with Roe. Since then this ban has been struck down, changed, or enjoined on constitutional grounds in 10 States. Ten States. States have moved ahead and passed these bans—and they have been struck down, again and again. The courts have clearly spoken: This bill violates a woman's constitutionally protected right to choose.

Unfortunately, we know that the anti-Choice majority won't allow a little thing like the Constitution to stand in the way of their abortion ban. Mr. Speaker, the anti-Choice Republican leadership has been waging war on the reproductive rights of American women since taking over this House in 1994. In the last Congress alone the GOP leadership voted to limit abortion rights more than 50 separate times—a new record. It is clear that the Republican leadership wants to ban every abortion, procedure by procedure, trimester by trimester. They want to roll back Roe versus Wade and push women into the back alley.

We have a different vision. We will continue to fight to ensure that women are able to obtain safe, legal abortions. And we will work to reduce the number of abortions by providing women with greater access to family planning and contraceptives. We will work to empower women to make responsible choices about their own bodies.

The Republicans have chosen to make our bodies their battlegrounds. They will not succeed.

Mr. Speaker, I submit the following for printing in the RECORD:

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, May 19, 1997.

Hon. NEWT GINGRICH,
U.S. House of Representatives,
Capitol Building, Washington, DC.

DEAR SPEAKER GINGRICH: On behalf of the 300,000 physician and medical student members of the American Medical Association (AMA), I am writing to express our strong concern with the level of Medicare payment cuts proposed in the budget agreement with the Administration, as well as many of the specific physician payment changes included in the Administration's 1998 budget proposal.

A balanced budget and solvent Medicare Trust Fund are important goals which the AMA supports. However, we strongly object to reducing Medicare spending by $115 billion over five years almost entirely from cuts to physicians and other providers. It is clear that physician spending is not the problem with Medicare's overall growth. Physician spending growth is already well below overall Medicare growth and below the growth rate for any other major sector of Medicare. The Congressional Budget Office (CBO) estimates that under current law, physician payments per service will fall below current payment rates, while hospital and other Part B services are projected to rise. In fact, physicians are the only provider group who already face payment reductions in Medicare under current law.

More importantly, the combination of payment cuts under consideration, combined with pending payment changes, could seriously undermine the quality of care physicians deliver to Medicare patients and ultimately reduce beneficiary access to care, as low payment rates have resulted in access problems for Medicaid patients. CBO stated last month that "if payments are too tightly limited, beneficiaries could encounter difficulties in getting care from some providers or might not be able to obtain certain services." It is critical that any proposed budget cuts be considered in conjunction with other already pending physician payment changes, including the implementation of the resource-based practice expense, as discussed below.

The AMA believes Congress and the Administration should enact fundamental reforms to the Medicare program, such as those included in the Balanced Budget Act of 1995, instead of merely reducing payments and making minor modifications to the program. We have developed a comprehensive proposal, Transforming Medicare, which addresses both the short and long-term problems with Medicare, without relying on failsafe or lookback provisions. Our plan modernizes traditional Medicare, eliminating the need for Medigap, while preserving the security and quality of care beneficiaries now receive. It would create a broad menu of health plan choices of Medicare beneficiaries to choose from, including Provider Sponsored Organizations (PSOs) and Medical Savings Accounts (MSAs). It includes needed regulatory reforms to fraud and abuse and self-referral provisions, as well as cost-saving professional liability reforms. It also ensures that a healthy Medicare is available for future generations. We are pleased to enclose a copy of our Transforming Medicare proposal for your consideration.

IMPROVING THE PHYSICIAN PAYMENT SYSTEM

There is widespread agreement that the current method of updating physician payments, the Medicare Volume Performance Standard (MVPS) system, is fundamentally flawed. The Congress, the Administration, and the Physician Payment Review Commission (PPRC) have all proposed replace the current MVPS update formula with a sustainable growth rate (SGR) formula, which uses a real per capita gross domestic product (GDP) formula to adjust for volume and intensity.

In general, the AMA supports implementing the SGR approach as a needed correction for the MVPS. Fundamentally, the question for policymakers is determining the level of annual spending growth for physician services that best balances patient care needs and the federal budget. Under the current MVPS physician update formula, Medicare payments for physicians are actually projected to be rolled back, while hospital and other provider payment rates go up. Although these non-physician services are unlikely to see their full projected increases, their budget savings will be charged against this rising baseline, while further savings from physicians require even deeper cuts.

Physician practice costs, as measured by the Medicare Economic Index (MEI), continue to rise while physician reimbursement under Medicare is projected to fall. While we believe that MEI is the appropriate goal for physician updates, we understand that budgetary constraints may not presently allow for a full MEI update for physicians. We would be willing to accept GDP+2 under an SGR system, as was provided in the Balanced Budget Act of 1995, if there were assurances that this could be increased to cover MEI once the necessary Medicare savings were obtained. In contrast, under GDP+0 as the Administration proposes, physician payments would continue to fall well below MEI, as the chart below indicates.

Physicians are willing to do their part to put Medicare's fiscal house in order, as we have repeatedly done in the past. Physicians, who accounted for 32% of combined physician and hospital Medicare spending from 1987 to 1993, absorbed 43% of Medicare provider cuts over the same time. We are only asking for the opportunity to have Medicare payments keep up with the costs of providing care to Medicare beneficiaries, and are willing to accept the challenge of maintaining low volume growth. Budget reconciliation for Medicare should reflect the fact that physician spending is under better control than any other major Medicare segment. Physicians should not be penalized for having done the right thing in the first place.

SINGLE CONVERSION FACTOR

The Administration's 1998 budget also proposes moving to a single conversion factor and payment update for the physician fee schedule. Medicare payments to physicians are set through a conversion factor that translates the resource-based relative value scale (RBRVS) into dollars. Currently, there is a conversion factor for each of three types of physician services: for 1997 these are set at $40.96 for surgery; $35.77 for primary care;

and $33.85 for other services, as well as a separate conversion factor for anesthesiologists discussed below.

The AMA strongly supports the move to a single conversion factor, in conjunction with improvements to the flawed MVPS formula. However, we believe Congress must set the single conversion factor at an adequate level and provide for a reasonable transition in order to minimize the negative financial impact on surgical services and reduce potential financial disincentives for providing care for Medicare patients. We believe that, at a minimum, the conversion factor for 1998 should be set no lower than the default update under the current MVPS formula, and a single conversion factor should be fully phased-in no earlier than the year 2000.

Medicare reimburses anesthesiologists by a different conversion factor methodology than that applied to other physicians services. For 1997, the anesthesiology conversion factor is set at $16.68, and is therefore about 46% of the $36.24 average of the other three 1997 conversion factors. For purposes of determining the annual update, anesthesiology was assigned to the "other nonsurgical" category until 1996 when it was moved to the "surgical" category. The Administration has proposed to reduce the anesthesiology conversion factor by the same percentage as surgical services when surgery, primary care and other nonsurgical services are combined into a single conversion factor. However, that would clearly be inequitable since the cumulative increases over the life of the RBRVS are almost 17% higher for surgery than for anesthesiology. The AMA therefore supports PPRC's recommendation that in the move to a single conversion factor, the current ratio (46:100) should be maintained between the anesthesiology conversion factor and the new single conversion factor for other specialties.

RESOURCE-BASED PRACTICE EXPENSE

As mentioned above, many physicians face additional extreme payment reductions due to the implementation of the resource-based practice expense in 1998. The Social Security Act Amendments of 1994 requires the Health Care Financing Administration (HCFA) to implement a "resource-based" practice expense component of the Medicare fee schedule by January 1, 1998. That is, the payment for this component—which represents over 40 percent of the payment for physician services—is to be based on the actual expenses incurred in delivering each service. Currently, the practice expense allowance is derived from a formula based on the prior reasonable charge payment system.

The AMA supports resource-based practice expenses so long as they reflect actual practice expenses, but is seeking a one-year extension of the implementation date. The 1994 legislation said that HCFA should "recognize the staff, equipment, and supplies used in the provision of various medical and surgical services in various settings." HCFA contracted with Abt Associates to conduct a two-part study of 3,000 physician practices expenses. When the survey was pulled back due to poor response rates, HCFA was left without adequate data to meet the intent of the law.

HCFA is now relying primarily on data derived from clinical practice expert panels, or CPEPs. Early review of the recently-released CPEP findings suggest that they contain a number of errors. HCFA has even rejected certain direct costs that its expert panels found were part of the cost of surgery when doctors supply their own staff and supplies in hospital operating rooms. The AMA and medical specialties are working to identify and correct those flaws but more time is needed.

The cuts HCFA projected in January are so extreme that they would nearly eliminate practice cost reimbursement for some procedures and specialties. Many inpatient surgical procedures and two specialties could suffer cuts of more than 80% in their practice expense values, and at least 40% in their total payments. Under HCFA's projections, payments for many surgical procedures would fall below Medicaid levels. Thus, there is good reason to fear that if Medicare makes deep cuts in its payments for complex procedures, doctors performing these services may find that they can no longer afford to accept Medicare patients.

PPRC has advocated that HCFA should use a three year transition in phasing-in the new resource-based practice expense values in order to reduce the impact. The AMA believes that using a transition is pointless if the underlying data and methodology is invalid. Others argue that any problems can be corrected later through a refinement process similar to the one used when new work values were implemented in 1992. We strongly oppose this approach because we believe it is inappropriate to attempt to correct fundamentally flawed data. HCFA invested nearly three times as much time and money on the design of new work values as it has spent to revise practice expense values. Whereas thousands of doctors were surveyed to come up with the work values, in the end, there has been no broad survey of practice expenses.

Opponents of an extension also maintain that there is no point in waiting another year because the demise of the indirect cost survey shows that it will be possible to collect this information independently. We believe that with another year, HCFA could develop alternative relative values that bear some relationship to actual practice expenses. There would be adequate time to validate and correct the CPEP data. Better indirect cost allocation methodologies could be developed and tested. Missing data could be collected, perhaps through an expansion of existing surveys.

The AMA urges Congress to: (1) extend the resource-based practice expense implementation date by one year to January 1, 1999; (2) require HCFA to develop a new proposed rule to be published at least 8 months before implementation, with 90 days for public comments; (3) direct HCFA to use a new approach to data and methodology which recognizes all staff, equipment and supplies (not just those which can be tied to specific procedures); (4) require that the proposed rule include detailed impact projections which compare proposed payment amounts to data on actual physician practice expenses; and (5) require HCFA to consult with organizations representing physicians regarding resource-based practice expense methodology and data in order to ensure that sufficient input has been received from the affected physician community.

OTHER PHYSICIAN PAYMENT ISSUES

Assistants at Surgery

The Administration is proposing to save $400 million over the next five years by making a single payment for surgery. This means that the additional payment Medicare now makes for a physician assisting the principal surgeon in performing an operation would no longer be made. Instead, the payment amount for the operation would have to be split between the principal surgeon and the assistant at surgery. We believe this provision dangerously imposes financial disincentives for the use of an assistant at surgery and inappropriately interferes with physician medical decision-making. The AMA supports efforts to develop guidelines for the appropriate use of assistants at surgery, but believes that patient care should not be compromised in search of Medicare savings. The professional judgment of surgeons regarding the need for an assistant at surgery for a specific patient must be recognized, even for operations in which an assistant ordinarily may not be required. Congress has considered and rejected this proposal in the past, and we urge you to reject it again.

High Cost Medical Staff

The Administration proposes to reduce Medicare payments for so-called high cost hospital medical staffs. This proposal is not new. In its 1994 Annual Report to Congress, the PPRC concluded that such a "provision's disadvantages . . . outweigh its advantages." The Commission went on to note that such a provision: "May have unintended effects on physician behavior, including a shifting of admissions away from hospitals with the high-cost designation. The provision would also increase the cost and complexity [of] administering the Medicare program."

In some cases, the physicians responsible for a hospital's medical staff being designated "high cost" for a given year might simply take their patients elsewhere, leaving the remaining physicians on staff to bear the financial consequences, with potentially serious repercussions for the affected hospital. Finally, the proposal could inappropriately reduce payments to physicians who treat a sicker patient population. In the absence of a sound methodology to measure differences in the severity of illness of the patient population being treated by the medical staff, it is too risky to put in place a formula-driven process that could inappropriately lower payments for treating patients who are more expensive to treat because they are sicker.

Centers of Excellence

The Administration proposes to expand what it calls the "Centers of Excellence" demonstration project, under which Medicare makes a bundled payment to participating entities covering both physician and facility services for selected conditions, such as coronary artery bypass operations. We are concerned that these demonstration projects do not offer a potential increase in quality and cost-effectiveness, and that these "centers of excellence" in fact emphasize cost-cutting rather than excellence. We also find the name "centers of excellence" inappropriate in that it implies that institutions participating in this payment arrangement provide higher quality services than non-participating institutions.

Outpatient Drug Payments

The Administration also proposes to reduce payments for drugs administered in physicians' offices. Today Medicare pays the average wholesale price for these drugs, which include a number of therapies for treating patients who are critically ill with cancer and kidney disease.

Under the President's plan, however, payment would be based on a complicated "actual acquisition cost" methodology. Specifically, payment would be based on the lowest price that the physician paid for that type of drug in the previous six month. In addition, payment would be capped at the national median of prices paid for the drug in a period 6 to 18 months earlier. In other words, the so-called "actual acquisition cost" has nothing to do with the "actual cost" of the drug provided to an individual patient.

By definition, the half of all practices above the national median will be paid less than their purchase price for these drugs. Since all payments will be based on prices that are six to 18 months old, physicians will be forced to undertake a burdensome new tracking system and to absorb any increases imposed by drug manufacturers or wholesalers during that time. More important, patients could suffer as physicians, unable to recover the price of the drug let alone other associated costs, might be forced to discontinue providing the drug in their offices, requiring patients to have their drugs administered in hospitals where costs to the patient and Medicare may be higher. For all these reasons, the AMA urges Congress to reject this unfair and impractical proposal.

FRAUD AND ABUSE

The AMA strongly opposes the Administration's efforts to repeal the fraud and abuse safeguards included in the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Specifically, the Administration has proposed to eliminate the obligation of the Departments of Justice and Health and Human Services to issue advisory opinions on the anti-kickback statute, reduce the government's burden of proof for civil monetary penalties, and repeal the risk sharing exception to the anti-kickback statute.

Fraud and abuse has no place in medical practice and the AMA is committed to setting the highest ethical standards for the profession. The incidence of misconduct can be greatly reduced by setting standards of appropriate behavior, disseminating this information widely, and designing and implementing programs to facilitate compliance. HIPAA provides new and much needed guidance by requiring HHS to establish mechanisms to modify existing safe harbors, issue advisory opinions, and issue special fraud alerts. This guidance will allow physicians, hospitals and insurers to develop efficient and effective integrated delivery systems that will benefit Medicare, Medicaid and the private health care marketplace.

In the area of civil monetary penalties (CMPs), HIPAA requires that the Inspector General establish that the physician either acted "in deliberate ignorance of the truth or falsity of the information." The AMA, along with many Members of Congress, fought long and hard to preserve this clarified standard in the face of strong opposition. This standard makes the burden of proof for imposing CMPs under HIPAA identical to the standard used in the federal False Claims Act, and there is no reason that two enforcement tools designed to address the same fraudulent behavior should have different standards of proof. Moreover, this section provides important protection for physicians who may unwittingly engage in behavior that is impermissible.

The AMA also strongly opposes the Administration's proposal to eliminate the new risk sharing exception to the anti-kickback law provided in HIPAA. The expansion of managed care in today's health care market requires additional exceptions to the anti-kickback laws so that more flexibility in marketing practices and contractual arrangements is afforded. The future of the Medicare and Medicaid programs depends upon the ability of competing plans to offer quality alternatives to the existing program. HIPAA provides a much needed exception to the anti-kickback law for certain risk-sharing arrangements which will facilitate the development of innovative and cost-effective integrated delivery systems.

Finally, the AMA has concerns with some of the proposals in the Administration's "Medicare/Medicaid Waste, Fraud and Abuse Act of 1997." While we have not seen any legislative language on the proposals, we are concerned that some of the provisions are overreaching and could impose unwarranted penalties on unwary physicians.

PHYSICIAN SELF-REFERRAL

The AMA supports reforms for physician self-referral laws (Stark I and II) to remove barriers to arrangements among physicians in the developing health care marketplace, including the development of Provider Sponsored Networks (PSNs). These laws were designed for the fee-for-service world, but now deter the development of risk sharing arrangements where there is no incentive for inappropriate referrals. In addition, inappropriate referrals of Medicare and Medicaid patients to outside laboratories and other designated diagnostic facilities are already prohibited under the federal anti-kickback law. Congress recognized the need for these reforms when it passed the Balanced Budget Act of 1995. We ask you to include these same needed reforms in Medicare legislation in the 105th Congress.

PROVIDER SPONSORED ORGANIZATIONS

The AMA strongly supports federal legislation which would facilitate the development of Provider Sponsored Organizations (PSOs). We believe PSOs should be subject to federally developed standards which account for the distinctions between provider networks that deliver services directly and insurers that purchase health care services and resell them, while also providing tough consumer protection standards for patients. By developing a federal framework, Congress will continue its precedent of encouraging innovative new ventures that stimulate competition and provide cost-saving efficiencies. The 1973 HMO Act created a federal regulatory scheme for HMOs, preempting state laws that interfered with their formation and operation. HMOs argued successfully then, as did the Blue Cross plans previously, that they represented different products and should be evaluated by different standards. In addition, we support PSO standards which allow as much flexibility as possible in the ownership and management structure of a PSO and which do not favor one provider group over another.

PROFESSIONAL LIABILITY REFORM

Medicare reform should also include the professional liability reforms that have been so successful in California, including a limit on non-economic damages of $250,000. Health care liability costs are built into the Medicare system in the form of physicians' and hospitals' liability premiums, defensive medicine, and coverage for distributors of medicines, blood services, and medical devices. In 1995, CBO scored $200 million in federal government savings over 7 years in physician malpractice premium costs alone, without considering similar hospital, HMO and medical supplier liability costs. These are millions of dollars that could go to patient care and extending the life of the HI Trust fund, instead of paying attorney fees and insurance premiums.

GRADUATE MEDICAL EDUCATION

The AMA believes that because all patients benefit from our nation's graduate medical education (GME) system, the private sector should participate in the funding of GME through the development of an "all payer" fund. In addition, GME funds should be carved out of Medicare's payments to HMOs (i.e. AAPCC), with all direct medical education (DME) funds paid directly to the entity that incurs the costs of training, whether that entity is a medical school, hospital, nursing home, or ambulatory clinic. However, federal support in the form of the indirect medical education (IME) adjustment should continue to be provided to teaching hospitals which incur higher costs than non-teaching hospitals in providing training and unreimbursed patient care. Finally, a national physician workforce advisory body should be established to monitor and periodically assess the adequacy of the size and specialty composition of the physician workforce in the context of the changing needs of the evolving health care delivery system and evolving patterns of professional practice by non-physician health professionals.

CONCLUSION

Congress can no longer postpone tackling fundamental reform of the Medicare program. Failure to do so is certain to prove even more costly for the millions of Americans who expect to be able to rely on this program in the future, as well as those working Americans who are called upon to help finance it. Chopping away at physician payments in hopes of getting more services for less money will ultimately divorce the Medicare system and its beneficiaries from the mainstream of American medical care.

However Medicare is reformed, it will be our overriding goal to ensure that the change not damage the essential elements of the patient-physician relationship. Above all, reform should not break the bond of trust between a patient and physician that makes medicine unique.

We look forward to working with you and the 105th Congress to enact urgently needed structural reforms to protect Medicare for our seniors and save it for our children.

Sincerely,

P. JOHN SEWARD, MD.

Mr. BENTSEN. Mr. Speaker, today we are considering the Senate amendment to the Late-Term Abortion Ban Act, H.R. 1122. I oppose this legislation because, like the House-passed bill, it is fundamentally flawed and would put at risk the life, health, and fertility of women facing one of the most difficult, anguished, and personal decisions imaginable.

First, let me say that I oppose late-term abortions except, as the U.S. Supreme Court requires, when necessary to protect the life or health of a woman. Both the House and Senate passed bills fall woefully short of meeting this critical standard. This legislation provides only a partial exception to protect the life of a woman, and even this partial exception may be invoked only under a very narrow set of circumstances.

Furthermore, it fails to provide a clear, humane, and necessary exception when a woman faces a severe threat to her health and specifically her ability to have children in the future. This bill bans abortion both before and after viability, and continues to criminalize physicians for using their best medical judgement to protect the lives and health of women. I know the proponents continue to argue that the Senate amendment protects physicians from criminal sanctions in lieu of State action, but it is only a fig leaf which does not preclude criminal prosecution. In short, this legislation sets the dangerous precedent of allowing government to dictate medical procedures and practices to doctors, taking away the authority of a physician to select the best medical procedure for protecting a woman's life and

health. This bill substitutes a politician's judgement for that of a physician.

Many of us are troubled by the procedure H.R. 1122 seeks to outlaw, yet believe it is dangerous and wrong to ban a medical procedure that in some circumstances represents the best hope for a woman to avoid serious risk to her health, including her future ability to bear children. Therefore we have attempted to offer a compromise that is consistent with the Supreme Court's rulings on the difficult issue of abortion. This bipartisan bill, which was never debated on the floor—in fact was never allowed to be debated—would ban all late-term abortions, not just one procedure, and also provide a necessary exception when there is a serious threat to the woman's life or health. This compromise bill is consistent with the Supreme Court's Roe versus Wade decision and subsequent rulings. It is consistent with the State law in 40 States, including my State of Texas, as well as the District of Columbia. In Texas, as in other States, late-term abortions are banned except when the woman's life or health is threatened. I believe this bipartisan compromise is consistent with the views of the American people. And I believe it is the right and humane thing to do. That is the approach this legislation should take as well, but I guess it is not the politic thing to do and that is why we are at this point today. The legislation before us today is, unfortunately, not about stopping a particular procedure, but about politics.

We will once again hear a lot of debate today about how often this procedure is performed. But this issue isn't about numbers. It is about each individual woman who faces the awful choice of what to do if she is told that her life, health, or ability to bear children is endangered by her pregnancy. The decision about what medical treatment and procedures are best for that woman should be made by her and her doctor, not the Congress of the United States.

Mr. CONYERS. Mr. Speaker, imagine that you—or your wife—or your daughter, learned when she is 7 months pregnant that the fetus had a lethal neurological disorder and all of its vital organs were atrophying. After consulting with specialists and being told that the pregnancy is seriously jeopardizing the mother's health, and possibly her life, your are told that an intact D&E procedure has the best chance of preserving the mother's health and her ability to become pregnant again.

Or imagine that the mother is 32 weeks pregnant when she learns that the baby has no brain. The fetus has no chance of survival. The mother is diabetic, so a Cesarian section and induced labor are more dangerous to her health and reproductive capacity than an intact D&E procedure.

Would you want 435 politicians to tell you—or your wife—or your daughter, the type of medical procedure she could use in this painful situation? Should Congress be able to determine whether a woman will lose her capacity to reproduce and bear children? Well that is precisely the situation that Coreen Costello and Vicki Stella were in. And if we adopt this bill, we will be telling many, many other women that Washington knows best when it comes to terminating pregnancies that have resulted in tragic circumstances.

H.R. 1122 is unconstitutional, because they contain no exception providing for the physical health of the mother. The Senate amendments on which we are voting today do nothing to correct that problem with the bill. Roe versus Wade, and its progeny, clearly hold that a woman's right to protect her life and health, in the context of reproductive choice, trumps the government, as big brother, in its desire to regulate.

And recently, several similar State statutes banning this procedure have been found unconstitutional. In fact, in my home State of Michigan, on July 31, 1997, Judge Gerald Rosen struck down Michigan's partial-birth abortion ban, finding that the definition of partial-birth was so vague that doctors lacked notice as to what abortion procedures were banned. Moreover, the court found that the State law unduly burdened women's ability to obtain an abortion. It is clear that H.R. 1122 and the Senate amendments violate that well established constitutional law long-settled by Roe.

The majority will try to tell you that this bill is OK, because they have the support of the American Medical Association. But don't let them fool you. The AMA had consistently remained neutral on this issue, and did not take a position on the bill when it was first introduced in 1995. And in mid-May of this year, the AMA stated that it did "not support any [abortion] legislative proposals at this time."

Yet, within weeks, the AMA board changed its position. Just like that. Why? Well, no one will really ever knew, but isn't it surprising that the very day that the AMA announced its switcheroo, its executive vice president, P. John Seward, sent an eight-page letter to NEWT GINGRICH that lists the AMA requests in the budget negotiations concerning Medicare spending. In that letter, the AMA laid out a detailed plan to stall or minimize any cuts that might come from physicians. All on the same day that the organization decided suddenly to support the partial-birth abortion bill. Well, well. So don't let them fool you. There was no substantive reason the AMA decided to vote for the bill. It was just another one of those political games.

Yesterday, the minority testified before the Rules Committee seeking an open rule that would make in order two amendments dealing with the physical health of the mother. But our request was denied, and neither amendment was made in order. The first alternative, offered by Mr. HOYER, would ban post-viability abortions unless a physician certifies that continuing of the pregnancy would threaten the woman's life or risk grievous injury to her physical health. The second alternative, an amendment offered by Ms. LOWEY, would provide that the restriction on abortion procedures in the bill would apply only to post-viability abortions and include exceptions to preserve the life of the woman or to avert serious adverse health consequences to the woman.

Both of these amendments comport with the standard established in Roe that the health of the mother should not be jeopardized in any circumstance. Either of them would have made the underlying amendment constitutional and the President would have signed it. But the President cannot, and will not, sign an unconstitutional bill that does not protect a mother's health, and has promised to veto this legislation if it passes.

Of course, the Republican leadership has little interest in developing a credible and serious constitutional proposal that could be signed into law. Instead, they prefer a wedge issue that can divide the American people. That's why they wouldn't make a single amendment concerning health in order.

But H.R. 1122 has no health exception, and we are led to believe that the reason is because its authors have determined that under no possible condition is a mother's health—no matter how serious—to be equated with the potential life of a fetus. To them, the partial birth abortion ban is merely a means of preventing any and all abortions, even where the mother's health is in jeopardy. But the reality is, the bill will do absolutely nothing to reduce the number of abortions performed in this country. Zero. It will only criminalize physicians for pursuing the safest alternative in dealing with a very painful, difficult, and terrifying circumstance when a pregnancy has gone bad, and the mother's physical health is in jeopardy.

Let's take the politicians out of this intensely personal issue. When it comes to a woman's life or health, Washington doesn't always know best.

Mrs. CHENOWETH. Mr. Speaker, I rise today in strong support of H.R. 1122, the Partial-Birth Abortion Ban Act. For over 2 years the abortion industry has conducted a systematic campaign of falsehoods and misinformation about the nature of partial-birth abortion.

Apologists for this abominable practice have attempted to raise a fog of mendacity during our deliberations.

Today we will hear that partial-birth abortions are extremely rare—only about 500 are performed in a year. We will also hear that partial-birth abortions are safe, and absolutely necessary to protect a woman's health.

Mr. Speaker, this information is completely false and an outright lie.

The truth can't be changed no matter how many times it's misrepresented. I would like to remind my colleagues of a leading abortion advocate, along with others in the abortion industry, who knowingly lied about the real reasons women seek partial-birth abortions.

Mr. Speaker, this procedure is medieval, and so is the logic of those who advocate and apologize for it.

The fog has been pierced and the truth has come to light. What everyone can clearly see today, Mr. Speaker, is that partial-birth is a practice that exposes abortion for what it truly is, the killing of an infant.

This debate is not about when life begins, for the infants targeted by this procedure are mostly alive. This debate is over a matter of inches.

And Mr. Speaker, I submit that the constitutional right to life has jurisdiction over those inches.

Our system of laws, our American heritage, is based on the idea that people have certain God-given rights. Those rights are life, liberty, and the pursuit of happiness.

As lawmakers we have a responsibility to protect the lives of our citizens, in this case, the very youngest, most vulnerable of American citizens.

I urge my colleagues to stand against this hideous, repugnant practice.

Let us stand up for a good principle and let us stop partial-birth abortion now.

Mrs. MALONEY of New York. Mr. Speaker, I rise today in opposition to this oppressive, extremist legislation. The American College of Obstetrics and Gynecology has called this ban "inappropriate, ill-advised, and dangerous." I call it an outright assault on women's lives.

Let's put this in perspective. There were more than 50 anti-choice votes in the 104th Congress. There have been over 20 anti-choice votes thus far in the 105th Congress. Choice opponents have said they intend to ban abortion procedure by procedure, and this bill is another step down that slippery slope.

President Clinton has said he would support a ban that includes exceptions to protect the life and health of the mother. Why is it so hard for so-called pro-life zealots to allow for compassionate exceptions, exceptions that could save a mother's life and perhaps her future fertility? The Rules Committee, by taking away our right to amend, refuses to allow us to include anything that would provide the safest, most compassionate way to handle a pregnancy that has no hope.

Let me remind my colleagues of the recent real-life trauma suffered by Coreen Costello. She came to Congress to tell her heart-wrenching story. A conservative, pro-life mother of two, Coreen and her family were devastated to learn that a lethal disease left their much-wanted, unborn daughter unable to survive outside the womb. Coreen attempted to carry the pregnancy to term, but the fetus' body stiffened and wedged dangerously into her body. Under this bill, the critical intact D&E procedure could not have been performed. This bill would have sacrificed Coreen Costello and her future fertility to the politics of anti-choice extremists.

The issue is not how many women undergo this procedure, but how many women who, like Coreen Costello, have no other choice but this particular procedure. The few women who need this procedure deserve our support and sympathy, not congressionally mandated limitations on their medical choices. By not permitting compassionate exceptions to the ban on the late-term procedure, this bill slams the door on a family's future, on a mother's health, and on a mother's life.

This Congress has absolutely no business passing legal judgments on life-saving medical procedures. This Congress has absolutely no business interfering in the decisions made by a woman and her doctor. We should be outraged.

This Congress dares to make criminals of doctors who have taken an oath to save lives. This Congress dares to presume it can legislate this profoundly intimate decision. This Congress dares to protect the natural death of a fetus over the life of a woman, a mother, a wife. Congress has no place in this decision, and no place in these tragedies.

Mr. Speaker, we must protect women's constitutional right to choose. We must protect women's right to life. I urge my colleagues to vote against this amendment.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 262, the previous question is ordered.

The question is on the motion offered by the gentleman from Florida [Mr. CANADY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CANADY of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 296, nays 132, not voting 6, as follows:

[Roll No. 500]

YEAS—296

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boyd
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Etheridge
Everett
Ewing
Fawell
Flake
Foglietta
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gingrich
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jefferson
Jenkins
John
Johnson (WI)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kildee
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kucinich
LaFalce
LaHood
Lampson
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Minge
Moakley
Mollohan
Moran (KS)
Moran (VA)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Redmond
Regula
Reyes
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Visclosky
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NAYS—132

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gilman
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hinchey
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Kennedy (MA)
Kennelly
Kilpatrick
Kolbe
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McKinney
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Morella
Nadler
Olver
Owens
Pallone
Pastor
Pelosi
Pickett
Price (NC)
Rivers
Rodriguez
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schumer
Scott
Serrano
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Stabenow
Stark
Stokes
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Waters
Watt (NC)
Waxman
Wexler
Wise
Woolsey
Wynn
Yates

NOT VOTING—6

Gephardt
Gonzalez
Hilliard
Lewis (KY)
Payne
Schiff

□ 1349

Messrs. FARR of California, TORRES, FORD, and Ms. SANCHEZ changed their vote from "yea" to "nay."

Mr. KENNEDY of Rhode Island and Mr. PAXON changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMERICAN LAND SOVEREIGNTY PROTECTION ACT

The SPEAKER. Pursuant to the order of the House of Tuesday, October 7, 1997, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 901.

□ 1352

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 901) to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, with Mr. SUNUNU in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, October 7, 1997, the Chair had been advised that the amendment regarding specific biosphere reserves would not be offered.

Pursuant to the order of the House of that day, no further amendments are in order.

SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The CHAIRMAN. Pursuant to the order of the House of yesterday, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 5 offered by the gentleman from California [Mr. FARR]; amendment No. 51 offered by the gentleman from Minnesota [Mr. VENTO]; and an unnumbered amendment offered by the gentleman from California [Mr. MILLER].

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 5 OFFERED BY MR. FARR OF CALIFORNIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment No. 5 offered by the gentleman from California [Mr. FARR] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:.

Amendment No. 5 offered by Mr. Farr of California:

On page 10 of the bill, after line 8, insert the following:

"(d) Subsection (b) shall not apply to California Coastal Ranges Biosphere Reserve."

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 200, noes 226, not voting 7, as follows:

[Roll No. 501]

AYES—200

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bereuter
Berman
Bilbray
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Condit
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gilchrest
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson (WI)
Johnson, E.B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tanner
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—226

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Berry
Biliraki
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Conyers
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Foley
Forbes
Fowler
Fox
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
Johnson, Sam
Jones
Kasich
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Ryun
Salmon
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Gephardt
Gonzalez
Hilliard
Johnson (CT)
Lewis (KY)
Meek
Schiff

□ 1409

Mrs. KENNELLY of Connecticut and Mr. JOHN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mrs. JOHNSON of Connecticut. Mr. Chairman, on rollcall No. 501, I was unavoidably detained. Had I been present, I would have voted "no."

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the order of the House of yesterday, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the Chair has postponed further proceedings.

AMENDMENT NO. 51 OFFERED BY MR. VENTO

The CHAIRMAN. The unfinished business is the demand for a recorded

vote on amendment No. 51 offered by the gentleman from Minnesota [Mr. VENTO] on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 51 offered by Mr. VENTO:

Page 10, line 15, Following the word "special" insert the following: ", including commercial."

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 242, noes 182, not voting 9, as follows:

[Roll No. 502]

AYES—242

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Berry
Bilirakis
Bishop
Blagojevich
Blumenauer
Boehlert
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Buyer
Camp
Capps
Cardin
Carson
Castle
Chabot
Clay
Clayton
Clement
Clyburn
Condit
Cook
Costello
Coyne
Cramer
Cummings
Danner
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Dreier
Duncan
Edwards
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Foley
Ford
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Ganske
Gejdenson
Gilchrest
Gilman
Goode
Goodlatte
Gordon
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Hinojosa
Holden
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E.B.
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Klug
Kucinich
LaFalce
Lampson
Lantos
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McHale
McIntyre
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Mica
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pickett
Pomeroy
Portman
Poshard
Price (NC)
Quinn
Rahall
Ramstad
Rangel
Regula
Reyes
Riggs
Rivers
Rodriguez
Roemer
Rohrabacher
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schumer
Scott
Serrano
Sherman
Sisisky
Skaggs
Skelton
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stenholm
Stokes
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson
Thurman
Tierney
Torres
Traficant
Turner
Upton
Velázquez
Vento
Visclosky
Walsh
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—182

Aderholt
Archer
Armey
Bachus
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bilbray
Bliley
Blunt
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Callahan
Calvert
Campbell
Canady
Cannon
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Cox
Crane
Crapo
Cubin
Cunningham
Davis (VA)
Deal
DeLay
Dickey
Dooley
Doolittle
Dunn
Ehlers
Ehrlich
Emerson
Ensign
Everett
Ewing
Fawell
Forbes
Fowler
Gallegly
Gekas
Gibbons
Gillmor
Goodling
Goss
Graham
Granger
Greenwood
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Kasich
Kim
King (NY)
Kingston
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Porter
Pryce (OH)
Radanovich
Redmond
Riley
Rogan
Rogers
Ros-Lehtinen
Royce
Ryun
Salmon
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Shimkus
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stump
Sununu
Talent
Tauzin
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—9

Conyers
Cooksey
Diaz-Balart
Gephardt
Gonzalez
Hilliard
Lewis (KY)
Schiff
Towns

□ 1418

Mr. RYUN changed his vote from "aye" to "no."

Mr. INGLIS of South Carolina and Ms. HARMAN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA

The CHAIRMAN. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California [Mr. MILLER], on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. MILLER of California:

On page 9 of the bill, beginning at line 1, strike all through the end of line 16, and renumber subsequent subsections accordingly.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 199, noes 227, not voting 7, as follows:

[Roll No. 503]

AYES—199

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cramer
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Ehlers
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gilman
Gordon
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Hinojosa
Holden
Hooley
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klink
Kucinich
LaFalce
Lampson
Lantos
Leach
Levin
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Porter
Poshard
Price (NC)
Rahall
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Roemer
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sanford

Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weldon (PA)
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOES—227

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Christensen
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Foley
Forbes
Fowler
Fox
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Greenwood
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kelly
Kim
King (NY)
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lazio
Lewis (CA)
Lewis (GA)
Linder
Livingston
LoBiondo
Lucas
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Portman
Pryce (OH)
Quinn
Radanovich
Redmond
Regula
Riggs
Riley
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sandlin
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOT VOTING—7

Gephardt
Gonzalez
Hilliard
Kasich
LaTourette
Lewis (KY)
Schiff

□ 1426

Mr. CRAMER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Pursuant to the previous order of the House, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. SUNUNU, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 901), to preserve the sovereignty of the United States over public lands and acquired lands owned by the United States, and to preserve State sovereignty and private property rights in non-Federal lands surrounding those public lands and acquired lands, pursuant to the previous order of the House of October 7, 1997, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Pursuant to the order of the House of October 7, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 191, not voting 6, as follows:

[Roll No. 504]

AYES—236

Aderholt
Archer
Armey
Bachus
Baesler
Baker
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bateman
Berry
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Brady
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Chabot
Chambliss
Chenoweth
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Cox
Cramer
Crane
Crapo
Cubin
Cunningham
Danner
Davis (VA)
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
Ensign
Everett
Ewing
Foley
Forbes
Fowler
Fox
Gallegly
Ganske
Gekas
Gibbons
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Green
Gutknecht
Hall (TX)
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hobson
Hoekstra
Holden
Horn
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kasich
Kelly
Kim
King (NY)
Kingston
Klink
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Linder
Livingston
LoBiondo
Lucas
Manzullo
Martinez
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moran (KS)
Myrick
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Oxley
Packard
Pappas
Parker
Pascrell
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Rangel
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sandlin
Sanford
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Sununu
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thune
Tiahrt
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—191

Abercrombie
Ackerman
Allen
Andrews
Baldacci
Barrett (NE)
Barrett (WI)
Becerra
Bentsen
Bereuter
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Capps
Cardin
Carson
Castle
Christensen
Clay
Clayton
Clement
Clyburn
Conyers
Costello
Coyne
Cummings
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Ehlers
Engel
English
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gilchrest
Gilman
Gordon

Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Hinojosa
Hooley
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kind (WI)
Kleczka
Klug
Kucinich
LaFalce
Lampson
Lantos
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Manton
Markey
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran (VA)
Morella
Murtha
Nadler
Neal
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne
Pelosi
Porter
Poshard
Price (NC)
Rahall
Reyes
Rivers
Rodriguez
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Saxton
Schumer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Stupak
Tauscher
Thompson
Thurman
Tierney
Torres
Towns
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
Weygand
Wise
Woolsey
Wynn
Yates

NOT VOTING—6

Gephardt
Gonzalez
Hilliard
Lewis (KY)
Rothman
Schiff

□ 1446

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1031

Ms. CHRISTIAN-GREEN. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1031.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from the Virgin Islands?

There was no objection.

CONFERENCE REPORT ON H.R. 2158, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1998

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 261 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 261

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2158) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 261 waives all points of order against the conference report and against its consideration. The rule also provides that the conference report shall be considered as read.

The conference report for the VA-HUD and Independent Agencies Appropriations bill for fiscal year 1998 appropriates a total of $68.5 billion for fiscal year 1998, which is $1 billion below the President's request level.

As I mentioned in this House VA-HUD bill debate in July, this legislation continues to meet our obligations to our veterans. The conference report provides $18.9 billion for the Department of Veterans Affairs' discretionary programs, $17 billion for veterans' medical care, and $272 million for veterans' medical research, including $12.5 million for research related to Persian Gulf war illness. We owe a special debt of gratitude to all our veterans, and these appropriations are notable increases above the amounts the President requested.

I am also pleased that scientific research and our space program have been amply funded in this bill. We just marked the 40th anniversary of the launch of Sputnik, and with that in mind, I am pleased that the conferees have committed the United States toward a significant presence in space. The conferees have provided $2.9 billion for the Space Shuttle Program, $2.35 billion for the International Space Station, and $13.6 billion for NASA, which is $148 million more than the President requested.

I have one last point on the subject of science. I think it is very important to point out that this bill provides $631 million for science and technology research at the Environmental Protection Agency, including $49.6 million for particulate matter and ozone research. As proposed regulations are formulated by the EPA, it strikes me that it is high time we base these decisions on information from scientists calculated with scientific analysis.

EPA scientific research funding in this bill, especially funding directed for particulate matter and ozone research, is absolutely necessary at a time when the American people and American businesses face the prospect of additional regulations concocted without a shred of scientific inspection.

I want to commend the gentleman from California [Mr. JERRY LEWIS] and the ranking minority member, the gentleman from Ohio, [Mr. LOUIS STOKES] for the bipartisan manner in which they produced this conference report. It does not appear that there were any major complications during the conference with the Senate, and I am certain their good relationship helped to assure this very productive conference.

I urge my colleagues to support the rule so that we may proceed with general debate and consideration of the merits of this very important bill.

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

Mr. MOAKLEY. Mr. Speaker, I thank my colleague, the gentleman from Georgia [Mr. LINDER], for yielding me the customary half-hour and I yield myself such time as I may consume.

Mr. Speaker, I want to congratulate my colleagues the gentleman from Ohio [Mr. STOKES] and the gentleman from California [Mr. LEWIS] for their excellent work on this conference report. I have had the pleasure of working with the gentleman from California and the ranking member on some small parts of this bill and I can tell my colleagues they have done yeoman's work.

They have managed to fully fund American housing and veterans programs as well as the Federal emergency management program and also NASA. The conference committee has done an excellent job taking care of our public housing programs. As someone who grew up in public housing, I can tell my colleagues it is a very important program. It does wonderful things for low-income families, particularly families with children, and I am pleased to see the conference committee agreed to support it.

Mr. Speaker, this country is facing a terrible loss of affordable housing. Three million American families just cannot find affordable housing, and the numbers are climbing. In response to this, the conference report renews all expiring section 8 contracts and preserves affordable housing at a time when we are losing affordable housing. It helps ensure that good housing will still be available to low-income families, it saves money, and it is a very well thought out policy.

The conference report also funds HOME grants to cities and States for building affordable housing. And one of these HOME grants went to the City of Brockton, MA, in my district, which helped 200 people buy homes last year. This year this program should help even more people.

The conference report also helps take care of America's veterans by providing over $17 billion for veterans' medical care and $15.5 million for research on Persian Gulf war illnesses.

So thanks to this conference report, the Consumer Product Safety Commission is fully funded, as is the Federal

Emergency Management Association. It also funds the Environmental Protection Agency, one of my personal favorites, which helps keep our water and our air clean.

Once again, Mr. Speaker, I just want to congratulate my colleagues for putting together such an excellent bill. I urge my colleagues to support this rule.

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

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio [Ms. PRYCE], my colleague on the Committee on Rules.

Ms. PRYCE of Ohio. Mr. Speaker, I thank the gentleman from Georgia, my friend, for yielding me this time, and I rise in support of this rule and the VA–HUD conference report.

I would like to commend the gentleman from California [Mr. LEWIS], the chairman, and the gentleman from Ohio [Mr. STOKES], the ranking member, for ably guiding the VA–HUD appropriations bill through conference. The final bill they produced speaks very well of their efforts.

This year's fiscally responsible bill shaves $1 billion off the President's request and it successfully prioritizes spending to ensure that we fulfill our responsibility to our Nation's veterans, provide needed housing to less fortunate Americans, keep the exciting discoveries of the U.S. space program alive, and provide adequate resources to keep America's air clean and water safe.

There are many accomplishments in this legislation worth extolling, but I want to focus on a portion of the bill that is of special significance to me as a former member of the Subcommittee on VA, HUD and Independent Agencies. Since the 1970's, section 8 rental assistance contracts have helped provide private low-cost housing to seniors, disabled persons, and low-income families. However, these 20-year contracts have begun to expire, leaving millions of Americans unsure of the future of their housing.

The funding in this bill to renew expiring section 8 housing contracts is both important and necessary. However, I have long maintained that the program itself needs to be restructured to bring down the high cost of section 8 housing. In that vein, I joined with my friend from Virginia [Mr. MORAN] to sponsor legislation this year to achieve such reforms. Therefore, I am very grateful to the chairman, the gentleman from California, the gentleman from New York [Mr. LAZIO], and our colleagues in the Senate for their hard work to forge an agreement on the section 8 reforms included in this legislation. I know it was not easy, but I am convinced that it was well worth their efforts.

The timely reforms in this bill will ensure the stability of section 8 properties so that affordable housing will continue to be available for our citizens with the greatest need. The solutions this legislation provides will save hundreds of millions of taxpayer dollars while putting the power to reform the program where it belongs, right in the local communities.

For this achievement, and for the many good things in the VA–HUD conference report, I urge my colleagues to support this rule and move towards swift passage of the underlying legislation.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today in reluctant support of the fiscal year 1998 VA–HUD appropriations bill.

I wish to thank the gentleman from Ohio [Mr. STOKES], my good friend and the ranking member, and the gentleman from California [Mr. LEWIS], the chairman, for their support in funding the International Space Station project and a robust NASA budget as well as ensuring quality public housing for our Nation's low-income families.

In particular, I appreciate the committee including a comprehensive reform of the section 8 program. While issues regarding the mark-to-market program remain, it is important that the Congress take this initial step to reform the program, and I look forward to the opportunity when the Committee on Banking and Financial Services, on which I serve, moves forward to try to address those concerns as well as possibly the Committee on Ways and Means, which may also have to address some of the issues.

However, Mr. Chairman, during previous consideration of this legislation in the House, both in this Congress and in the 104th Congress, I had successfully offered an amendment to prohibit the Environmental Protection Agency from using funds to allow for the importation of polychlorinated biphenyls, or PCB's, to be disposed of, including by incineration, in the United States. This directly affects my district as well as other districts around the country.

While the amendment that I offered was accepted by the House on both occasions, it was unfortunately struck in the conference, and I very much regret this decision by the conference committee once again.

□ 1500

Mr. Speaker, the EPA issued a final rule on March 18, 1996, to allow the importation of large quantities of PCB waste from foreign nations, reversing an EPA ban that has been in place since 1980. Later that same month, the Sierra Club Legal Defense Fund initiated a legal challenge to the EPA decision allowing the importation on PCB's based on the principle that it violated the Toxic Substances Control Act of 1976.

On July 8 of this year, the Ninth Circuit U.S. Court of Appeals ruled in a unanimous decision that the EPA had violated the Toxic Substances Control Act of 1976. Chief Judge Proctor Hug wrote, "EPA lacked the statutory authority to promulgate the Import Rule, which violates the PCB manufacture ban contained in the Toxic Substances Control Act."

I believe it is necessary to codify this decision in the event it is reversed on appeal, and that is what my amendment had sought to do. However, for now, the court action will forestall the further importation of this dangerous chemical.

PCB's are a dangerous class of chemicals that collect in the body and cause a range of adverse health effects including cancer, reproductive damage, and birth defects. When incinerated, PCB's release dioxin, one of the most toxic chemicals known. PCB's accumulate in the environment and move toward the top of the food chain, contaminating fish, birds, and ultimately humans. They are the only chemical Congress designated for phaseout under the Toxic Substances Control Act of 1976.

Mr. Speaker, I am disappointed that my amendment was not included in the conference. I assure the chair and the ranking member that I will be back next year again to pursue this issue because I think it is important both to my constituents and to the country. I do not think that PCB's are a good or a service that we ought to be importing into the United States.

But in light of the other issues in this bill, I do rise in support of the remainder of the bill and intend to vote for it.

I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding me the time.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding me the time.

Mr. Speaker, I rise in support of H.R. 2158, a bill making appropriations for fiscal year 1998 for VA, HUD, and independent agencies. I am pleased that the HUD budget has not suffered dramatic cuts in this era of the balanced budget as it has in prior years.

Most of the administration's budget requests have been met in this conference report for HUD's core programs, for public housing, for CDBG, for drug elimination grants, for HOME, for McKinney homeless assistance grants, et cetera. Although I would support higher funding levels for HUD

programs, I believe the conference report represents a winning hand, considering the cards that we have been dealt.

Two issues deserve particular mention: The first, the lack of funding for new section 8 certificates; and the second, the very complicated issue of section 8 portfolio restructuring.

On the first subject, for the third year in a row, there is absolutely no new money for incremental section 8 housing assistance even in the face of continued strong evidence that greater numbers of very low-income families and working poor are finding it ever more difficult to find affordable housing. Some 5.3 million Americans have worst case housing needs, and that number grows by leaps and bounds. It is most regrettable that this conference report was unable to fund any new section 8 assistance.

On the second issue, section 8 renewals and mortgage restructuring, I applaud the approach of appropriators and the administration for their hard work and mutual efforts. The Committee on Appropriations took the most critical step in this bill. It provides sufficient funding for all renewals coming due in 1998, and, working with the authorizing committee, they took the necessary steps to provide the legislative framework for renewing section 8 contracts.

This was not done during the reconciliation process, but the appropriations bill provides housing policy that is good Federal policy, preserves affordable housing, and saves money all at the same time.

I believe that we have balanced all the disparate interests of the tenants, owners, communities, and the Federal Government in preserving as much affordable housing as possible, reducing the costs to the Federal Government, reasonably protecting the financial investments of the owners, and protecting the tenants from unnecessary displacement.

This is one of the most critical problems facing the administration and the Congress. It has been solved equitably for all concerned and saved $500 million for other domestic priorities in the process. So, on balance, this is a good bill, considering our budget constraints, and I would urge my colleagues to support it.

Mr. MOAKLEY. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. EVANS].

Mr. EVANS. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding me the time.

Mr. Speaker, I urge my colleagues to adopt the rule and the conference report on VA, HUD, independent agencies appropriations for fiscal year 1998.

As I noted in July when this bill was considered by the House, I remain concerned about the adequacy of VA health care resources, not only in the next fiscal year but in the next future years as well.

As most Members know, appropriations for VA health care have been essentially frozen. As years pass on, inflation will erode the value of this funding. Proponents of this freeze in appropriations for VA health care claim that allowing VA medical centers to keep VA copayments and third-party collections will replace appropriated funds. In its report earlier this year, however, the House Appropriations Committee noted that the accuracy of each year's estimated third-party collection effort is unknown.

With regard to the VA having sufficient resources to meet the health care needs of our Nation's veterans, the House has failed to enact H.R. 1362, which authorizes a 3-year demonstration program to provide for discounted Medicare reimbursement for health care services provided to certain Medicare-eligible veterans at selected VA health care facilities.

Dr. Kenneth Kizer, the under secretary for health, has recently told Members that enactment of this legislation is critical to the Department of Veterans Affairs. According to Dr. Kizer, without enactment of this legislation this year, VA will not have the resources needed to provide health care to veterans in future years.

H.R. 1362 was reported favorably by the Committee on Veterans' Affairs in July but has languished in the House since then. I urge its favorable consideration by the House as soon as possible.

I am pleased that the conferees have recognized the value of VA research not only to veterans but to all Americans and have appropriated a total of $272 million for VA medical research. This is a sound and wise investment.

The conference also provides an additional $8 million to meet the needs to help the VA to achieve the year 2000 computer compliance. Achieving this goal is critical to the delivery of health care and other earned benefits to our Nation's veterans, their dependents, and survivors.

So I want to thank the gentleman from Louisiana [Mr. LIVINGSTON], chairman of the full Committee on Appropriations, and the gentleman from Wisconsin [Mr. OBEY], the Democratic ranking member, for their support. Likewise, I want to salute the chairman and Democrat of the Subcommittee on VA, HUD and Independent Agencies, the gentleman from California [Mr. LEWIS], and Carl Stokes for their efforts on behalf of veterans.

Again, I urge my colleagues to support this rule and adoption of the conference report.

Mr. MOAKLEY. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, I want to thank the gentleman from Massachusetts [Mr. MOAKLEY], my friend and the ranking Democrat on the Committee on Rules, for yielding me the time.

Mr. Speaker, as the gentlewoman from Ohio [Ms. PRYCE] said earlier, the bill that we have been working for for some time that deals with project-based section 8 assistance is incorporated, virtually in its entirety, into this appropriations bill. I think this is a very important step, as the principal focus of our bill is to reduce the cost of the section 8 program and provide the certainty of continued housing assistance for those in need.

Our reform proposal reins in exorbitant rental contracts that can reach 180 percent of the fair market rent, and it helps kick the bad owners out of the program. Existing debts on all FHA-insured property are restructured to lower operating and maintenance costs and bring Federal rent subsidies down to local market levels. In return, owners of multifamily housing must agree to maintain the property for low-income tenants for at least another 20 years.

I think this proposal is a thoughtful and reasonable response to a complex and very difficult issue. So I was very pleased to see almost all of the elements of this proposal incorporated into this appropriations bill.

I want to particularly thank the gentlewoman from Ohio [Ms. PRYCE], my copatron, for her tireless work to make sure that this issue got resolved this year, the gentleman from California [Mr. LEWIS], the gentleman from Ohio [Mr. STOKES], the gentleman from New York [Mr. LAZIO], and the gentleman from Massachusetts [Mr. KENNEDY], of the authorizing committee and the House leadership for permitting this issue to be resolved through the appropriations process.

Hopefully, we will be able to start a new chapter in low-income housing programs that meet the needs of low-income families, the elderly, and the disabled with decent, fiscally responsible, and affordable housing.

I thank the chairman, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for yielding me the time, the gentleman from Georgia [Mr. LINDER], I thank the Committee on Rules, and of course the chair and minority ranking member of the Committee on Appropriations. I think this is a very important step and certainly plan to vote for the bill.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I thank the distinguished ranking member, the gentleman from Massachusetts [Mr. MOAKLEY], for yielding me the time.

I rise, Mr. Speaker, with very, very strong concerns and reservations about this VA, HUD, independent agencies appropriations bill for fiscal year 1998.

I oppose this conference report due to funding increases for the international space station above the congressionally approved and NASA agreed to cap at $2.1 billion per year. Now that is not enough; $2.1 billion is not enough. We have to go in this bill much above that, to $2.35 billion, for the space station.

Now, certainly, I have argued with my colleagues, Republicans and Democrats, in this body that a $100 billion space station is too much, that we do not return the science, we do not return good science or good economics for our taxpayers. Now we are going up to a $2.35 billion per year space station, and last month the primary contractor estimated cost overruns to exceed $600 million, and NASA guessed $800 million cost overruns.

This means that we have to go into other very, very worthwhile important programs, Space Shuttle safety, education grants, a host of other programs, and take money away from good NASA programs that are working to reward cost overruns.

I think that we need to take a very, very careful look at this budget, Mr. Speaker, and enforce some physical discipline. We have fits around here when we have $600 toilet seats. This is a $600 million cost overrun.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. GREEN].

Mr. GREEN. Mr. Speaker, I rise, obviously, in support of the rule. But let me talk about a little problem I have with some of the reforms that the Housing and Urban Development Department is doing.

I have had an ongoing dialog with HUD over the last 4 areas, and my main point of discussion is making sure that in the Houston area HUD offers all the program areas that serve the people in Houston, TX, the fourth largest city in the country, which they do not.

The problem we have now is, HUD has a reform plan to refocus, streamline, and downsize the Department. In our Houston office we have over 100 HUD employees now. Now I hear that we are going to reduce them to 14. So those 14 are going to have to do the work of those over 100 employees.

We do not even have all the program areas offered now in the Houston office, and yet, in this reorganization that has been going on now for a number of years, we are not going to have all the program areas offered in Houston. If they are offering them with 14 employees, they are not going to be able to do the job.

HUD now, under the HUD 20/20 reform plan, they have developed two mission statements. The first is to empower people in communities to improve themselves and succeed in today's time of transition, and the second is to restore public trust by achieving and demonstrating competence.

These are admirable goals, but I am not sure that releasing 85 employees or staffers will help achieve those goals and make HUD effective in the Houston markets. Again, this is not the first time I have said this and it will not be the last. I would hope Secretary Cuomo would be able to sit down with those of us who represent the Houston area and make sure that HUD can provide all the programs in Houston even if it is with reduced employees, but do not make it impossible.

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

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1515

Mr. LEWIS of California. Mr. Speaker, pursuant to House Resolution 261, I call up the conference report on the bill (H.R. 2158), making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1998, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 261, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 6, 1997 at page H8323.)

The SPEAKER pro tempore. The gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] each will control 30 minutes.

The Chair recognizes the gentleman from California [Mr. LEWIS].

GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 2158, and that I may include tables, charts and other extraneous materials.

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

There was no objection.

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

Mr. Speaker, as we bring H.R. 2158 to the floor, I would like the Members to know that while this is a very complex bill that involves appropriations for fiscal year 1998 for agencies such as all of our public housing programs, for issues that flow around the Environmental Protection Agency, issues that are very important to the future of our general economy, this very controversial bill comes to us in a circumstance where these agencies are faced with the overall effort to reduce the pattern of growth of spending for the Federal Government. So we are dealing with a shrinking dollar circumstance and very important and competitive programs, and yet this bill comes to us in a way that very much reflects the best of bipartisan work in the House.

For that work I want to pay special tribute to my colleague and friend, the gentleman from Ohio [Mr. STOKES], as well as his very fine staff that has cooperated so much with us in developing this bill. Without their support we would have perhaps a lot of controversy today, but instead I think we have before us truly a model reflecting the way the Committee on Appropriations, working with their authorizing committees, should present bills on the House floor.

I think the Members should know that in that environment, so many important issues competing with one another, about 90 to 95 percent of our bill has not been authorized for one reason or another. That is, the authorizing committees have not, over several years in some instances, been able to move bills through the House and the Senate and send those bills to the President's desk for signature. So the bill finds itself in a position where much of the language in the bill reflects some of the priorities of our authorizers as well, as we go about trying to deal with the competition for dollars between these various programs.

Let me illustrate just a bit of that for the Members. The fiscal year 1998 VA–HUD bill reaffirms our commitment to serving veterans, protecting the environment, providing housing for the poorest of the poor, and ensuring America's continued leadership in space.

In spite of the difficult challenges in putting this conference report together, the final product represents a balance of tough choices as well as common interests.

The bill meets the important test of keeping the appropriations process on track to meet the vital objective of attempting to balance the budget shortly after the turn of the century. I might add that since the fiscal year 1995 rescission bill, this subcommittee has saved the American taxpayer nearly $25 billion from the President's request. Yes, I say some $25 billion as we make our contribution to reducing the rate of growth as we go forward with these very important programs.

Let me take just a moment to list some of the bill's funding highlights. Within the Department of Veterans Affairs, we have provided a total agency budget of $40.452 billion. We have increased the Medical Care account over the President's request by roughly $100

million to a total of $17.661 billion. That is $648 million over the 1997 level. We have increased the Medical and Prosthetic Research account by $38 million over the President's request to a total of $272 million.

Within the Department of Housing and Urban Development, we have provided a total agency budget of $24 billion.

Our bill increases housing for the elderly, section 202, by $345 million over the President's request to a total of $645 million. This measure also increases housing for the disabled by $20 million over the President's request to a total of $194 million.

We have increased funding for the Community Development Block Grant programs by some $75 million to a total of $4.675 billion. Furthermore, we funded the HOME investment partnership program at $1.5 billion. We also funded the Native American Housing Block Grant program at $600 million.

Finally, we provided the funding necessary to renew expiring Section 8 contracts, which have been discussed by more than one of my colleagues today. We have also accomplished a critical goal of both bodies, as well as the administration, by reducing Federal subsidized rent under Section 8 rental assistance programs to more closely resemble market rates. In fiscal year 1998 alone, this provision saves the committee nearly $560 million. Further, it fairly addresses the concerns of residents and taxpayers, as well as building owners who, after all, entered into this partnership with the Federal Government in the first place.

Within the Environmental Protection Agency, we have provided a total agency budget of $7.363 billion, an increase of $564 million over the 1997 level.

We increased the Superfund program by over $100 million over the 1997 level to nearly $1.5 billion, and provided also $650 million in additional Superfund funding which is subject to the enactment of an authorization bill in the year ahead of us.

Further, as a result of recently announced National Ambient Air Quality Standards, we have provided $49.6 million for particulate matter research, as an underpinning to try to make sense out of those standards and the impact they may very well have over time on our economy.

We have funded State and Tribal Assistance Grants at $3.2 billion. This represents a $300 million increase over fiscal year 1997 levels for important Safe Drinking Water and Clean Water programs.

Within the National Aeronautics and Space Agency, we have provided a total agency budget of $13.648 billion. This amount includes $5.5 billion for the Human Space Flight account, $5.69 billion for the Science, Aeronautics, and Technology account, and nearly $2.4 billion for Mission Support.

We have provided the National Science Foundation with a total agency budget of $3.429 billion.

The Federal Emergency Management Agency has been funded at $829 million, including $320 million for the Disaster Relief account in that package.

In closing, I want to express one more time my thanks to my ranking member and good friend for continuing to work in a spirit of bipartisanship and goodwill on this very important measure. Over the last several years the gentleman from Ohio [Mr. STOKES] and I have worked very closely together in the finest tradition of the Committee on Appropriations, and I am grateful to him for that.

I also want to thank and commend our very capable staff, beginning with Mr. Del Davis, who has been of great assistance to Mr. STOKES; to Dave Reich as well, Fredette West, Frank Cushing, Paul Thomson, Tim Peterson, Valerie Baldwin, Rose Roberts, a detailee who is spending time with us and carrying on very important assistance, Alex Heslop, Dave LesStrang and Jeff Shockey for their hard work and long hours in putting this diverse and complex bill together.

Mr. Speaker, I wish to note that within the Statement of Managers there are a few corrections that we want to clarify at this point, before I yield to the gentleman from Ohio [Mr. STOKES], if my colleagues will be patient with me. I wish to note that there are certain items contained within the Statement of Managers that were either printing errors or were inadvertently left out of the final draft.

Regarding particulate matter research under the EPA's Science and Technology account: on page 114 of the Conference Report and Statement of Managers, in the fourth line on the last paragraph, the word "near" should be included so the sentence would read, "Initiate key near-term research."

Regarding section 107 grants under Housing and Urban Development, the conferees included some $32 million. However, the breakdown of the funding levels was inadvertently omitted from the Statement of Managers.

The breakdown is as follows: $4 million for technical assistance, $6.5 million for Community Development Work Study, with a $3 million set-aside for Hispanic-serving institutions; $500,000 for the National Center for Revitalization of Central Cities; $7.5 million for the Community Outreach Partnership program; $7 million for Insular Areas; and $6.5 million for Historically Black Colleges and Universities.

Regarding Economic Development projects also under HUD, the fourth item down on page 96 of the Statement of Managers should be in the town of Arab, Alabama, not Arab, Illinois.

Regarding including the Hazardous Substance Superfund under EPA, the conferees failed to note in the Statement of Managers that $2.5 million is to be made available for the Gulf Coast Hazardous Substance Research Center.

Regarding NASA's Science, Aeronautics and Technology account list of projects on page 132, the Statement of Managers should include the following, which were inadvertently omitted: $2 million for the Bishop Museum in Honolulu, Hawaii.

Mr. Speaker, I include charts and graphs pertaining to my statement at this time in the RECORD:

VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2158)

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I						
Veterans Benefits Administration						
Compensation and pensions	18,671,259,000	19,932,997,000	19,932,997,000	19,932,997,000	19,932,997,000	+1,261,738,000
Supplemental (P.L. 105-18)	928,000,000					-928,000,000
Readjustment benefits	1,377,000,000	1,366,000,000	1,366,000,000	1,366,000,000	1,366,000,000	-11,000,000
Veterans insurance and indemnities	38,970,000	51,360,000	51,360,000	51,360,000	51,360,000	+12,390,000
Veterans housing benefit program fund program account (indefinite)		192,447,000	192,447,000	192,447,000	192,447,000	+192,447,000
(Limitation on direct loans)		(300,000)	(300,000)	(300,000)	(300,000)	(+300,000)
Administrative expenses		160,437,000	160,437,000	160,437,000	160,437,000	+160,437,000
Guaranty and indemnity program account (indefinite)	158,643,000					-158,643,000
Administrative expenses	105,226,000					-105,226,000
Loan guaranty program account (indefinite)	14,091,000					-14,091,000
Administrative expenses	33,810,000					-33,810,000
Direct loan program account (indefinite)	30,000					-30,000
(Limitation on direct loans)	(300,000)					(-300,000)
Administrative expenses	80,000					-80,000
Education loan fund program account	1,000	1,000	1,000	1,000	1,000	
(Limitation on direct loans)	(3,000)	(3,000)	(3,000)	(3,000)	(3,000)	
Administrative expenses	195,000	200,000	200,000	200,000	200,000	+5,000
Vocational rehabilitation loans program account	49,000	44,000	44,000	44,000	44,000	-5,000
(Limitation on direct loans)	(2,822,000)	(2,278,000)	(2,278,000)	(2,278,000)	(2,278,000)	(-544,000)
Administrative expenses	377,000	388,000	388,000	388,000	388,000	+11,000
Native American Veteran Housing Loan Program Account	205,000	515,000	515,000	515,000	515,000	+310,000
Total, Veterans Benefits Administration	21,327,936,000	21,704,389,000	21,704,389,000	21,704,389,000	21,704,389,000	+376,453,000
Veterans Health Administration						
Medical care	16,313,447,000	16,958,846,000	16,441,846,000	16,476,840,000	16,487,396,000	+173,949,000
Delayed equipment obligation	700,000,000		565,000,000	550,000,000	570,000,000	-130,000,000
Total	17,013,447,000	16,958,846,000	17,006,846,000	17,026,840,000	17,057,396,000	+43,949,000
Medical collections guarantee					15,000,000	+15,000,000
Medical care cost recovery collections:						
Offsetting receipts		-604,000,000	-604,000,000	-604,000,000	-604,000,000	-604,000,000
Appropriations (indefinite)		604,000,000	604,000,000	604,000,000	604,000,000	+604,000,000
Total available	(17,013,447,000)	(17,562,846,000)	(17,610,846,000)	(17,630,840,000)	(17,661,396,000)	(+647,949,000)
Medical and prosthetic research	262,000,000	234,374,000	292,000,000	267,000,000	272,000,000	+10,000,000
Medical administration and miscellaneous operating expenses	61,207,000	60,160,000	60,160,000	60,160,000	59,860,000	-1,347,000
General Post Fund, National Homes:						
Loan program account (by transfer)	(7,000)	(7,000)	(7,000)	(7,000)	(7,000)	
Administrative expenses (by transfer)	(54,000)	(54,000)	(54,000)	(54,000)	(54,000)	
(Limitation on direct loans)	(70,000)	(70,000)	(70,000)	(70,000)	(70,000)	
General post fund (transfer out)	(-61,000)	(-61,000)	(-61,000)	(-61,000)	(-61,000)	
Total, Veterans Health Administration	17,336,654,000	17,253,380,000	17,359,006,000	17,354,000,000	17,404,256,000	+67,602,000
Departmental Administration						
General operating expenses	827,584,000	846,385,000	853,385,000	786,385,000	786,135,000	-41,449,000
Offsetting receipts	(32,000,000)	(36,000,000)	(36,000,000)	(36,000,000)	(36,000,000)	(+4,000,000)
Total, Program Level	(859,584,000)	(882,385,000)	(889,385,000)	(822,385,000)	(822,135,000)	(-37,449,000)
National Cemetery System	76,864,000	84,183,000	84,183,000	84,183,000	84,183,000	+7,319,000
Office of Inspector General	30,900,000	31,013,000	31,013,000	31,013,000	31,013,000	+113,000
Construction, major projects	250,858,000	79,500,000	159,600,000	92,800,000	177,900,000	-72,958,000
Construction, minor projects	175,000,000	166,300,000	176,500,000	166,300,000	175,000,000	
Parking revolving fund	12,300,000					-12,300,000
Grants for construction of State extended care facilities	47,397,000	41,000,000	54,500,000	80,000,000	80,000,000	+32,603,000
Grants for the construction of State veterans cemeteries	1,000,000	10,000,000	10,000,000	10,000,000	10,000,000	+9,000,000
Total, Departmental Administration	1,421,903,000	1,258,381,000	1,369,181,000	1,250,681,000	1,344,231,000	-77,672,000
Administrative Provision						
Medical collections guarantee (sec. 108)			15,000,000			
Total, title I, Department of Veterans Affairs	40,086,493,000	40,216,150,000	40,447,576,000	40,309,070,000	40,452,876,000	+366,383,000
(By transfer)	(61,000)	(61,000)	(61,000)	(61,000)	(61,000)	
(Limitation on direct loans)	(3,195,000)	(2,651,000)	(2,651,000)	(2,651,000)	(2,651,000)	(-544,000)
Consisting of:						
Mandatory	(21,187,993,000)	(21,542,804,000)	(21,542,804,000)	(21,542,804,000)	(21,542,804,000)	(+354,811,000)
Discretionary	(18,898,500,000)	(18,673,346,000)	(18,904,772,000)	(18,766,266,000)	(18,910,072,000)	(+11,572,000)

VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2158) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE II						
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT						
Public and Indian Housing						
Housing Certificate Fund		10,676,000,000	10,393,000,000	10,119,000,000	9,373,000,000	+9,373,000,000
Expiring section 8 contracts		(9,232,000,000)	(9,200,000,000)	(8,666,000,000)	(8,180,000,000)	(+8,180,000,000)
Section 8 amendments		(850,000,000)	(850,000,000)	(1,110,000,000)	(850,000,000)	(+850,000,000)
Section 8 relocation assistance		(594,000,000)	(343,000,000)	(343,000,000)	(343,000,000)	(+343,000,000)
Prevention of resident displacement	4,640,000,000					-4,640,000,000
Expiring section 8 contracts	(3,600,000,000)					(-3,600,000,000)
Section 8 amendments	(850,000,000)					(-850,000,000)
Section 8 relocation assistance	(190,000,000)					(-190,000,000)
Transfer from recaptures	(50,000,000)					(-50,000,000)
Subtotal	(4,690,000,000)	(10,676,000,000)	(10,393,000,000)	(10,119,000,000)	(9,373,000,000)	(+4,683,000,000)
Annual contributions (rescission)		-855,000,000	-565,000,000		-550,000,000	-550,000,000
Rescission (P.L. 105-18)	-3,650,000,000					+3,650,000,000
Public housing capital fund		2,500,000,000	2,500,000,000	2,500,000,000	2,500,000,000	+2,500,000,000
Public housing operating fund		2,900,000,000	2,900,000,000	2,900,000,000	2,900,000,000	+2,900,000,000
Preserving existing housing investment	5,750,000,000					-5,750,000,000
Public housing operating subsidies	(2,900,000,000)					(-2,900,000,000)
Public housing modernization	(2,500,000,000)					(-2,500,000,000)
Preservation	(350,000,000)					(-350,000,000)
Rescission of recaptures	-150,000,000					+150,000,000
Prepayment authority	2,000,000					-2,000,000
Supplemental (P.L. 105-18)	3,500,000					-3,500,000
Subtotal	(5,605,500,000)	(5,400,000,000)	(5,400,000,000)	(5,400,000,000)	(5,400,000,000)	(-205,500,000)
Drug elimination grants for low-income housing	290,000,000	290,000,000	290,000,000	290,000,000	310,000,000	+20,000,000
Revitalization of severely distressed public housing (HOPE VI)	550,000,000	524,000,000	524,000,000	550,000,000	550,000,000	
Homeownership and opportunity for people everywhere grants (HOPE grants) (transfer out) (P.L. 105-18)	(-30,200,000)					(+30,200,000)
Native American housing block grants		485,000,000	650,000,000	485,000,000	600,000,000	+600,000,000
Indian housing loan guarantee fund program account	3,000,000	3,000,000	3,000,000	6,000,000	5,000,000	+2,000,000
(Limitation on guaranteed loans)	(36,900,000)	(36,900,000)	(36,900,000)	(73,800,000)	(73,800,000)	(+36,900,000)
Development of additional new subsidized housing	1,039,000,000					-1,039,000,000
Housing for the elderly	(645,000,000)					(-645,000,000)
Housing for the disabled	(194,000,000)					(-194,000,000)
Indian housing development	(200,000,000)					(-200,000,000)
Capacity Building for Community Development and Affordable Housing						
National community development initiative (by transfer)	(30,200,000)					(-30,200,000)
Capital Grants/Capital Loans Preservation Account						
Capital grants/Capital loans preservation account					10,000,000	+10,000,000
Community Planning and Development						
Housing opportunities for persons with AIDS	171,000,000	204,000,000	204,000,000	204,000,000	204,000,000	+33,000,000
Transfer from recaptures	(25,000,000)					(-25,000,000)
Community development block grants	4,600,000,000	4,600,000,000	4,600,000,000	4,600,000,000	4,675,000,000	+75,000,000
Emergency appropriations (P.L. 105-18)	250,000,000					-250,000,000
Emergency appropriations, FY 1998 (P.L. 105-18)	250,000,000					-250,000,000
Section 108 loan guarantees:						
(Limitation on guaranteed loans)	(1,500,000,000)	(1,261,000,000)	(1,261,000,000)	(1,261,000,000)	(1,261,000,000)	(-239,000,000)
Credit subsidy	31,750,000	29,000,000	29,000,000	29,000,000	29,000,000	-2,750,000
Administrative expenses	675,000	1,000,000	1,000,000	1,000,000	1,000,000	+325,000
Brownfields redevelopment		25,000,000			25,000,000	+25,000,000
Empowerment Zones and Enterprise Communities		100,000,000		25,000,000	5,000,000	+5,000,000
HOME investment partnerships program	1,400,000,000	1,309,000,000	1,500,000,000	1,400,000,000	1,500,000,000	+100,000,000
Supportive housing program (rescission)		-6,000,000	-6,000,000	-6,000,000	-6,000,000	-6,000,000
Shelter plus care (rescission)		-4,000,000	-4,000,000	-4,000,000	-4,000,000	-4,000,000
Homeless assistance grants	823,000,000	823,000,000	823,000,000	823,000,000	823,000,000	
Youthbuild		30,000,000				
Housing counseling assistance		23,000,000				
Total, Public and Indian Housing (net)	16,003,925,000	23,657,000,000	23,842,000,000	23,922,000,000	22,950,000,000	+6,946,075,000
Housing Programs						
Housing for special populations		474,000,000	839,000,000	839,000,000	839,000,000	+839,000,000
Housing for the elderly		(300,000,000)	(645,000,000)	(645,000,000)	(645,000,000)	(+645,000,000)
Housing for the disabled		(174,000,000)	(194,000,000)	(194,000,000)	(194,000,000)	(+194,000,000)
Rental housing assistance:						
Rescission of budget authority, indefinite		-125,000,000	-125,000,000	-125,000,000	-125,000,000	-125,000,000
(Limitation on annual contract authority, indefinite)	(-2,000,000)					(+2,000,000)

VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2158) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Federal Housing Administration						
FHA - Mutual mortgage insurance program account:						
(Limitation on guaranteed loans)	(110,000,000,000)	(110,000,000,000)	(110,000,000,000)	(110,000,000,000)	(110,000,000,000)	.....
(Limitation on direct loans)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	(200,000,000)	.....
Administrative expenses	350,595,000	333,421,000	333,421,000	333,421,000	338,421,000	-12,174,000
Offsetting receipts	-350,595,000	-333,421,000	-333,421,000	-333,421,000	-333,421,000	+17,174,000
FHA - General and special risk program account:						
Program costs	85,000,000	81,000,000	81,000,000	81,000,000	81,000,000	-4,000,000
(Limitation on guaranteed loans)	(17,400,000,000)	(17,400,000,000)	(17,400,000,000)	(17,400,000,000)	(17,400,000,000)	.....
(Limitation on direct loans)	(120,000,000)	(120,000,000)	(120,000,000)	(120,000,000)	(120,000,000)	.....
Administrative expenses	207,470,000	222,305,000	222,305,000	222,305,000	222,305,000	+14,835,000
Subsidy - multifamily	-18,000,000	-18,000,000	-18,000,000	-18,000,000	-18,000,000	.....
Subsidy - single family	-64,000,000	-64,000,000	-64,000,000	-64,000,000	-64,000,000	.....
Subsidy - Title I	-25,000,000	-25,000,000	-25,000,000	-25,000,000	-25,000,000	.....
Total, Federal Housing Administration	185,470,000	196,305,000	196,305,000	196,305,000	201,305,000	+15,835,000
Government National Mortgage Association						
Guarantees of mortgage-backed securities loan guarantee program account:						
(Limitation on guaranteed loans)	(110,000,000,000)	(130,000,000,000)	(130,000,000,000)	(130,000,000,000)	(130,000,000,000)	(+20,000,000,000)
Administrative expenses	9,383,000	9,383,000	9,383,000	9,383,000	9,383,000	.....
Offsetting receipts	-218,000,000	-204,000,000	-204,000,000	-204,000,000	-204,000,000	+14,000,000
Policy Development and Research						
Research and technology	34,000,000	39,000,000	39,000,000	34,000,000	36,500,000	+2,500,000
Fair Housing and Equal Opportunity						
Fair housing activities	30,000,000	39,000,000	30,000,000	30,000,000	30,000,000	.....
Management and Administration						
Salaries and expenses	420,000,000	451,000,000	451,000,000	400,000,000	446,000,000	+26,000,000
(By transfer, limitation on FHA corporate funds)	(546,782,000)	(544,443,000)	(544,443,000)	(544,443,000)	(544,443,000)	(-2,339,000)
(By transfer, GNMA)	(9,383,000)	(9,383,000)	(9,383,000)	(9,383,000)	(9,383,000)	.....
(By transfer, Community Planning & Development)	(675,000)	(1,000,000)	(1,000,000)	(1,000,000)	(1,000,000)	(+325,000)
Total, Salaries and expenses	(976,840,000)	(1,005,826,000)	(1,005,826,000)	(954,826,000)	(1,000,826,000)	(+23,986,000)
Office of Inspector General	36,567,000	36,567,000	45,567,000	36,567,000	40,567,000	+4,000,000
(By transfer, limitation on FHA corporate funds)	(11,283,000)	(11,283,000)	(11,283,000)	(16,283,000)	(16,283,000)	(+5,000,000)
(By transfer from Drug Elimination Grants)	(5,000,000)	(10,000,000)	(10,000,000)	(5,000,000)	(10,000,000)	(+5,000,000)
Total, Office of Inspector General	(52,850,000)	(57,850,000)	(66,850,000)	(57,850,000)	(66,850,000)	(+14,000,000)
Office of federal housing enterprise oversight	15,500,000	16,312,000	16,312,000	15,500,000	16,000,000	+500,000
Offsetting receipts	-15,500,000	-16,312,000	-16,312,000	-15,500,000	-16,000,000	-500,000
Administrative Provisions						
Mark to market legislation	.....	.....	.....	-317,000,000	-562,000,000	-562,000,000
Sec. 203 - FHA Assignment Reform, 1997	-128,000,000	.....	.....	.....	.....	+128,000,000
Sec. 204 - Multifamily property disposition - FHA fund	-80,000,000	.....	.....	.....	.....	+80,000,000
Sec. 210 - financing adjustment	464,442	.....	.....	.....	.....	-464,442
Sec. 212 - demonstration	10,000,000	.....	.....	.....	.....	-10,000,000
Total, administrative provisions	-197,535,558	.....	.....	-317,000,000	-562,000,000	-364,464,442
Total, title II, Department of Housing and Urban Development (net)	16,303,809,442	24,573,255,000	25,123,255,000	24,821,255,000	23,661,755,000	+7,357,945,558
Appropriations	(19,453,809,442)	(25,563,255,000)	(25,823,255,000)	(24,956,255,000)	(24,346,755,000)	(+4,892,945,558)
Rescissions	(-3,650,000,000)	(-990,000,000)	(-700,000,000)	(-135,000,000)	(-685,000,000)	(+2,965,000,000)
Emergency appropriations	(250,000,000)	.....	.....	.....	.....	(-250,000,000)
Emergency appropriations, FY 1998	(250,000,000)	.....	.....	.....	.....	(-250,000,000)
(Limitation on annual contract authority, indefinite)	(-2,000,000)	.....	.....	.....	.....	(+2,000,000)
(Limitation on guaranteed loans)	(238,900,000,000)	(258,661,000,000)	(258,661,000,000)	(258,661,000,000)	(258,661,000,000)	(+19,761,000,000)
(Limitation on corporate funds)	(573,123,000)	(576,109,000)	(576,109,000)	(576,109,000)	(581,109,000)	(+7,986,000)
TITLE III						
INDEPENDENT AGENCIES						
American Battle Monuments Commission						
Salaries and expenses	22,265,000	23,897,000	26,897,000	23,897,000	26,897,000	+4,632,000
Chemical Safety and Hazard Investigations Board						
Salaries and expenses	.....	.....	.....	4,000,000	4,000,000	+4,000,000
Department of the Treasury						
Community Development Financial Institutions						
Community development financial institutions fund program account	50,000,000	125,000,000	125,000,000	.....	80,000,000	+30,000,000

VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2158) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Consumer Product Safety Commission						
Salaries and expenses	42,500,000	45,000,000	44,000,000	45,000,000	45,000,000	+2,500,000
Corporation for National and Community Service						
National and community service programs operating expenses	400,500,000	546,500,000	200,500,000	420,500,000	425,500,000	+25,000,000
Office of Inspector General	2,000,000	2,500,000	2,000,000	3,000,000	3,000,000	+1,000,000
Total	402,500,000	549,000,000	202,500,000	423,500,000	428,500,000	+26,000,000
Court of Veterans Appeals						
Salaries and expenses	9,229,000	9,380,000	9,319,000	9,320,000	9,319,000	+90,000
Department of Defense - Civil						
Cemeterial Expenses, Army						
Salaries and expenses	11,600,000	11,815,000	11,815,000	11,815,000	11,815,000	+215,000
Environmental Protection Agency						
Science and Technology	552,000,000	614,269,400	629,223,000	600,000,000	631,000,000	+79,000,000
Transfer from Hazardous Substance Superfund	35,000,000	39,755,900	35,000,000	35,000,000	35,000,000	.....
Subtotal, Science and Technology	587,000,000	654,025,300	664,223,000	635,000,000	666,000,000	+79,000,000
Environmental Programs and Management	1,752,221,000	1,887,590,900	1,763,352,000	1,801,000,000	1,801,000,000	+48,779,000
Office of Inspector General	28,500,000	28,500,000	28,501,000	28,500,000	28,501,000	+1,000
Transfer from Hazardous Substance Superfund	11,000,000	11,641,300	11,641,000	11,641,000	11,641,000	+641,000
Transfer from Leaking Underground Storage Tanks	577,000	.....	.....	.....	.....	-577,000
Subtotal, OIG	40,077,000	40,141,300	40,142,000	40,141,000	40,142,000	+65,000
Buildings and facilities	87,220,000	141,420,000	182,120,000	19,420,000	109,420,000	+22,200,000
Hazardous Substance Superfund	1,294,245,000	2,094,245,000	1,500,699,000	1,300,000,000	1,400,000,000	+105,755,000
Delay of obligation	100,000,000	.....	.....	100,000,000	100,000,000	.....
Advance appropriation, FY 1999	.....	.....	.....	.....	650,000,000	+650,000,000
Transfer to Office of Inspector General	-11,000,000	-11,641,300	-11,641,000	-11,641,000	-11,641,000	-641,000
Transfer to Science and Technology	-35,000,000	-39,755,900	-35,000,000	-35,000,000	-35,000,000	.....
Subtotal, Hazardous Substance Superfund	1,348,245,000	2,042,847,800	1,454,058,000	1,353,359,000	1,453,359,000	+105,114,000
Fiscal Year 1999	.....	.....	.....	.....	650,000,000	+650,000,000
Leaking Underground Storage Tank Trust Fund	60,000,000	71,210,700	60,000,000	65,000,000	65,000,000	+5,000,000
Transfer to Office of Inspector General	-577,000	.....	.....	.....	.....	+577,000
(Limitation on administrative expenses)	(7,000,000)	.....	(7,000,000)	(7,500,000)	(7,500,000)	(+500,000)
Subtotal, LUST	59,423,000	71,210,700	60,000,000	65,000,000	65,000,000	+5,577,000
Oil spill response	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000	.....
(Limitation on administrative expenses)	(8,000,000)	.....	(8,000,000)	(8,500,000)	(9,000,000)	(+1,000,000)
State and Tribal Assistance Grants	2,236,000,000	2,043,000,000	2,275,925,000	2,322,000,000	2,468,125,000	+232,125,000
Categorical grants	674,207,000	750,257,000	750,257,000	725,000,000	745,000,000	+70,793,000
Subtotal, STAG	2,910,207,000	2,793,257,000	3,026,182,000	3,047,000,000	3,213,125,000	+302,918,000
Working capital fund	(101,526,000)	(101,000,000)	(101,000,000)	(101,000,000)	(101,000,000)	(-526,000)
Total, EPA	6,799,393,000	7,645,493,000	7,205,077,000	6,975,920,000	7,363,046,000	+563,653,000
Fiscal Year 1999	.....	.....	.....	.....	650,000,000	+650,000,000
Executive Office of the President						
Office of Science and Technology Policy	4,932,000	4,932,000	4,932,000	4,932,000	4,932,000	.....
Council on Environmental Quality and Office of Environmental Quality	2,436,000	3,020,000	2,506,000	2,436,000	2,500,000	+64,000
Unanticipated needs	.....	.....	.....	.....	1,000,000	+1,000,000
Total	7,368,000	7,952,000	7,438,000	7,368,000	8,432,000	+1,064,000
Federal Deposit Insurance Corporation						
Office of Inspector General (transfer)	.....	(34,365,000)	(34,365,000)	(34,265,000)	(34,365,000)	(+34,365,000)
Federal Emergency Management Agency						
Disaster relief	1,320,000,000	370,000,000	500,000,000	320,000,000	320,000,000	-1,000,000,000
Emergency appropriations (P.L. 105-18)	3,300,000,000	.....	.....	.....	.....	-3,300,000,000
Emergency approp (transfer out) (P.L. 105-18)	(-20,000,000)	.....	.....	.....	.....	(+20,000,000)
Disaster assistance direct loan program account:						
State share loan	1,385,000	1,495,000	1,495,000	1,495,000	1,495,000	+110,000
(Limitation on direct loans)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	(25,000,000)	.....
Administrative expenses	548,000	341,000	341,000	341,000	341,000	-207,000
Community disaster loans (by transfer) (emergency)	(20,000,000)	.....	.....	.....	.....	(-20,000,000)
Salaries and expenses	170,500,000	171,773,000	171,773,000	171,773,000	171,773,000	+1,273,000
Office of Inspector General	4,673,000	4,803,000	4,803,000	4,803,000	4,803,000	+130,000
Emergency management planning and assistance	218,701,000	202,146,000	261,646,000	207,146,000	243,546,000	+24,845,000
Pre-disaster mitigation	.....	.....	.....	(5,000,000)	.....	.....

VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS BILL, 1998 (H.R. 2158) — continued

	FY 1997 Enacted	FY 1998 Estimate	House	Senate	Conference	Conference compared with enacted
Emergency food and shelter program	100,000,000	100,000,000	100,000,000	100,000,000	100,000,000	.....
National Flood Insurance Fund (limitation on administrative expenses):						
Salaries and expenses	(20,981,000)	(21,610,000)	(21,610,000)	(21,610,000)	(21,610,000)	(+629,000)
Flood mitigation	(78,464,000)	(78,464,000)	(78,464,000)	(78,464,000)	(78,464,000)	.....
Working capital fund	(16,816,000)	.....	.....	.....	.....	(-16,816,000)
Administrative provision: REP savings	-12,251,000	-12,000,000	-12,000,000	-12,000,000	-12,000,000	+251,000
Total, Federal Emergency Management Agency	5,103,556,000	838,558,000	1,028,058,000	793,558,000	829,958,000	-4,273,598,000
General Services Administration						
Consumer Information Center Fund	2,260,000	2,119,000	2,419,000	2,419,000	2,419,000	+159,000
Department of Health and Human Services						
Office of Consumer Affairs	1,500,000	1,800,000	.....	.....	.....	-1,500,000
National Aeronautics and Space Administration						
Human space flight	5,362,900,000	5,326,500,000	5,426,500,000	5,326,500,000	5,506,500,000	+143,600,000
Science, aeronautics and technology	5,767,100,000	5,642,000,000	5,690,000,000	5,642,000,000	5,690,000,000	-77,100,000
Mission support	2,562,200,000	2,513,200,000	2,513,200,000	2,503,200,000	2,433,200,000	-129,000,000
Office of Inspector General	17,000,000	18,300,000	18,300,000	18,300,000	18,300,000	+1,300,000
Administrative provision: Transfer authority	(177,000,000)	.....	(150,000,000)	.....	.....	(-177,000,000)
Total, NASA	13,709,200,000	13,500,000,000	13,648,000,000	13,490,000,000	13,648,000,000	-61,200,000
National Credit Union Administration						
Central liquidity facility:						
(Limitation on direct loans)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	.....
(Limitation on administrative expenses, corporate funds)	(560,000)	(203,000)	(203,000)	(203,000)	(203,000)	(-357,000)
Revolving loan program	1,000,000	.....	.....	.....	1,000,000	.....
National Science Foundation						
Research and related activities	2,432,000,000	2,514,700,000	2,537,526,000	2,524,700,000	2,545,700,000	+113,700,000
Major research equipment	80,000,000	85,000,000	175,000,000	85,000,000	74,000,000	-6,000,000
Delay of obligation	.....	.....	.....	.....	35,000,000	+35,000,000
Education and human resources	619,000,000	625,500,000	632,500,000	625,500,000	632,500,000	+13,500,000
Salaries and expenses	134,310,000	136,950,000	136,950,000	136,950,000	136,950,000	+2,640,000
Office of Inspector General	4,690,000	4,850,000	4,850,000	4,850,000	4,850,000	+160,000
Total, NSF	3,270,000,000	3,367,000,000	3,486,826,000	3,377,000,000	3,429,000,000	+159,000,000
Neighborhood Reinvestment Corporation						
Payment to the Neighborhood Reinvestment Corporation	49,900,000	50,000,000	70,000,000	50,000,000	60,000,000	+10,100,000
Selective Service System						
Salaries and expenses	22,930,000	23,919,000	23,413,000	23,413,000	23,413,000	+483,000
Total, title III, Independent agencies	29,505,201,000	26,200,933,000	25,890,762,000	25,237,210,000	26,620,799,000	-2,884,402,000
Appropriations	(29,505,201,000)	(26,200,933,000)	(25,890,762,000)	(25,237,210,000)	(25,970,799,000)	(-3,534,402,000)
Advance appropriation, FY 1999	.....	.....	.....	.....	(650,000,000)	(+650,000,000)
(Limitation on administrative expenses)	(114,445,000)	(100,074,000)	(115,074,000)	(116,074,000)	(116,574,000)	(+2,129,000)
(Limitation on direct loans)	(625,000,000)	(625,000,000)	(625,000,000)	(625,000,000)	(625,000,000)	.....
(Limitation on corporate funds)	(560,000)	(203,000)	(203,000)	(203,000)	(203,000)	(-357,000)
Grand total (net)	85,895,503,442	90,990,338,000	91,461,593,000	90,367,535,000	90,735,430,000	+4,839,926,558
Appropriations	(85,745,503,442)	(91,980,338,000)	(92,161,593,000)	(90,502,535,000)	(90,770,430,000)	(+5,024,926,558)
Rescissions	(-3,650,000,000)	(-990,000,000)	(-700,000,000)	(-135,000,000)	(-685,000,000)	(+2,965,000,000)
Emergency appropriations (net)	(3,550,000,000)	.....	.....	.....	.....	(-3,550,000,000)
Advance appropriation, FY 1999	.....	.....	.....	.....	(650,000,000)	(+650,000,000)
(By transfer)	(82,170,564,442)	(91,024,764,000)	(91,496,019,000)	(90,401,861,000)	(90,119,856,000)	(+7,949,291,558)
(Limitation on administrative expenses)	(114,445,000)	(100,074,000)	(115,074,000)	(116,074,000)	(116,574,000)	(+2,129,000)
(Limitation on annual contract authority, indefinite)	(-2,000,000)	.....	.....	.....	.....	(+2,000,000)
(Limitation on direct loans)	(985,095,000)	(984,551,000)	(984,551,000)	(1,021,451,000)	(1,021,451,000)	(+36,356,000)
(Limitation on guaranteed loans)	(238,900,000,000)	(258,661,000,000)	(258,661,000,000)	(258,661,000,000)	(258,661,000,000)	(+19,761,000,000)
(Limitation on corporate funds)	(573,683,000)	(576,312,000)	(576,312,000)	(576,312,000)	(581,312,000)	(+7,629,000)
Total amounts in this bill	85,895,503,442	90,990,338,000	91,461,593,000	90,367,535,000	90,735,430,000	+4,839,926,558
Scorekeeping adjustments	-3,832,100,000	32,100,000	32,100,000	32,100,000	-617,900,000	+3,214,200,000
Total mandatory and discretionary	82,063,403,442	91,022,438,000	91,493,693,000	90,399,635,000	90,117,530,000	+8,054,126,558
Mandatory	21,187,993,000	21,542,804,000	21,542,804,000	21,542,804,000	21,542,804,000	+354,811,000
Discretionary:						
Defense	125,930,000	128,919,000	129,413,000	128,413,000	128,413,000	+2,483,000
Nondefense	60,749,480,442	69,350,715,000	69,821,476,000	68,728,418,000	68,446,313,000	+7,696,832,558
Total, Discretionary	60,875,410,442	69,479,634,000	69,950,889,000	68,856,831,000	68,574,726,000	+7,699,315,558

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

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

Mr. Speaker, I rise in strong support of this conference agreement, and I urge my colleagues to vote for it. I must say there are several areas where I wish that we could have done more, but given the budgetary restraints within which we had to work, I believe the conferees have done a very commendable job.

First of all, Mr. Speaker, I want to salute the gentleman from California [Mr. LEWIS], the chairman of the subcommittee. Without his fairness, persistence and sense of humor, I might say, the task of putting this agreement together would have been immeasurably more difficult.

I also want to commend the majority staff, in particular Frank Cushing, Paul Thomson, Tim Peterson, Valerie Baldwin, Jeff Shockey, Alex Heslop and Rose Roberts also for the patience, professionalism, and courtesies they have demonstrated throughout the development of this legislation.

I also want to acknowledge the invaluable assistance I have received from the minority staff in the persons of Del Davis and David Reich, whose professionalism and advice and counsel have been enriching to me at all times, along with Ms. Fredette West of my own congressional staff who has also been invaluable.

Our chairman, the gentleman from California [Mr. LEWIS], has already indicated a number of the more important details of the conference agreement. I just wish to make a few additional observations about this package.

Recognizing the great contributions made by our Nation's veterans, this agreement provides more for the Veterans Health Administration and for the VA in total than either the House or the Senate bill did. Although total funding for the Department of Housing and Urban Development has been reduced from the amount in the House-passed bill, most of this change is a result of including Section 8 reforms, the so-called mark to market provisions, that resulted in substantial savings to the program, those provisions worked out in long negotiating sessions involving the administration and the authorization committees.

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I am grateful that the conferees were able to retain the higher Senate figure, $550 million for the HOPE VI program and the higher House figure of $1.5 billion for the HOME program.

The conferees also recommend a total of $138 million within HUD's Community Development Block Grant program for economic development activities. Some of these funds have been designated for specific purposes, and a significant portion are available at the discretion of the Secretary.

In many instances the designated funds will leverage State, local, and private funding, resulting in synergies that will greatly assist communities across the Nation. I am convinced that this relatively small amount of money will reap benefits far in excess of these funds invested in our cities and towns.

This agreement also reflects discussions held with White House officials before the conference was concluded. Although we were unable to provide everything that the administration indicated was required, I believe that the conferees went a long way to address their concerns. The largest single item in this category is the inclusion of $650 million for the Superfund program as an advance appropriation for fiscal year 1999, subject to authorization.

Mr. Speaker, I encourage the administration to work closely with the legislative committees of jurisdiction so we do not face a similar situation next year.

Regarding funding for the Environmental Protection Agency, I am pleased to report that the conferees recommend nearly $7.4 billion in 1998 funding, an increase above the amounts in both the Senate and the House bills, and more than $500 million above the 1997 total. In addition, there are no anti-environmental riders in this legislation.

There are other programs of great importance to the administration, the Corporation for National and Community Service and Community Development Financial Institutions. Although we could not provide the entire budget request, we were able to provide significant increases above the current year.

The conferees faced a difficult situation concerning the National Aeronautics and Space Administration. Just before the conference NASA indicated it needed $430 million more than their budget request for the International Space Station program. Although NASA was proposing to take the funding from other existing NASA activities, due to the detrimental impact that this could have on certain NASA programs, this request was not fully acceded to.

The conference agreement notes congressional concerns with the ongoing problems plaguing the Space Station, and directs NASA to take several actions to get the project back on track. Until these actions occur, some funding for the station will be withheld.

Mr. Speaker, once again, in concluding my remarks, I want to thank the gentleman from California, Chairman LEWIS, for the very evenhanded way in which he has guided this bill. I have taken great pleasure in serving on this committee with him and, as the ranking member, have been appreciative of the bipartisan manner in which he and I have approached our responsibilities relative to getting this legislation from the House over to the Senate and then back to the House. For that reason, I am very proud to be able to support this bill that is before the House today.

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

Mr. LEWIS of California. Mr. Speaker, it is my pleasure to yield 4 minutes to the gentleman from Michigan [Mr. KNOLLENBERG], a member of the committee, for his statement and a colloquy.

Mr. KNOLLENBERG. I want to thank the chairman for yielding me this time, Mr. Speaker.

I rise to address an issue that I believe strikes at the integrity of this committee. It came to my attention just last week, and it has serious implications on what we have done regarding fair housing activities.

Last week HUD announced the award of fiscal year 1997 funds under the Fair Housing Initiatives Program, also known as FHIP. As we know, the FHIP provides support to private, nonprofit organizations to assist in enforcement of the Fair Housing Act.

For fiscal year 1997, both the House and Senate committees specifically directed HUD to use FHIP funds only, only to address those forms of housing discrimination that are expressly proscribed by the Fair Housing Act. The report emphasized repeatedly that the Fair Housing Act makes no mention of the practices of property insurance. It further instructed that the FHIP funds not be allocated for purposes of enforcing the Act against insurers.

HUD's announcement, in direct contradiction to this committee's intent, awarded numerous grants specifically for activities including investigating property insurance and otherwise seeking to enforce the Fair Housing Act against property insurers. In taking this action, HUD appears to have ignored completely this committee's directive. This is, in my judgment, a very serious matter that has implications beyond fiscal year 1997.

The House in the legislation before us once again stated its intent that FHIP funds appropriated under this measure should not be used to address insurance practices.

Mr. Speaker, for the past two fiscal years this committee, including myself and my good friend the gentleman from Ohio [Mr. STOKES], the ranking member, have worked together to craft report language to everyone's agreement. We did not do this to have it ignored by HUD. Report language is meant to be adhered to, and I intend to question HUD about their intent and apparent neglect of our wishes.

The House Committee Report on the fiscal year 1997 VA–HUD appropriations legislation stated:

The Committee intends that funds appropriated to the Fair Housing Initiatives Program (FHIP) for enforcement of title VIII of

the Civil Rights Act of 1968, as amended, which prohibits discrimination in the sale, rental, and financing of housing and in the provision of brokerage services, be used only to address such forms of discrimination as they are explicitly identified and specifically described in title VIII. Recognizing that there are limited resources available for FHIP activities, the Committee believes that FHIP funds should serve the purposes of Congress as reflected in the express language of title VIII.

The Committee notes that HUD's Office of Fair Housing and Equal Opportunity has undertaken a variety of activities pertaining to property insurance under the authority of the Fair Housing Act. HUD recently testified that, due to Congressional concern about such activities, it does not intend to focus its regulatory initiatives on property insurance. The Committee is encouraged by this statement, but remains concerned about HUD's use of funds for other fair housing activities aimed at property insurance practices.

HUD's insurance-related activities duplicate state regulation of insurance. Every state and the District of Columbia have laws and regulations addressing unfair discrimination in property insurance and are actively investigating and addressing discrimination where it is found to occur. HUD's activities in this area create an unwarranted and unnecessary layer of federal bureaucracy.

The Fair Housing Act makes no mention of discrimination in property insurance. Moreover, neither it nor its legislative history suggests that Congress intended it to apply to the provision of property insurance. Indeed, Congress' intention, as expressly stated in the McCarran-Ferguson Act of 1945 and repeatedly reaffirmed thereafter, is that, unless a federal law "specifically relates to the business of insurance," that law shall not apply where it would interfere with state insurance regulation. HUD's assertion of authority regarding property insurance contradicts this statutory mandate.

This language, which was repeated almost verbatim in the Senate Committee report, makes extremely clear that no fiscal year 1997 funds appropriated for the FHIP were to be used to target the practices of insurance companies.

On February 7, 1997, I wrote to HUD to seek confirmation that the Department's Office of Fair Housing and Equal Opportunity [FHEO] would adhere to the directive expressed in the committee report. I specifically asked: "Will the FHEO Office honor any requests for FHIP funding for activities relating to enforcement of the FHA against insurers?"

In a letter to me dated March 13, 1997, HUD's Assistant Secretary for Congressional and Intergovernmental Relations responded: "All requests for funding under the fiscal year 1997 FHIP Notice of Funding Availability [NOFA] will be screened for proposed activities. The Department will not fund activities relating to enforcement of the FHAct against property insurers."

The letter also provided confirmation of intended adherence by the Department to the Report directive by responding to other questions as follows:

Question. Will the FHEO Office identify, in its public announcement of FHIP awards, whether any portion of those awards might be used for activities relating to applications of the FHA to insurance?

Answer. Yes, the NOFA will state that activities relating to application of the Fair Housing Act to property insurance will not be funded under any of the three Initiatives for which Congress has allocated funding in FY'97—i.e., Private Enforcement Initiative, Fair Housing Organization Initiative, or Education and Outreach Initiative. In addition, the application kit also will emphasize that such activities will not be funded, including as an "in-kind" contribution to the budget. Further, the Office of FHEO will place a special condition on all FY'97 awards regarding this restricted use of funds.

Question. How will the FHEO Office monitor whether any portion of its FHIP awards are used for activities relating to application of the FHA to insurance?

Answer. While the FHEO Office will make it clear that such activities will not be funded, the Office will monitor whether any portion of the FY'97 FHIP awards are used for activities relating to application of the FHA to insurance in several ways: (1) requiring submission of work products which would show the scope of planned activities, such as training outlines, conference agendas and materials, and testing methodologies; (2) a thorough review of reports submitted regarding actual activities under the grant, such as enforcement logs, quarterly progress reports and financial statements; and (3) on-site monitoring of grantees. Monitoring visits include interviews with grantee staff and testers, examination of financial and personnel records, review of testing and other enforcement records.

Subsequently, in a letter to me dated May 13, 1997 the Assistant Secretary qualified the above quoted answer by stating that the Department would seek to ensure that FHIP fund are "not used for narrowly focused enforcement purposes" and that FHIP funded projects "would not be focused upon a single issue, such as insurance discrimination."

Then on September 30, 1997, HUD announced 67 awards of fiscal year 1997 grants under the FHIP. Out of the total of $15,000,000 in funds awarded, HUD announced that almost one third, an amount of $4,170,002, was awarded for activities including investigations, testing, and other enforcement-related projects specifically targeting insurance companies. This is in direct contradiction of the statements in HUD's March 13, 1997, letter to me. More importantly, it flatly contravenes the intent expressed by Congress in the House and Senate Committee Reports on HUD's fiscal year 1997 appropriations.

Such a flagrant defiance of Congressional intent suggests the need for serious consideration about continued funding for the FHIP. I note that the House Committee Report on the fiscal year 1998 VA–HUD appropriations legislation states:

The Committee is encouraged by HUD's recent testimony and correspondence stating that the Office of Fair Housing and Equal Opportunity does not intend to use FHIP funds to solicit or fund applications that would address enforcement of the Fair Housing Act against property insurers. As the Committee has previously emphasized, given the limited resources available for enforcement of title VIII, it is appropriate that funds should serve the particular purposes expressly identified by Congress in the statute. The Committee appreciates HUD's acknowledgment of these budgetary priorities and looks forward to the agency's continued cooperation in adhering to them.

In light of HUD's recent actions, there no longer appear to be grounds for believing that the Department will, in fact, act in "continued cooperation and adhering to" our budgetary priories. This is a very serious matter that I strongly feel should be addressed promptly, including, if necessary, through cutbacks in funding for the Department.

Mr. Speaker, I rise to enter into a colloquy with the distinguished gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. KNOLLENBERG. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I am pleased to join in a brief colloquy with my colleague, the gentleman from Michigan.

Mr. KNOLLENBERG. Mr. Speaker, reclaiming my time, I am pleased to see that the conferees saw the need and the value to conduct a near-term research program for PM2.5 immediately. Specifically, as an initial phase of the program, the conferees noted the ongoing efforts to conduct research as well as the need to conduct new research with the goal to start and rapidly complete before the next NAAQS review in 2002. This would be in coordination with NAS and target broad-based research program, intensively peer-reviewed research in line with the near-term priorities that the gentleman cites, and to fully reanalyze the key epidemiologic studies in this program.

We have heard estimates that successful completion of this near-term research would be in the range of $5 million. I would ask the chairman, does this agree with the estimates that have been suggested to him?

Mr. LEWIS of California. Mr. Speaker, if the gentleman will continue to yield, the gentleman is correct, the near-term research is vital, and $5 million is a good estimate of what would be necessary to carry out this research.

Mr. KNOLLENBERG. Mr. Speaker, reclaiming my time, would the Health Effects Institute, HEI, be an example of the type of independent research institute that was suggested in the conference report that should have priority to undertake this work?

Mr. LEWIS of California. If the gentleman will continue to yield, Mr. Speaker, the gentleman is correct. It would be the intent of the conferees and this conference report that institutes such as HEI would receive priority in the process laid out in the conference report.

Mr. KNOLLENBERG. I thank the distinguished chairman for his time.

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

Mr. STOKES of Ohio. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Ohio [Ms. KAPTUR], a very hard-working and highly respected member of the subcommittee.

Ms. KAPTUR. Mr. Speaker, I thank our ranking member, the gentleman

from Cleveland, OH [Mr. STOKES] for granting me this time, along with our chairman, the gentleman from California [Mr. LEWIS], who has been very gracious.

Mr. Speaker, I rise to engage the chairman in a colloquy on the proposed VA cemetery, Veterans Administration Cemetery in Guilford Township, OH. I am concerned about the potential conflict that could arise between Federal and local land and water uses between Medina County and Wayne County related to the development of that new veterans cemetery.

As ranking member of the Subcommittee on Agriculture, Rural Development Food and Drug Administration, and Related Agencies of the Committee on Appropriations and a member of this VA–HUD subcommittee as well, I have heard from many local officials and citizens in the community concerned about farmlands preservation being essential to the maintenance of a sound rural economy in this region of Ohio.

Before the final Federal water contracts are negotiated, I would urge the Veterans Administration to meet with township and other local officials in both counties to ensure that local land use is respected, the impact of the proposed VA water acquisition on productive farmland is assessed, and the best water source for the new national cemetery is developed.

Mr. LEWIS of California. Mr. Speaker, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, first let me say that I very much appreciate the gentlewoman's work on our committee. She is a most effective member.

She and I have discussed the fact that water rights are really State and local issues, but at the same time, the gentlewoman is in a perfect position to make this point at a very appropriate time. I concur with the gentlewoman from Ohio, and encourage the VA to act expeditiously to resolve this conflict.

Ms. KAPTUR. Mr. Speaker, reclaiming my time, I thank the chairman very much for his leadership on this entire measure. Congratulations on a fine bill, and I want to thank the gentleman from Ohio [Mr. STOKES], the ranking member, as well.

Mr. LEWIS of California. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from New Jersey [Mr. FRELINGHUYSEN], a very diligent and effective member of our subcommittee.

Mr. FRELINGHUYSEN. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of the conference agreement. I especially want to congratulate the gentleman from California, Chairman LEWIS, and the gentleman from Ohio, Mr. STOKES, the ranking member, for their hard work on this bipartisan agreement, and thank their staffers for their excellent work in cooperation.

Mr. Speaker, this bill contains essential funding for our Nation's veterans for protection and preservation of the environment, and for meeting the housing needs of our older citizens, as well as citizens with disabilities, and for exploration and scientific research.

While I am pleased that this agreement provides full funding for our veterans health care system, I remain concerned about the way the VA is distributing these funds among their new network system and the effect it may have on our veterans in the Northeast, their access to medical care. That is why I am pleased that this agreement asks the General Accounting Office to review the network system and provide Congress with a report in 9 months on its findings. I look forward to the GAO's analysis.

In addition, this conference report contains increased funding for the EPA's Superfund program, and having visited 11 sites in my district over the last 2 weeks, I am very pleased that the committee has provided an additional $100 million, for a total of $1.5 billion. As I have said on previous occasions, there remains a desperate need to reform the Superfund program. With this agreement Congress is telling the EPA that we are committed to cleaning up these sites, and at the same time urges the EPA to work with Congress to reauthorize this important program.

As detailed in a recent GAO report, the current program spends less than 49 cents of every dollar on actual cleanups. This is simply not acceptable. When our citizens ask where the money is for cleanups, the answer is, the money is there, it is just not used, or in many cases not being used wisely and effectively. I remain optimistic, nonetheless, that by working together this program can achieve its goal of cleaning up all sites across America.

In summary, Mr. Speaker, this is a good, balanced conference report. I urge my colleagues to support it.

Mr. STOKES. Mr. Speaker, I am pleased to yield 4½ minutes to the gentleman from West Virginia [Mr. MOLLOHAN], a very valuable and hard-working member of our subcommittee.

Mr. MOLLOHAN. Mr. Speaker, I would first like to express my gratitude to the gentleman from Ohio [Mr. STOKES], the ranking minority member, for his hard work on this committee and the leadership he has provided. I have held him in high regard ever since I came here, and I appreciate his good efforts, and for yielding this time to me. Likewise, I would express my appreciation to the chairman of the committee for the excellent work he has done on this bill. I am pleased to join him and the gentleman from Ohio [Mr. STOKES] in supporting it.

Mr. Speaker, I rise for a colloquy with the chairman.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. MOLLOHAN. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I am happy to participate in a colloquy with my colleague and member of the committee.

Mr. MOLLOHAN. First of all, I thank the chairman for agreeing to participate in this colloquy to discuss how EPA will proceed with the particulate matter research program. This program will determine the scientific soundness of EPA's newly announced national ambient air quality standards, and will ensure that the regulations promulgated under these standards are based on solid scientific evidence.

As we know, EPA has been criticized for its handling of the current research program. This criticism has undermined the credibility of the stated research results, and this in turn has called into question the recently finalized standards. While we want to move forward on air quality improvement, it must be justified, because the economic dislocation associated with the promulgation of new regulations is very real.

The chairman is to be commended for the inclusion of the $49.6 million in the conference report for the express purpose of developing a fair and comprehensive particulate matter research program. He is also to be commended for directing the National Academy of Sciences to develop and oversee the implementation of this research program and to periodically report back to the Congress. This process should give credibility to the program and foster confidence in research results, thereby laying a consensus scientific foundation for the standard-setting and promulgation of regulations.

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Since the National Academy of Sciences has until April 1998 to complete this planning agenda, and since EPA will continue research activities until then, I would like to clarify how EPA will proceed with this research program in the interim.

Mr. Chairman, I know that it is very likely that EPA will obligate some of the 1998 research funds before the completion of the National Academy of Sciences' planning agenda. It is important that when EPA does obligate funds, it does so in the spirit of the gentleman's directive, applying the principles of diversity and scientific integrity, and I ask if the gentleman would agree.

Mr. LEWIS of California. Mr. Speaker, if the gentleman would yield, I would respond by saying to my colleague that I very much appreciate his involvement in this critical issue, a critical issue to us, those of us who

focus on this problem in the Congress, but to the country as well.

Mr. Speaker, I would respond further to the gentleman by saying that I agree that EPA has worked closely with us in developing the particulate matter research program outlined in H.R. 2158. They have pledged to fulfill the requirements in the statement of managers to the best of their ability. I expect them to exercise sound judgment in the distribution of funds and be prepared to reorient certain of their efforts upon completion of the NAS research plan.

Mr. MOLLOHAN. Mr. Speaker, reclaiming my time, it is my understanding that the research program described in the report is intended to build on activities currently underway at EPA at the National Institute for Environmental Health Sciences, the National Academy of Sciences, the Health Effects Institute, and many other public and private entities.

Mr. Speaker, I would ask the gentleman from California whether we can be assured that EPA will establish diversity among the researchers such that all stakeholders should feel comfortable with the composition of the research community which would give credibility to the results of the research.

Mr. LEWIS of California. Mr. Speaker, if the gentleman would yield further, certainly the gentleman is correct. The legislation, in fact, directs EPA to ensure that quality researchers participate in broadly based, comprehensive, competitive, and peer-reviewed research programs. Only when we bring together a diverse community of the best scientific minds on this matter, both inside and outside of government, can we feel assured that science is being used to lay a credible foundation for policy.

Mr. Speaker, I very much appreciate the gentleman allowing me to participate in this colloquy.

Mr. MOLLOHAN. Mr. Speaker, again reclaiming my time, I thank the gentleman from California for his leadership in this matter and for these clarifications.

Mr. LEWIS of California. Mr. Speaker, I yield 1½ minutes to the gentleman from Arizona [Mr. STUMP], the chairman of the Veterans' Affairs Committee.

Mr. STUMP. Mr. Speaker, I rise in strong support of the conference report on H.R. 2158, and I particularly want to commend the gentleman from California [Mr. LEWIS], the chairman of the Subcommittee on VA, HUD and Related Agencies, for his insistence that veterans programs be funded at adequate levels.

Mr. Speaker, I also commend the gentleman from Ohio [Mr. STOKES] for his effort on behalf of the veterans, and I urge my colleagues to support this report.

Mr. STOKES. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. BROWN], the distinguished ranking member of the Committee on Science.

Mr. BROWN of California. Mr. Speaker, I commend the gentleman from Ohio [Mr. STOKES] and the gentleman from California [Mr. LEWIS] for the excellent work that they have done in bringing this bill before us.

Mr. Speaker, I do not want to be overly enthusiastic, but in the roughly 32 years that I have worked with this committee, I think from the standpoint of the Committee on Science we have probably reached some sort of a peak of efficiency and effectiveness and concern and sharing. I want to say that I am grateful for this situation and hope that it can continue.

I, of course, as the chairman indicated, am the ranking member on the Committee on Science, which deals with a number of the programs contained in this bill, NASA, FEMA, EPA, NSF, as far as the research elements are concerned. I want to say that I feel that in every case these programs have been treated with sensitivity. Where there are problems within the agencies, they have been recognized and efforts have been made to guide them in the right direction.

And we will continue to have problems, of course, with some of these agencies, NASA and EPA, perhaps amongst the most, and we will need to continue to give them guidance and assistance in achieving their goals.

Mr. Speaker, I want to also indicate that for many, many years I have had a deep interest and a high priority in the areas of housing and veterans' concerns. I served 8 years on the Committee on Veterans' Affairs, and, again, I compliment the committee for the excellent way in which they have handled these. I am not as directly involved, but I am as deeply concerned about these programs as I am with the programs with research.

So, Mr. Speaker, I look forward to our continued cooperation. I will not indicate the scientific items on which I am extremely grateful for the chairman and the ranking member's concern, but I think they know what they are. But overall, I think the important message is that this committee in this bill has done more for research and development than the Administration has asked for. I have been critical of the Administration because I felt that it was shortchanging some of these very important investments, and we are now on the right track.

Mr. Speaker, I submit for the RECORD an article from the latest issue of Science magazine, the organ of the American Association for the Advancement of Science, which is headlined: "Friendly Finish Looms on Spending." Mr. Speaker, this article points out, if I may quote the first couple of sentences, "Congress is proving kind to most federal science and technology programs as it wraps up work on the 1998 budget."

I include the full article for the RECORD.

[From Science, Oct. 3, 1997]

FRIENDLY FINISH LOOMS ON SPENDING

(By Andrew Lawler)

Congress is proving kind to most federal science and technology programs as it wraps up work on the 1998 budget. The National Science Foundation (NSF) can look forward to a 5% boost in research, spending for defense R&D will rise enough to cover inflation, and most technology programs that the Republican Congress loved to hate only a year ago have sailed through both houses.

But some of the details are not so rosy. Cash-strapped NASA, for example, faces another delay in the space station. Congress also ordered the Department of Energy (DOE) to postpone for at least a year the restart of a troubled reactor used by neutron scientists at Brookhaven National Laboratory in Upton, New York. And it failed to grant NSF's wish to build a polar cap observatory near the magnetic North Pole.

Here are some highlights of the appropriations bills that emerged from joint House-Senate conferences last week. They must still be approved by each body and signed by the president:

NSF: The good news is that the agency's research account will increase by $113 million to $2.55 billion. The bad news is that NSF must spend $40 million of that increase on a plant genome initiative, a project promoted by agricultural lobbyists and championed by Senator Kit Bond (R-MO) that was not part of NSF's request (Science, 27 June, p. 1960). The agency's education programs will receive $633 million, a 2% rise that doubles the request.

The toughest decisions came in the agency's account for large facilities. Legislators did not fund a $25 million polar cap observatory to study solar-upper atmosphere interactions, asking for more information on the proposed site near the magnetic North Pole in northwest Canada. Senator Ted Stevens (R-AL) wants the facility built at an Alaskan defense lab, which scientists say would greatly reduce its value. But conferees added $4 million to complete the twin Gemini telescopes and maintained initial funding for the $200 million millimeter array. And they voted $70 million for a new South Pole station, a compromise between the Senate's $25 million increment and the House's $115 million that would have funded the full cost of construction. They also dropped a House plan to give $5 million more to two supercomputer centers being phased out.

NASA: The space agency received $13.65 billion, $100 million above the request and close to the 1997 level. But that windfall won't go far, as the agency failed to win approval to move money from other accounts into the station budget to meet cost overruns. Lawmakers like Senator Barbara Mikulski (D-MD) worried that other programs—particularly the space shuttle and science efforts—would suffer as a result, so it severely restricted the agency's flexibility. Congressional sources say the language is intended to force the Administration to request a bigger NASA budget, but NASA managers aren't heartened. "We're in a bad situation," says one. "This would force a slip in the station's schedule."

Mikulski also insisted that NASA use more competitive methods to distribute money set

aside for programs such as New Millennium, a new program administered by the Jet Propulsion Laboratory in Pasadena, California, that aims to test advanced technology for future space science missions. That move could open the door for Johns Hopkins University's Applied Physics Laboratory in Mikulski's home state.

DOE: There were few surprises in DOE's final 1998 budget, which meets the Administration's $2.36 billion request for science programs. Conferees did give high-energy physics and nuclear physics slight increases, and added nearly $25 million for several pork-barrel projects in biological and environmental research. DOE can continue to clean up the leaking High-Flux Beam Reactor at Brookhaven, but is forbidden from spending money on restarting it for 1 year, Martha Krebs, DOE energy research chief, says the reactor would not have been ready for a restart then anyway, but that decision on its future is due in January. However, opponents may try to extend the provision next year.

Environmental Protection Agency: The agency's science and technology account appears likely to receive $15 million more than the president request and $80 million above the 1997 level. But the $630 million figure includes $23 million more for a research program on the health effects of particle air pollution, with advice from the National Academy of Sciences. The conferees discarded proposals from the House to funnel this money through other agencies and a Senate plan to set up university-based research centers.

Defense Department (DOD): Funding for basic science at DOD has survived a roller-coaster ride to finish at about the same level—$1.08 billion—as this year. Applied research funds will increase 8.9% to $3.1 billion. This category includes grant money for university research activities, which increases by 7% to $230.8 million. Total R&D at the Pentagon rises 3.5% to $37.9 billion. In addition, the conferees have retained several popular biomedical programs, including $135 million for breast cancer studies and $45 million for prostate cancer research. "It's a mixed bag," says analyst George Leventhal of the Association of American Universities.

Meanwhile, the massive bill that includes funding for the National Institutes of Health was still in limbo after legislators met last Friday. Biomedical advocacy groups hope the conferees will split the difference between the House's offer of a 6% increase and the Senate offer of a 7.5% raise.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. WALSH], the chairman of the Subcommittee on Legislative Appropriations.

Mr. WALSH. Mr. Speaker, I rise in strong support of this conference report, and I congratulate the gentleman from California [Mr. LEWIS], the chairman, and the gentleman from Ohio [Mr. STOKES], the ranking member.

Mr. LEWIS of California. Mr. Speaker, I yield 4 minutes to the gentleman from Iowa [Mr. LEACH], the chairman of the Committee on Banking and Financial Services.

Mr. LEACH. Mr. Speaker, with reservation I rise today in support of this conference report.

Mr. Speaker, let me begin by offering my appreciation to the gentleman from California [Mr. LEWIS], my friend and colleague, as well as the gentleman from Ohio [Mr. STOKES], the ranking member, for their work in completing what is clearly a strong bipartisan agreement.

I would also like to thank the gentleman from New York [Mr. LAZIO], chairman of the Subcommittee on Housing and Community Opportunity, for his exceptional work in helping craft a solution to the problem of expiring section 8 multifamily housing contracts. The dedication of the gentleman from New York and the gentleman from California [Mr. LEWIS] to sound housing and community development policy is a credit to their respective chairmanships.

Mr. Speaker, so there is no misunderstanding, current section 8 programming symbolizes Congress being placed by prior Congresses in a catch-22 where good public intentions have, in too many cases, crossed wires with imperfect private sector motivations, which in turn have been exacerbated by unrealistic legislation.

The deferred obligations implicit in section 8 housing present Congress with an untenable choice: Either walk away from projects that serve hundreds of thousands of needy people, many of whom are elderly, or accept funding obligations far in excess of those originally conceived.

The end effect of the current program has been the classic scheme of advancing programs for the moment, with huge deferred funding liabilities. Those liabilities have now come due and are stretching the congressional budget process in an unseemly as well as expensive manner.

Mr. Speaker, from the authorizing committee's perspective, we have attempted to devise an approach correcting the deferred liability schematics of the past. It is clear that the status quo is unfair to taxpayers and unfavorable to tenants. Owners, on the other hand, have unintentionally been provided cost-plus incentives to maximize return without necessarily paying adequate attention to property maintenance.

The section 8 reforms presented by the Senate for consideration by the Committee on Appropriations were clearly improvements over the current system, but the House authorizing committee, in negotiations with the Senate, took the position that the public treasury would still be at risk and tenants in jeopardy unless systems were put in place that took owners out of the driver's seat.

Hence, the authorizing committee developed a legislative approach based on three broad premises: One, full and fair competition among administrative entities with a greater emphasis and utilization of nonprofit institutions; two, greater empowerment opportunities for program participants and the assumption that the greater the choices allowed tenants, the greater the accountability of landlords; and, three, stronger protections against potential fraud and abuse by building checks and balances into Administration decision-making.

Some of our approaches were embraced by the appropriations conference. We cannot say, however, that our concerns have fully been met or that we have been pleased with all of the processes of consideration that have taken place.

Finally, Mr. Speaker, let me just say I must express some concern with the significant number of targeted special purpose grants included in this report. At issue are questions of judgment as well as the proper constitutional role of the Congress, which may in the end be embarrassed by a President exercising proper line-item veto authority.

Mr. Speaker, with reservation I rise today in support of the fiscal year 1998 VA, HUD and independent agencies appropriations conference report.

Let me begin by offering my appreciation to my friend and colleague from California, the subcommittee chairman, and the ranking member from Ohio for their work in completing the bipartisan agreement we have before us today.

I must also thank the Housing Subcommittee chairman from New York, Mr. LAZIO, for his exceptional work in helping craft a solution to the problem of expiring section 8 multifamily housing contracts. His and Mr. LEWIS' sincere dedication to sound housing and community development public policy are a credit to their respective chairmanships.

So there is no misunderstanding, current section 8 programming symbolizes Congress being placed by prior Congresses in a catch–22, where good public intentions have in too many cases crossed wires with imperfect private sector motivations which in turn have been exacerbated by unrealistic legislation. The deferred obligations implicit in section 8 housing present Congress with an untenable choice: Either walk away from projects that serve hundreds of thousands of needy people many of whom are elderly, or accept funding obligations far in excess of those originally conceived.

The end effect of the current program has been the classic scheme of advancing programs for the moment, with huge deferred funding liabilities. Those liabilities have now come due and are stretching the congressional budget process in an unseemly as well as expensive manner.

The goal of the multifamily restructuring legislation contained in title V of the conference report is to reform today's system, but also to assure that taxpayers and tenants are better protected in the future.

In my view, this can only be done if it is clear to landlords that their ownership is jeopardized both by financial profligacy and by ill-service to tenants. Hopefully, the conference report lays out a legislative scheme which allows the Government to more easily say "no" and to allow intervention by nonprofits, as well as alternative voucher approaches. In my

judgment, without the possibility of Government intervention and vouchers, imperfect landlords will be given free rein.

A key element under the multifamily restructuring program is the determination of rents for comparable properties, or market rents. The conference report provides that "where applicable" comparable properties should be located in the same market area as the section 8 project. Thus, the conferees recognize that it may not be possible to find comparable properties in some areas. This is particularly true for projects in rural communities, and especially for specially designed properties for the elderly. In those cases the appraiser could look to other areas to locate comparable properties.

From the authorizing committee's perspective, we have attempted to devise an approach correcting the deferred liability schematics of the past. It is clear that the status quo is unfair to taxpayers and unfavorable to tenants. Owners, on the other hand, have unintentionally been provided cost-plus incentives to maximize return without necessarily paying adequate attention to property maintenance.

The section 8 reforms presented by the Senate for consideration by the Appropriations Committee were clearly improvements over the current system, but the House authorizing committee in negotiations with the Senate, took the position that the public treasury would still be at risk and tenants in jeopardy unless systems were put in place that took owners out of the driver's seat.

Hence the House authorizing committee developed a legislative approach based on three broad premises: first, full and fair competition among administrative entities with a greater emphasis on utilization of non-profit institutions; second, greater empowerment opportunities for program participants on the assumption that the greater choices allowed tenants, the greater the accountability of landlords; and third, stronger protections against potential fraud and abuse by building checks and balances into administration decisionmaking.

In this regard, it is interesting to note that the House authorizing committee's legislation scored savings of $759 million in fiscal year 1998 according to CBO, almost $200 million more than the Senate legislation. The Appropriations Conference unfortunately chose to lean to the Senate approach. Nevertheless, from an authorizing committee perspective, we are pleased that reform is underway and that some of our approaches were embraced by the Appropriations Committee.

We cannot say, however, that our concerns have been fully met or that we have been pleased with all the processes of consideration that have taken place.

Finally, I must express my concern with the significant number of targeted special purpose grants included in the conference report. For instance, almost 130 separate communities or projects will receive exclusive funding grants totaling more than $100 million in carve-outs under the $138 million Economic Development Initiative program. I must urge my colleagues to carefully consider the implications of stipulating so many projects for funding. At issue are questions of judgment as well as the proper constitutional role of a Congress, which may, in the end, be embarrassed by a President exercising proper line-item veto authority.

We in Congress are simply obligated to recognize that there is a place for professionalism in executive departments like HUD where individual program priorities should be set. Congress' role should be to pass broad laws with definitive policy parameters. Individual program decisions, on the other hand, should largely be left to the executive branch.

Mr. STOKES. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. KUCINICH], my friend and distinguished colleague who shares the representation of Cleveland, Ohio, with me.

Mr. KUCINICH. Mr. Speaker, I first want to congratulate the gentleman from California [Mr. LEWIS] for the work which he has done on this important appropriations bill. I also thank the gentleman from Ohio [Mr. STOKES], my friend, for sharing his knowledge and understanding of the process with me to enable me to more effectively participate as a freshman.

Mr. Speaker I rise in support of the conference agreement on the fiscal year 1998 VA–HUD appropriations bill. This bill provides $13.6 billion for the programs in the National Aeronautics and Space Administration, which fully funds the President's request, including the National Aeronautics and Space Administration's aeronautics program, and also provides for the work associated with Lewis Research Center, which I am proud to say is served by the gentleman from Ohio [Mr. STOKES], the gentleman from Ohio [Mr. LATOURETTE], the gentleman from Ohio [Mr. BROWN], and myself and the entire Ohio delegation.

I am pleased that the conference agreement provides increased funding for the International Space Station. This action by the Congress will help to keep the Space Station on schedule.

The bill also provides essential support for Mission to Planet Earth, the NASA program which will enable a system of Earth observing satellites to study global climate change.

In this Congress, we have seen important debates about the future of NASA and the International Space Station. This fiscal year 1998 appropriation will enable the agency to continue its progress on exploring the last frontier, the frontier of space, while bringing back to Earth the technological benefits of that exploration.

Mr. Speaker, for this I commend this bill to my colleagues and urge its support. And I want to express my continued appreciation to the men and women of the National Aeronautics and Space Administration for their vision, for their attention to detail, and for their commitment to our country.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I want to be sure that my understanding of the provisions in the bill before us is correct. As I read the bill, it appropriates $2.15 billion for the Superfund program, but $650 million of that money is effectively held in reserve. I ask the gentleman from California if that is correct.

Mr. LEWIS of California. Mr. Speaker, if the gentleman would yield, that is correct.

Mr. OXLEY. Mr. Speaker, reclaiming my time, let me further be sure that I understand the two events that are necessary to unlock the funding. First, the money will only be available after October 1, 1998; is that correct?

Mr. LEWIS of California. Mr. Speaker, if the gentleman would again yield, that is correct.

Mr. OXLEY. Mr. Speaker, again reclaiming my time, second, let me be very clear in how I ask this question. The money will only be available at that time if we enact comprehensive Superfund reform; is that correct?

Mr. LEWIS of California. Mr. Speaker, if the gentleman would continue to yield, the language requires that Superfund be reauthorized by May 15, 1998, in order to receive the additional funds. It certainly is my intent that such a reauthorization be comprehensive reform of the Superfund law.

Mr. OXLEY. Mr. Speaker, again reclaiming my time, is the committee trying to tell us that it shares our strong desire for fully funding toxic waste cleanups?

Mr. LEWIS of California. Mr. Speaker, the gentleman is correct.

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Mr. OXLEY. So if we fix it, the Committee on Appropriations will fund it?

Mr. LEWIS of California. Mr. Speaker, that is correct.

Mr. OXLEY. Mr. Speaker, I thank the gentleman for his time. We will get a new law as soon as we can.

Mr. LEWIS of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Alabama [Mr. BACHUS].

Mr. BACHUS. Mr. Speaker, the Subcommittee on General Oversight and Investigations of the Committee on Banking and Financial Services undertook an investigation of the CDFI fund in the past year. As a result of that investigation, the two top officials of that fund have resigned. I have been working with the Committee on Appropriations to legislate some safeguards to end the type practices which resulted in their resignation. Among these practices, one that continues to go on is they still are paying outside consultants, one, $217,000 for a 15-month period. I am happy to report to this body today that the Committee on Appropriations and this conference report, this conference report has addressed most of these concerns.

There is, however, one concern that I think we are leaving hanging out

there. I do not think it was an intentional thing. I think it was just the conference language unintentionally may not have taken care of that.

Mr. Speaker, I wish to yield to the gentleman from California [Mr. LEWIS] for the purpose of engaging in a colloquy concerning this practice of hiring outside contractors.

Mr. Speaker, is it correct that the VA–HUD conferees sought to curtail the exorbitant use of management consultants and outside consultants at the CDFI fund? As we know, they spent a little over $2 million this past year.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. BACHUS. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, the gentleman is correct.

Mr. BACHUS. That being the case, would the gentleman join me in a request to the Department of Treasury that it immediately bring its contracting practices at the CDFI fund into conformance with the intent of the VA–HUD conference report language, that being that contractors, outside contractors not be paid more than the ES–3 rate?

Mr. LEWIS of California. Mr. Speaker, if the gentleman will continue to yield, that is my intention and I will be happy to join the gentleman.

Mr. BACHUS. Mr. Speaker, I have shared with the gentleman my concern, and I ask the gentleman and the committee to support me in separate legislation to achieve the goal of limiting abusive contracting practices at the CDFI fund. I intend to introduce legislation.

Mr. LEWIS of California. Mr. Speaker, I very much appreciate the gentleman's leadership on this matter. I will be happy to join him.

Mr. BACHUS. Mr. Speaker, I thank the gentleman from California.

Mr. Speaker, the Banking Oversight Subcommittee has conducted a review of the procedures of the CDFI fund administered by the Department of the Treasury. I think it is safe to say there is a consensus that the CDFI fund operated with very few safeguards against abuse during its first round of awards in 1996.

I am pleased that these concerns have been addressed in the VA, HUD, and independent agencies conference report. However, this conference report fails to address one area of concern.

One area of abuse by the CDFI Fund brought to the attention of the Appropriations Subcommittee is the exorbitant use of so-called management consultants by the CDFI Fund. In less than 2 full fiscal years, the CDFI fund has paid out approximately $1.2 million to these management consultants. Our review has shown that contracts were handed out without full or open competition to a network of contractors. Certain of these contracts are truly sweetheart deals: one consultant alone was paid $216,713.41 for part-time work over a period of approximately 15 months.

I appreciate that the VA, HUD, and independent agencies conferees seemed to recognize this problem and attempted to place limits on the amounts the CDFI Fund pays to outside contractors. The conference report to H.R. 2158 provides funds for the CDFI fund "including services authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for ES–3.

Unfortunately, the conferees seemed to have failed in their goal of closing this loophole. The conference report language will have no impact whatsoever upon abuse of contracting authority by the CDFI fund as it is limited solely to the CDFI fund's use of contractors retained under 5 U.S.C. 3109. Although much confusion remains concerning the procedures used by the CDFI fund in selecting outside contractors and fixing their compensation, the one thing that has been established is that the CDFI fund did not rely upon 5 U.S.C. 3109 in retaining its contractors. As a result, the conference report fails to place any limitations upon the CDFI fund's use of contractors.

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

Mr. STOKES. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. PRICE], a very distinguished and valuable member of the subcommittee.

Mr. PRICE of North Carolina. Mr. Speaker, I am proud to support this conference report. As a new member of this subcommittee, I am grateful to both the gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] for their evenhanded bipartisan work in putting together this difficult piece of legislation.

The bill has broad support from both parties and in both Chambers. In numerous ways this conference report addresses our Nation's critical priorities. For example, the report increases the appropriation for veterans' medical care to $17.7 billion, higher than either House initially approved, with $600 million coming from medical care cost recovery sources.

The report increases funding for the HOME program at the Department of Housing and Urban Development to $1.5 billion, $109 million above last year's level. The HOME program allows those providing affordable housing to use Federal block grants to leverage private sector money with a minimum of unnecessary regulation. It is an efficient and a practical way to open up homeownership to thousands of Americans. I am pleased that in a tight budget year we were able to find additional resources for HOME.

Funding for the EPA at a level of $7.4 billion is more than $500 million above the fiscal 1997 level. The budget for EPA includes $3 million for research and monitoring of Pfiesteria, an environmental threat that even now, the full dimensions of that threat are not known to us. In addition, nearly $50 million of the funding at the EPA is for research on fine particulate matter. Many of us may have differences over the new clean air regulations. No one can argue with the necessity of doing research to determine exactly what standard is justified.

Within the FEMA section, I was pleased that language that would have restricted States and municipalities from using disaster relief to clean up streams and parks and beaches was removed, giving full flexibility for the use of these funds which have been critical in allowing my State to recover from last year's devastation caused by Hurricane Fran.

The National Science Foundation receives a healthy 4.7 percent increase to a level of $3.4 billion. I am particularly pleased that in that NSF budget we have given good support to the Advanced Technology Education program, which for the first time has the NSF working effectively with our Nation's community colleges.

I am very appreciative, Mr. Speaker, of the leadership of the gentleman from Louisiana [Mr. LEACH] and the gentleman from California [Mr. LEWIS], the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Ohio [Mr. STOKES]. I want to add my appreciation for the excellent staff work that has been done on this bill, as fine as any I have ever seen. The help I received, particularly from Frank Cushing and Valerie Baldwin on the majority side, Del Davis and David Reich on the minority site, has been absolutely invaluable.

I urge my colleagues to support this conference report. I assure them they can do so with confidence.

Mr. STOKES. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. OBEY], distinguished ranking member of the full Committee on Appropriations, who has been of great assistance to both me and the gentleman from California [Mr. LEWIS] as we developed this bill and took it through to the point where we now bring it.

Mr. OBEY. Mr. Speaker, let me make clear that I think that this bill is very much short of what we need in a variety of areas, including environmental protection, housing and veterans' care. The problem, however, is that this committee was constrained in its ability to meet those needs by the budget agreement, and given that fact, I think the committee has done a perfectly reasonable job.

I am especially pleased by the fact that the committee did not do what is often done in this place, which is to dump amendments that are adopted in the House once they go to conference on important matters. I am happy that the committee retained the spirit of the amendment that I offered when this bill was on the floor, which removed a good many millions of dollars for the insider deal on the wind tunnel

and instead transferred that money to veterans' funding so that we could do a better job of providing for veterans' health care.

I am pleased that the committee retained the spirit of that amendment in conference and wound up providing a higher amount for veterans' health care than was in the original administration request or the committee bill. I appreciate that action on the part of the gentleman from California [Mr. LEWIS] and the gentleman from Ohio [Mr. STOKES] and the committee.

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

I have no further requests for time. I will just take a moment once again to express my appreciation to my chairman, the gentleman from California [Mr. LEWIS] for the excellent manner in which we have been able to work together and bring this legislation to the floor. I think both of us take a great deal of pride in the fact that we think that our work together is a model for this institution and the manner in which bipartisanship can bring to the floor the kind of legislation that all of us can support. I do support this conference report, and I do urge all my colleagues to vote for it.

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

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

Let me echo my colleague's remarks about the bipartisanship of the work that we have done together. I want to express my appreciation to the gentleman from Wisconsin [Mr. OBEY], ranking member of the full committee, certainly the gentleman from Ohio [Mr. STOKES], my colleague. I am very appreciative of the help of the gentleman from Louisiana [Mr. LIVINGSTON], as well as all of our staff.

I would just note one item. The bill is a very complex bill, as we have suggested. We have operated in a circumstance where a very high percentage of our bill has not been authorized, in some instances for several years. It is very important, to help us with that work, that our authorizing committees go forward with their work as well. We will try to work with them positively in the next Congress or the next go around. Without authorization, it is very difficult to reflect all the needs of the Members of the House.

Mr. FAZIO of California. Mr. Speaker, I rise today to discuss the health care needs of Northern California's veterans, as the debate on the Conference Report to the VA, HUD and Independent Agencies Appropriations bill comes to a close. Included in the bill is the Department of Veterans Affairs' plan for veterans health care in Northern California. I recommended that the conference committee which negotiated the final version of bill accept and fully fund this plan, and I am pleased that they did.

Serving the health care needs of Northern California's veterans has always been and will always be one of my top priorities. The Loma Prieta earthquake of 1992 rendered the veterans' hospital in Martinez, CA unusable, and for the last several years I have worked with my colleagues in the House, the veterans in my district and the Veterans Administration to ensure the veterans in the area receive the medical care that they deserve. Since the Martinez Hospital closed, I have relied heavily on the input and feedback from the local veterans community, represented by Operation VA. Without question, Operation VA has been the voice of the veterans community, and their tireless commitment to this cause has kept the issue in the forefront for the last several years.

This has been a long hard fight. In 1994 and 1995, I worked with my colleagues in the House to secure funding for a new veterans hospital to be built at Travis Air Force Base, but several studies were commissioned that recommended against construction of a new hospital at Travis. The recommendations of the most recent study, completed by Price Waterhouse, did not adequately address the needs of Solano County's veterans. Working together with area veterans, led by Operation VA, through hard and dedicated work, we were able to convince the VA and Congress that the Price Waterhouse recommendations were an insult to the men and women in the Travis area who are dependent on the VA to address their health care needs. We persuaded the VA to re-evaluate the needs of the Travis area veterans. To that end, they recommended the Air Force give one-third of Travis's David Grant Medical Center's inpatient beds to the VA creating a wing that will be staffed by VA doctors and they recommended a comprehensive VA outpatient clinic at Travis.

This bill includes funding and a commitment that will allow Travis to become a viable veterans health care center. This is a bittersweet victory because while we fell short of our ultimate goal of a full fledged hospital at Travis, we were able to secure much more than the Price Waterhouse report recommended and our Congressional opposition was willing to provide us. I will continue to fight to make sure that the long-term health care interests of Solano County's veterans are addressed and I will work to make sure everyone involved honors their commitments.

Mr. DOYLE. Mr. Speaker, I would like to express my strong support for a provision in H.R. 2158, the fiscal year 1998 VA–HUD funding bill that would significantly improve the health care provided to the veterans of Western Pennsylvania.

Language included in this measure would allow the University Drive VA Medical Center (VAMC), located in Pittsburgh, PA, to go ahead with plans to renovate a number of the hospital's patient rooms and support facilities. The improvements are planned for the main building of the University Drive facility, which has not been significantly changed since it was built in 1954. The renovations will bring the medical center up to VA minimum standards for life safety, patient privacy and handicapped accessibility. Additionally, these changes are required to more adequately meet the needs of the increasing number of female veterans who are being treated at the medical center.

This project would improve the overall quality of health care provided at the University Drive VAMC, a facility that plays an important role in VA health care, not only in the Pittsburgh area where I live, but across the entire Veterans Integrated Service Network 4 (VISN 4) region. In addition to serving as the primary medical facility for many of the veterans in my district, the University Drive facility serves as a major medical-surgical tertiary care center for the entire western Pennsylvania VA health care network. The facility also operates a number of specialty services, such as liver transplantation, that benefit veterans across an even wider geographic area.

Even though the University Drive VAMC holds significant responsibilities within the VA health care system, current conditions at the facility are making it increasingly difficult for hospital staff to continue to provide high quality medical care. This past Spring, I revisited the facility and toured the main building where the renovations are planned. The conditions that I found, which would be alleviated under the renovation plans funded by this bill, would not be tolerated for a single day in a private hospital environment, let alone the years that such conditions have been present at University Drive.

The University Drive facility has patient rooms with such limited space that a patient must be removed from the room when another patient is brought in on an emergency room gurney to share that room. In other patient wards, as many as 16 veterans share quarters, with limited space and only hanging cloth screens between them. Congregate bath facilities create additional dilemmas for patients and hospital staff, especially with the number of female veterans being treated at the facility increasing. These and other problems associated with the aging building not only inconvenience patients, but also put unnecessary obstacles in the path of hospital employees and their efforts to provide quality medical care to these veterans. Such conditions are certainly not consistent with how we should be honoring and caring for our nation's veterans.

The VA health care system is a very important part of the Pittsburgh community. Our area has one of the largest populations of veterans in the Nation. Thus, VA benefits and services, including health care, have played a large part in the lives of many of our residents.

One of the things I am proudest of about the people of western Pennsylvania is that they understand the gifts our Nation's veterans have given to them. They realize that it is because of the sacrifices our veterans have made on battlefields around the globe that our Nation has been able to prosper, and this prosperity has allowed us to enjoy, among other things, a medical system that is one of the best in the world. I am pleased that H.R. 2158 would finally allow the veterans of western Pennsylvania to share a piece of that medical prosperity, a benefit that they helped secure for the rest of the Nation, and one that is long overdue to the veterans of western Pennsylvania.

Mr. PAYNE. Mr. Speaker, I would like to take this opportunity to commend the Chairman and Ranking Member of the VA/HUD and Independent Agencies Subcommittee for their hard work on this important funding bill. In addition to the crucial funding for affordable

housing, especially Section 8 units for low-income and the elderly, the measure includes provisions which will promote economic growth and development in communities throughout the Nation. I want to express my personal thanks for an important investment that my colleagues agreed to make in my home city of Newark. Let me especially thank Chairman JERRY LEWIS, Ranking Member LOUIS STOKES, and my good friend and New Jersey colleague RODNEY FRELINHUYSEN, for their responsiveness to our request to include $3 million for the restoration of Weequahic Park, a site which has great potential for stimulating our local economy and enhancing the quality of life for local residents.

Improvements in Weequahic Lake, which falls within Newark's Enterprise Community boundaries, make it accessible for families, school children, church groups and other members of the community.

We are all aware of the severe budget restraints under which Congress is operating, but I believe that investments in housing and in our communities are sound investments which will bring considerable future returns. I urge approval of the VA/HUD conference report.

Mr. SHUSTER. Mr. Speaker, I rise in support of the conference report on H.R. 2158, the VA–HUD-Independent agencies appropriations act for fiscal year 1998. This bill provides needed funding for, among other agencies, the Environmental Protection Agency (EPA) and the Federal Emergency Management Agency (FEMA).

First of all, as chairman of the Transportation and Infrastructure Committee which has jurisdiction over EPA and FEMA, I want to thank my colleagues on the Appropriations Committees for their cooperation. In particular, I want to thank the gentleman from California (Mr. LEWIS) for his leadership as chairman of the House Appropriations Subcommittee. As usual, he and his staff have worked hard to accommodate colleagues and produce a reasonable bill. While in a perfect world no Appropriations bill would include authorizations or policy-making provisions, provisions in this bill have generally attempted to take into account concerns of the authorizing committee.

With regard to EPA's clean water and drinking water programs, I would make a few comments and clarifications. I appreciate the efforts of the conferees to provide a level of funding ($1.35 billion) for the Clean Water Act's State revolving fund (SRF) that is higher than the level requested by the administration. The record compiled by our committee and other speaks for itself; adequate funding to capitalize and maintain clean water SRFs pays enormous dividends in terms of environmental protection and economic development.

I am also pleased to support provisions allowing the so-called "cross-collateralization" between the CWA SRF and Safe Drinking Water Act SRF. This flexibility can be extremely helpful to states as they strive to administer clean water and drinking water programs to meet infrastructure needs. I would note that Senate-passed language was modified in conference to clarify that nothing in the provision authorizes the transfer of funds between the SRFs or in any way conflicts with the combined financial administration provisions in Section 130(g) or transferability of funds provisions in section 302 of the Safe Drinking Water Act Amendments of 1996. In addition, nothing in this provision affects in any way the jurisdiction of or understanding between the House Transportation and Infrastructure Committee and the House Commerce Committee relating to the clean water act, the safe drinking water act, and the two SRF's.

I would also like to clarify provisions regarding the State and tribal assistance grants and accompanying joint explanatory statement of managers. The conferees included funds for wastewater and drinking water system needs in Clearfield, Mifflin, Snyder, and Fulton Counties. Unfortunately, the statement of managers inadvertently omitted the community of Wallace-Boggs as the recipient of $1,250,000; I have been assured the intent of the conferees was simply to include the language in the report of the House Appropriations Committee which did in fact specify Wallace-Boggs as the recipient. In addition, the reference in the statement of managers to Adams Township should instead be to Union Township. I appreciate the indulgence of my colleagues on the Appropriations Committee for the opportunity to correct this technical error.

Regarding Superfund, I would simply make a few observations. I am encouraged by the contingent appropriation of an additional $650 million if specific reauthorization of the Superfund Program occurs by May 15, 1998. The Superfund Program doesn't simply need more money. In fact, more money without reform can cause more harm than good. Superfund needs comprehensive, statutory reform and redirection. For too long, the program has been ineffective and unfair, resulting in far too few cleanups and too much litigation. I am hopeful the May 15, 1998 date will help our efforts to move comprehensive reauthorization and reform legislation through the Congress and to the President as soon as possible.

I would also note that the conferees have properly limited the use of Brownfields Grants. Brownfields initiatives are important, but EPA currently has no authority to spend superfund money for remedial actions at facilities that are not on the national priorities list. In addition, Congress must first review and authorize the use of revolving funds before the executive branch proceeds down that path.

Regarding appropriations for FEMA, I am pleased that the conferees resisted language proposed by the Senate prohibiting the use of disaster relief funds in certain instances. I share the conferees' concern regarding the escalating Federal cost of natural disasters but feel that solutions to this problem are better considered as part of a more comprehensive and deliberative reauthorization process.

In contrast, I would note that the uses specified in the statement of managers for portions of the pre-disaster mitigation fund are not authorized. Indeed, existing authority for such a fund is extremely narrow and it seems extremely likely that the vast bulk of the $30 million appropriated for this fund will be spent on unauthorized projects. I would encourage the appropriations committees and FEMA to work closely with the authorizing committees as these provisions are implemented and as we consider legislation to provide appropriate authority for pre-disaster mitigation efforts.

Mr. Speaker, I urge my colleagues to support the conference report.

Mr. WELDON of Florida. Mr. Speaker, for far too long, the veterans of east central Florida have had to travel great distances to receive quality inpatient medical care. This is an intolerable situation which I have worked hard to change. In the Fall of 1998, a new VA clinic will be opened in Brevard County which will help meet the outpatient medical needs of local veterans. This will be the first ever permanent facility to serve area veterans in east central Florida.

However, the long drives for hospital stays currently continue. That is why I led the effort in the last Congress to allow the VA to contract with local health care facilities for inpatient care. This year, language I wrote with my colleague BILL MCCOLLUM establishing this pilot program was included in H.R. 2158, the fiscal year 1998 VA/HUD Appropriation Bill. The program was funded at the level of $5 million in the House bill. This language was not included in the Senate version, but the final House-Senate agreement included the provision.

This pilot project represents the wave of the future, a new and more efficient way to deliver quality health care to those who have sacrificed so much for our freedoms. No longer should the brave men and women who served their country selflessly have to travel long distances for quality care. I am confident that this project will be a great success, and will lead to more widespread contracting efforts in the future.

I strongly support this conference report and I urge my colleagues to vote "yes" on behalf of our Nation's veterans.

Mr. LAZIO of New York. Mr. Speaker, I have strong reservations about the legislative approach the conference report takes toward resolving the problem of expiring section 8 multifamily housing projects under HUD. The House first recognized this problem in the 104th Congress by including in the House Budget Resolution language addressing the so-called mark-to-market dilemma. However, the Senate rejected the provision included in that act. Although the House has been working on this issue for the past two years, I remain concerned that legislation of this magnitude was formulated outside of the regular legislative process. Given the complexity of the program, lack of available data, and the short amount of time to negotiate, the authorizing committees or with outside groups have not vetted many of the details. I believe the conference report legislation may lead to unforeseen, unintended consequences.

The legislation included in the report raises a number of problems, including: First, the likelihood that owners will not participate in this program before their contracts expire because of the uncertainties surrounding the tax consequences of mortgage restructuring; second, the inadequate protection and representation of the taxpayer, third, an over-reliance on HUD, the only Federal Agency to be classified as high-risk, which would effectively control the office that administers this program and affects billions of taxpayers' dollars; and fourth, the lack of full and fair competition to select the most qualified entity to work one-on-one with owners in the restructuring process,

leaving housing finance agencies with a virtual monopoly.

UNKNOWN TAX CONSEQUENCES

The uncertainties surrounding the tax consequences of mortgage restructuring may undermine the legislation's effectiveness and ultimately reduce the savings of the reforms. The most responsible mark-to-market approach would motivate owners to restructure their mortgages before their contracts expire. Such proactivity on the owners' part is vital to the savings of the legislation. Under the conference report, owners will likely not participate in the program before their section 8 contracts expire because the tax consequences of mortgage restructuring are uncertain. Therefore, I am concerned not only that the reforms will not achieve the expected savings but, also that a better bill would achieve more savings.

On September 17, 1997, the Subcommittee on Housing and Community Opportunity held a hearing regarding the tax consequences of FHA-insured, section 8 multifamily housing mortgage restructuring. In that hearing, Ken Kies, Chief of Staff of the Joint Committee on Taxation testified that:

Absent legislation or a Treasury announcement clarifying the Federal income tax treatment under any of the HUD restructuring proposals, it is likely that many project owners will not elect to restructure the FHA-insured mortgages before the expiration of their section 8 contracts for fear of incurring immediate tax liabilities. . . . However, it is clear that if all project owners restructure their mortgages under any of the proposals it is likely that some of these taxpayers will recognize taxable income as a result of the transaction. The possibility of such recognition likely will inhibit many project owners from electing to restructure their mortgages under a proposal.

Moreover, under the conference report's legislation, up to 26 percent of the owners may be forced to choose foreclosure over a bifurcated mortgage restructuring or debt forgiveness because of the different tax treatment of the events. A foreclosure would result in increased costs to the taxpayers as well as a loss of valuable affordable housing stock for low-income families, seniors, and persons with disabilities. I do not want to force a decision based on tax issues that could result in low-income families—particularly seniors—being thrown out into the streets. I want the owners to be no better, nor substantially worse off, than they would have been had they not chosen to participate in this program.

LACK OF TAXPAYER PROTECTION AT THE FEDERAL LEVEL

The conference report legislation does not adequately represent and protect taxpayers against fraud and abuse. In 1996, the HUD inspector general concluded that HUD's Office of Multifamily Housing was "not equipped to provide reasonable stewardship over taxpayer funds expended for its programs." In addition, the Department's poor record in administering its existing programs has earned it the designation by the General Accounting Office of being at "high-risk" for waste, fraud and abuse—the only Cabinet-level Agency in history to receive such a designation. In this context, HUD is simply ill-equipped to handle complex financial restructurings so that the American taxpayer is protected. For this reason, I fought for a provision in this legislation to create an Office of Multifamily Housing Assistance Restructuring [OMHAR], a temporary office within HUD for purposes of administering the mark-to-market program. For any chance of success, the program must be administered by a highly professional staff with the proper technical knowledge, functioning as much as possible at arms-length from the standard HUD bureaucracy.

The Office will be led by a Director appointed by the President, with the advice and consent of the Senate, who must have proven experience in restructuring complex financial transactions. The President is required to choose the Director within 60 days after enactment of this legislation. Funding for the Office shall come from HUD salaries and expenses so there will be no net increase in expenditure of taxpayer funds in connection with the operations of the Office. The Office is limited in scope and mission, established solely to administer the mark-to-market program. Confusion and the possibility of "mission creep" or of being burdened with secondary objectives are thereby avoided. Although the Office will sunset at the end of fiscal year 2001, I expect Congress will need to reauthorize the Office through fiscal year 2003, at which time the majority of project-based contracts will have expired.

OMHAR is the taxpayer's proxy to assure that the restructuring process is administered as professionally and efficiently as possible. For this reason, the Secretary must not interfere with the independent functioning of this Office. I am disappointed that Congress has missed an opportunity to create a truly independent entity that would not be forced to answer to the HUD Secretary. However, as an alternative, this legislation requires the Director to report to Congress immediately on any action or directive by the Secretary that has an adverse impact on the functioning of the Office, or that may undermine its effectiveness. As chairman of the Subcommittee on Housing and Community Opportunity, the relevant authorizing and oversight subcommittee, I have every intention of closely monitoring the Department in this regard in order to ensure that the interests of the taxpayer are not ignored.

LACK OF TAXPAYER PROTECTION AT THE LOCAL LEVEL

The conference report legislation may also negatively impact taxpayer interests at the local level due to the selection process created for choosing participating administrative entities [PAE's]. Under the legislation, PAE's will work with owners to restructure their mortgages, making decisions on the size of the second mortgage and the amount that the mortgage must be written down to create a sustainable bifurcated mortgage. Both of these items will be paid for by the American taxpayer out of the FHA fund. Therefore, the PAE should be the most qualified entity for the job. As discussed in the conference report, such may not be the case. Instead, the selection process in the report gives housing finance agencies [HFA's] an effective monopoly. If an HFA meets minimum qualifications, it must be selected, even if another entity is more qualified. Although in many cases HFA's will be the most qualified entities, there is no reason to give them a priority.

Optimally, HFA's should form partnerships with other entities, such as experienced nonprofits, to better meet the needs of the restructuring program. When an entity is controlling millions of dollars of the Federal Government's budget, it should be the most qualified entity available. We owe that to Americans who work hard every day to pay their taxes. They expect Congress to spend their tax dollars wisely and efficiently. I do not believe that will be done if PAE's are not chosen in an open, competitive process. It is my hope that Congress will reconsider this provision in the near future.

TENANT EMPOWERMENT AND SELF-SUFFICIENCY

One important principle, for which I am gratified that the House conferees adopted the authorizing committee's position, is the greater emphasis on choice-based assistance. Vouchers bring a market mechanism to federally assisted housing by motivating owners to maintain their properties and compete for tenants. I seek to empower tenants before owners or bureaucrats. Tenants with vouchers often have a greater opportunity to reach self-sufficiency by choosing where to live. Rather than being forced to live in projects that are be rundown and in dangerous neighborhoods, tenants can make decisions based on the school system, the proximity to job opportunities, community safety, and the condition of the apartments. I fully expect that, for a large percentage of eligible projects, project-based assistance will be converted to vouchers, in large part because the legislation allows a 5-year transition period for gradual movement toward tenant-based assistance. This transition will provide owners time to rehabilitate projects and change their image in the communities in order to be financially viable after such a conversion.

CONCLUSION

Regardless of the uncertainty surrounding the unforeseen consequences of enacting the conference report legislation, the Appropriations Committee feels the need to enact legislation immediately to fill a $500 million shortfall in funding for nonhousing programs. Most parties involved admit that this legislation will need substantial revisions within the next year. Congress should not pass incomplete, flawed bills solely to generate savings for other programs but should, instead, pass good legislation that truly solves the problem.

HOUSE OF REPRESENTATIVES, COMMITTEE ON BANKING AND FINANCIAL SERVICES,
Washington, DC, September 23, 1997.

FLOYD L. WILLIAMS,
National Director of Legislative Affairs,
Internal Revenue Service, Washington, DC.

DEAR MR. WILLIAMS: I am writing to seek your guidance on certain tax matters involving one of the most complex issues facing the Banking Committees of both the House and the Senate. As you may know, I refer to the restructuring of the FHA-insured Section 8 multifamily housing portfolio. Recently, I introduced H.R. 2447, the "Multifamily Housing Restructuring and Affordability Act of 1997," which creates a program for mortgage restructurings. Senator Mack has introduced S. 513, which has similar objectives.

With some differences, both bills provide for the use of bifurcated mortgages in restructuring existing debt. Inherent in this approach is the belief that the restructured debt would be excluded from the application of IRS Code Section 7872, based on the temporary regulations under section 1.7872-

5T(b)(5) regarding below-market interest rate loans. One of the required provisions under these temporary regulations is that these below market-interest rate loans be made available under "a program of general application to the public".

The proposed House and Senate legislation apply to projects with FHA debt that meet the following criteria:

1. rents must exceed the rent of comparable properties in the same market area;

2. the project must be covered in whole or in part by a contract for project-based assistance; and

3. the project must be financed by a mortgage insured under the National Housing Act.

In his written testimony before the House Subcommittee on Housing and Community Opportunity on September 16, 1997, Mr. Ken Kies of the Joint Committee on Taxation raised as an issue the possibility that "the HUD refinancing program will not qualify under this regulation on the basis that it is not a program of "general application," but only an offer made to certain owners." Since an integral component of the success of any legislation is an understanding of the likely tax consequences to owners associated with restructuring their Section 8 mortgages, your clarification of the meaning of "general application" in this regard is critical.

I would appreciate your immediate attention to this issue as legislation is moving forward quickly. If the approaches envisioned in either H.R. 2447 or S. 513 do not meet this "general application" requirement, please provide guidance as to what technical modifications are needed. If you have any questions or comments, you may contact Shanie Geddes or Joe Ventrone at 202/225-6634. I look forward to your response.

Sincerely,

RICK LAZIO,
Chairman, Subcommittee on Housing and Community Opportunity.

HOUSE OF REPRESENTATIVES, COMMITTEE ON BANKING AND FINANCIAL SERVICES,
Washington, DC, June 18, 1997.

Hon. ROBERT E. RUBIN,
Secretary, Department of Treasury, Washington, DC.

DEAR SECRETARY RUBIN: During yesterday's testimony before the Senate Subcommittee on Housing Opportunity and Community Development, HUD Secretary Andrew Cuomo stated that the Department of Treasury believes that the bifurcated mortgage restructuring "tool" included in S. 513, "The Multifamily Assisted Housing Reform and Affordability Act of 1997," would result in an immediate taxable event for most owners. The Secretary went on to note further that "while this provision purports to address owners' tax problems, it is unworkable—thus defeating the larger purpose of the legislation."

Apparently, there remains considerable confusion as to the tax treatment of a soft-second mortgage in the restructuring of FHA-insured mortgages subsidized by Section 8 project-based assistance. The issue of taxation in the mortgage restructuring is vital to the success of any bill that deals with the Section 8 crisis. You addressed this concern in your work on the tax provisions included in the Administration's legislation: H.R. 1433—Housing 2020: Multifamily Management Reform Act, which was introduced in the House by myself and Congressman JOSEPH KENNEDY at the request of the Administration. A workable bill must proactively bring project owners to the bargaining table early. Based on Secretary Cuomo's testimony, it is unclear that S. 513 would prevent participants in the program from being subject to negative tax consequences in the future, thus discouraging proactive restructuring.

A workable tax treatment of restructuring is critical in this matter. Otherwise, we risk simply perpetuating the FHA multifamily restructuring demonstration programs included in FY1996 and FY1997 appropriations. If the House is to agree to consider FHA multifamily restructuring legislation in expedited procedures (i.e. during the budget reconciliation process), the solution must not be simply an academic exercise that implements incremental change.

Please provide the Subcommittee with a clarification of the Administration's position on the taxation of soft-second mortgages as included in S. 513. Your timely response is critical to solving this dilemma.

Sincerely,

RICK LAZIO,
Chairman, Subcommittee on Housing and Community Opportunity.

Mr. LEWIS of California. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. PEASE). The question is on the conference report.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 21, not voting 7, as follows:

[Roll No. 505]

YEAS—405

Abercrombie
Ackerman
Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baesler
Baker
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berman
Berry
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cannon
Capps
Cardin
Carson
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Coyne
Cramer
Crapo
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
Deal
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
Engel
English
Ensign
Eshoo
Etheridge
Evans
Everett
Ewing
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Herger
Hill
Hilleary
Hinchey
Hinojosa
Hobson
Holden
Hooley
Horn
Houghton
Hoyer
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Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kilpatrick
Kim
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
Kucinich
LaFalce
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
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Lewis (CA)
Lewis (GA)
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Lipinski
Livingston
LoBiondo
Lofgren
Lowey
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Maloney (CT)
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Manton
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Mascara
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McCarthy (MO)
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McCollum
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McNulty
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Metcalf
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Mink
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Pastor
Paxon
Payne
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Pelosi
Peterson (MN)
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Pombo
Pomeroy
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Portman
Poshard
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rivers
Rodriguez
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Ryun
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaefer, Dan
Schaffer, Bob
Schumer
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Shimkus
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Snyder
Solomon
Spence
Spratt
Stabenow
Stark
Stearns
Stenholm
Stokes
Strickland
Stump
Stupak
Sununu
Talent
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Tierney
Torres
Towns
Traficant
Turner
Velázquez
Vento
Visclosky
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
White
Whitfield
Wicker
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)
Young (FL)

NAYS—21

Ballenger	Kanjorski	Royce
Campbell	McIntosh	Rush
Cox	Minge	Sanford
Crane	Neumann	Scarborough
Ehrlich	Paul	Smith (MI)
Hoekstra	Peterson (PA)	Souder
Hostettler	Roemer	Upton

NOT VOTING—7

Farr	Hilliard	Schiff
Foglietta	Lewis (KY)	
Gonzalez	Rangel	

□ 1630

Mr. SMITH of Michigan, Mr. SCARBOROUGH, and Mr. RUSH changed their vote from "yea" to "nay."

Mrs. NORTHUP, Mrs. ROUKEMA, Mr. ROHRABACHER, and Mr. BLUNT changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FARR of California. Mr. Speaker, I was unavoidably absent on rollcall No. 505. I was hosting an event with Secretary Shalala at the time concerning breast cancer awareness and could not make it back in the Chamber in time to vote. Had I been present, I would have noted "aye."

MOTION TO INSTRUCT CONFEREES ON H.R. 1757, FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 1998 AND 1999, AND EUROPEAN SECURITY ACT OF 1997

Mr. CALLAHAN. Mr. Speaker, I offer a motion to instruct conferees on the bill (H.R. 1757), to consolidate international affairs agencies, to authorize appropriations for the Department of State and related agencies for fiscal years 1998 and 1999, and to ensure that the enlargement of the North Atlantic Treaty Organization [NATO] proceeds in a manner consistent with United States interests, to strengthen relations between the United States and Russia, to preserve the prerogatives of the Congress with respect to certain arms control agreements, and for other purposes.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. CALLAHAN moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 1757 be instructed to insist upon the provisions contained in title XXI of the House bill (relating to United States policy with respect to forced abortion and foreign organizations that perform or promote abortion).

The SPEAKER pro tempore (Mr. PEASE). Pursuant to the rule, the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Connecticut [Mr. GEJDENSON] each will control 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. CALLAHAN].

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

Mr. Speaker, this issue was thoroughly debated yesterday when the Congress chose to instruct the conferees on the foreign operations bill to include Mexico City language.

I support Mexico City language, although I opposed, in a way, the Congress telling us that we ought to be forced to do authorization business in an appropriation bill. Generally, the arguments that take place on the floor are just the opposite.

But since the Congress saw fit, by a great majority, to instruct the conferees on the Committee on Appropriations, sitting and languishing for a couple of weeks in conference is the authorization bill where this issue should be addressed.

It is our understanding that even since yesterday, when the Committee on Appropriations was instructed to act on a policy matter, Senator HELMS has indicated and some of the Members of the House Committee on International Relations indicated that they are not going to be able to maintain this in the conference on the bill that it should be in. So what this does is just simply transfer the responsibility to the party of responsibility.

I do not think there is much need this afternoon to go into the merits and demerits of the pro-life issue or pro-choice issues or the population-control issues. The issue has already been addressed by this House, voted on by this House. All we are doing is making certain that the committee of responsibility act in a responsible manner according to the wishes of the House.

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

Mr. GEJDENSON. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. GILMAN], the chairman of the committee.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Connecticut [Mr. GEJDENSON] for yielding me the time.

Mr. Speaker, I rise in opposition to the motion to instruct offered by the gentleman from Alabama [Mr. CALLAHAN]. I believe the motion is unnecessary. It delays the House from more productive work. The House has already voted five times on the Mexico City policy, and the result is always the same. Mr. Speaker, another vote today repeats the obvious. This will be our sixth vote on the Mexico City policy this very year.

Mr. Speaker, I am also disappointed in this motion. Until yesterday's motion, I was unaware of any motion to instruct to be offered by a member of the majority during this Congress. I appreciate the interest of the distinguished gentleman from Alabama [Mr. CALLAHAN], the chairman of the Subcommittee on Foreign Operations, Export Financing, and Related Programs, and the work of our Committee on International Relations as it relates to our conference and the issue addressed by this motion.

As the gentleman from Alabama [Mr. CALLAHAN] knows, the resolution of this issue is being addressed by our leadership, by the administration, and by others; and that is an ongoing attempt to resolve the issue.

Our House conferees are not trying to circumvent that process. Indeed, the House, during consideration of H.R. 1757, voted to defeat the Campbell substitute and support the Smith amendment. Our committee's conferees have been trying to do our job under that clear instruction of the House.

Notwithstanding the motion of the gentleman from Alabama [Mr. CALLAHAN], which I just learned of yesterday during his announcement, I believe that our conferees have been doing their work and doing it in line with the wishes of the House. I share the frustration of the gentleman from Alabama [Mr. CALLAHAN]. I believe both committees are working within the same constraints.

Given these constraints, it serves as no useful purpose to imply that our committee is not doing all it can to resolve that issue. I do not believe that the House should have instructed the Committee on Appropriations yesterday on this issue, and I opposed the motion. Likewise, I do not believe we should instruct the committee on this issue.

Accordingly, I oppose the motion, just as I opposed the motion yesterday. I urge our Members to reject the motion by the distinguished gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I forewarn the Members who are interested in speaking, since this issue has been thoroughly debated, even though we have an hour, I do not see a great sense of need to take a full hour, because we have still the motion to adjourn before the House, and I know that we want to adjourn relatively early tonight.

Mr. Speaker, I yield as much time as he may consume to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I thank the gentleman from Alabama [Mr. CALLAHAN] for yielding me the time.

Mr. Speaker, I rise in support of the Callahan motion. I do not do that because I fully agree with everything in the Smith amendment. I do not. I agree with about half of it. I do not support the gentleman's amendment to impose Mexico City policy. But I do want to see funding cut off to the United Nations population program so long as they remain in China, because I think that they have a coercive abortion policy in China.

But that is not the main reason that I support this amendment. I support it because if this amendment is to be attached anywhere, it should be attached to an authorization legislation and not an appropriation bill.

My favorite philosopher, as I have said many times on this floor, is Archie, the Cockroach. One of the things Archie said was that, "Now and then, a person is born who is so unlucky he runs into accidents that started out to happen to somebody else."

That is the way our Committee on Appropriations feels on this issue, because this is an authorization issue. It is an issue which ought to be dealt with in that committee, and yet we are now told that the authorizing committee may be dropping this amendment because they think it will make it impossible to pass their bill.

Well, boys and girls, if you think it is going to make it impossible to pass an authorization bill, what do you think it is going to do to the appropriation bill? It does not belong on the appropriations bill. It belongs on the authorization bill, if it belongs anywhere. So, at least to get this debate in the proper venue, I would urge the House to support the motion of the gentleman.

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

My friend, the gentleman from Wisconsin [Mr. OBEY], will understand if I, along with most Members who are not on the Committee on Appropriations, do not show him great sympathy for his present plight. We in the authorization committee feel that appropriations members seem to do quite well around here in lots of areas. And I think Archie's little saying may not be as applicable as my friend, the gentleman from Wisconsin [Mr. OBEY], would like us to think.

It is easy to get caught up in the process of what we do here, but the substance is also terribly important. I would say, for both procedural reasons and substantive reasons, we should reject the proposition of my colleague that is before us today.

The substantive reasons are more important than any other, because, after all, we work in this process and process is important, but substance is what brings us to Congress. It is substance that we fight for in the policies, and the substance here is very clear.

As we have been able to expand family planning, we have not only improved the economic situation of the poorest of the poor in this world, we have not only been able to reduce death and injury to the mothers of the children of this world, but we have also reduced abortion, reduced abortion across the globe where U.S. family planning funds were able to exercise freely and compete in the globe.

America's influences in family planning were long before Mexico City, long before this debate tied up the Foreign Assistance Act, long before it tied up State Department authorizations and appropriations reduced abortion globally.

For the people who look at this issue and who care about abortion, take a look at some of the statistics. They will see across this country, across this planet, family planning has reduced abortions. In Kazakhstan, it has reduced abortions about 40 percent. All the debate on this floor about banning abortions and making them illegal has not reduced as many abortions as family planning has in Kazakhstan in the Soviet Union and across this planet.

So I would plead with my colleagues that we ought to reject this proposal from the Committee on Appropriations, we ought to reject it both in substance and in process.

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

Mr. CALLAHAN. Mr. Speaker, I yield 5 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I rise in very strong support of the Callahan motion. Just let me take a moment to digress.

Some of the leading appropriators in this House never lose the opportunity to admonish and even scold the rest of us and to tell us to look elsewhere when offering terms and conditions on policy. The appropriators just do the money, or so the thinking goes; the authorizers do policy.

All of that sounds neat and tidy, a true division of labor. But appropriations bills are stuffed to the hilt with policy. It may be useful to note that in years past, this "not on my appropriations bill" approach has been invoked in attempts to deter the offering of pro-life amendments or, once adopted, to try to strip out the pro-life language on appropriations bills, including the Hyde amendment on the health and human services bill.

The notion of "do it on the authorizing bill" has surface appeal. But had pro-lifers heeded that advice, the overwhelming majority of pro-life riders would never have become law, including the Hyde amendment, including the bans on taxpayer funding for abortion under the Federal Employees Health Benefits Program. I first offered that back in 1983, and everybody was telling me, "Do not do it on the appropriations bill," the D.C. appropriations bill, the Federal prisons ban, and other riders. If pro-lifers had bought into that line, the U.S. Government today would be paying for abortion on demand in most of the programs that we subsidize.

□ 1645

In the real world, appropriators are more equal, more essential, if you will, than the rest of us. In the end, their bills must pass, even if those bills are rolled into an omnibus bill or a CR. Authorizers, especially on the Committee on International Relations, are doubly disadvantaged.

First, we bring relatively unpopular bills to the floor, and who here has constituents who are clamoring for more foreign aid? And, second, appropriators often render our work product moot or redundant or superfluous by simply waiving the need for an authorization bill.

The simple fact of the matter is that the White House, be it Democrat or Republican, knows this and needs only to wait until the eleventh hour for the appropriators to waive authorization. The real world consequence of this waiver-of-authorization drill is to closely undermine Members on the authorizing committees in negotiations with the administration on tough issues like population and abortion.

The administration calculates, and I believe wrongly this time, that they can get a better deal by pushing the process to the zero hour, which is why we offered the pro-life Mexico City policy to both the foreign operations bill and the State Department authorization bill, which I would remind my colleagues is the bill that I wrote.

As the chairman of the Subcommittee on International Operations and Human Rights, the State bill, not the reorganization, which was the part of the gentleman from New York [Mr. GILMAN], and not some of the other policy considerations, but the State Department bill is my bill, and I chair the subcommittee that oversees it.

We put it on that bill and we also put it on the foreign operations bill. The gentleman from Oklahoma [Mr. LARGENT] and the gentleman from Illinois [Mr. HYDE], as everyone knows, moved yesterday to instruct the conferees to retain the Mexico City and will hopefully do the same today on the authorizing bill.

This year, the majority of us in the House who recognize the fact that abortion is violence against babies will not give in, nor will we accept bogus compromises like metering, or counterfeits like the Gilman-Pelosi amendment. This year we will simply not allow the approximately $400 million U.S. taxpayer dollars to enrich those who dismember and chemically poison unborn children.

Abortion is violence against children. Abortion is child abuse, and this year we are prepared to zero out U.N. arrearage payments, cut foreign aid and take any action necessary to ensure that the Hyde amendment for foreign aid, which is the Mexico City policy, is enacted.

Yesterday's vote to instruct conferees to insist on the Mexico City policy was no frivolous vote. We simply will not cave, not now, not next week, not the week after, or ever, because millions of children and the well-being of their mothers are at stake.

I can assure the gentleman from Alabama [Mr. CALLAHAN] that as chairman of the Subcommittee on International Operations and Human Rights, I will fight any effort to bring the State bill back to the floor without the Mexico City policy. If through some means, and I do not think one exists, my bill lands on the floor without the Mexico City policy, I give my colleagues my vow, I will lead the fight against my own bill on the floor of this House.

I can only ask the same of the gentleman from Alabama [Mr. CALLAHAN] on foreign operations. I urge support on the Callahan motion.

Mr. CALLAHAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of our full committee.

Mr. LIVINGSTON. Mr. Speaker, I rise in support of the motion by the gentleman from Alabama to instruct the conferees on this bill. Yesterday, I reluctantly rose to indicate to the membership that I was going to vote "present," and I would like to explain that vote. The fact: I have always supported the Mexico City policy. I believe very strongly that wherever possible, the United States needs to discourage abortion. I am concerned that members of our society are actually encouraging abortion around the world.

The fact is, I happen to have the role, the dual-hatted role of running the Committee on Appropriations. Thirteen bills of the Committee on Appropriations have to get out every year in an appointed time and hopefully without shutting down the government, and the Subcommittee on Foreign Operations, Export Financing and Related Programs is just one of those subcommittees which must report every single year.

Now, Mr. Speaker, it has been a reluctant or an unfortunate reality that the Mexico City language has been the source of debate year after year after year since we took office as the majority party in 1994. In three other separate cycles, it was the last issue resolved, not just in the foreign operations subcommittee interchange with the Senate in conference, but in fact, the last issue resolved in each separate session of Congress.

Mexico City, and whether or not we should induce family planning operations around the world to refrain from advocating abortion, is an authorization issue. It belongs in the authorization bill, and that is why I am very pleased to stand before my colleagues in this body to implore my colleagues, vote for the gentleman's motion, vote for the motion to instruct the conferees of the authorization committee to do the job that must be done in order to convince the Senate to accept this language, to change this language, and to do whatever is necessary to change policy so that abortion will be discouraged with family planning operations all around the world. If one gets settled in the authorization committee, one does not have to come to the Committee on Appropriations, and we can go ahead and finish our appropriations bills on time and get out without closing down the government.

Mr. Speaker, I urge the adoption of this proposal.

Mr. CALLAHAN. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. LARGENT].

Mr. LARGENT. Mr. Speaker, I will not use all of my allotted 2 minutes. We had this debate yesterday.

The only two things that I would like to say in reflection over the last 24 hours is this: People need to understand that the argument that people have raised about family planning money would be jeopardized with the addition of the Mexico City policy, need to understand that the Mexico City policy language that says that no taxpayer funds will go to organizations that fund abortions with any of their money, that that language was, in fact, the law of the land until 1993, when President Clinton rejected the Mexico City policy with an administrative order. So, family planning money was not jeopardized under the Mexico City policy for 12 years prior to 1993, so the argument is a fallacious argument.

The second thing that I would like to say is that the reason that the motion to instruct conferees was added to the appropriations bill is that I was fully confident that under the leadership of the gentleman from New Jersey, Mr. CHRIS SMITH, in conference, that it would only be over his dead body that that Mexico City policy language would be stripped from the authorizing bill before it came out.

So the appropriate vehicle was on the Committee on Appropriations, and I am in favor and voting in favor and urge all of my colleagues to support this motion to instruct as well, because as many times as we can reinforce doing the right thing, we should be for that.

So with that, Mr. Speaker, I urge my colleagues to continue to support this motion to instruct conferees and support the Mexico City language.

Mr. GEJDENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN of Virginia. Mr. Speaker, I thank my friend, the gentleman from Connecticut [Mr. GEJDENSON], for yielding me this time and for his leadership on this issue, as well as a number of other colleagues who are trying to make the point that we are really at a point of absurdity on this issue.

Mr. Speaker, this is the second time now in 2 days to instruct conferees on the reinstatement of the Mexico City policy provisions. Yesterday we talked about the appropriations bill. Today we are talking about the authorization.

The fact is, it does not really matter what we are talking about here, it should be debated in conference. We have already debated it ad nauseam on the House floor, and to begin to offer a motion to instruct on every controversial issue that comes before this body and is not reconciled before conference is a waste of time and it is an assault on the legislative process. We cannot get our work done if we keep acting in this manner.

I urge my colleagues to allow the conferees on the foreign appropriations bill and the foreign relations authorization act to do their job in debating this issue, without these unnecessary and intrusive motions to instruct. Leave it to them. They know the issue. They are doing the best they can. They will come up with the best resolution. This is not a good use of our time. We need to defeat this instruction.

Mr. CALLAHAN. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PAPPAS].

Mr. PAPPAS. Mr. Speaker, I thank the chairman for yielding me this time.

This is not absurd. We are talking about saving the lives of unborn human beings here. And for those that are critical of us that are supporting this measure to instruct the conferees on the authorizing side, I would just like to point out a couple of weeks ago that those that felt frustrated and unable to offer their own amendment, and I speak of the Gilman-Pelosi amendment, they held this House hostage for several days in offering motions to adjourn or motions to this or motions to that.

I do not see this as absurd. We are talking about human beings. That is why the people of this country, by and large, have elected people that support protecting the vulnerable children, whether they are in the United States or any other place in the world, and I stand proudly supporting the chairman's motion to instruct.

Mr. CALLAHAN. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Speaker, I thank the gentleman for yielding me this time. I may not use the 3 minutes, but that is not a promise, I say to my colleagues.

I think the issue is clear, the same issue as the one we debated yesterday, although I think a much more appropriate vehicle here, and I am very glad the gentleman is offering this motion to instruct.

The issue is this. We do not use taxpayer dollars to fund abortions here in the United States. We should be clear and certain that we do not do so abroad as well, and that is what we are talking about here, making crystal-clear what I think is, people claim is implicit in the setup: making it crystal-clear that American taxpayer dollars are not

going to be used directly or indirectly to subsidize abortion or subsidize organizations that provide abortions, and if everybody agrees that we ought to do that, I cannot see the objection to making it clear with this particular language.

I am glad the gentleman offered the motion to instruct. I think it shows respect for the millions of people in this country who believe deeply as a matter of conscience, as I do, that this practice is wrong, and hope some day that we can eliminate it not just here, but around the world as well.

I want to say a word, also, about the particular vehicle for resolving this kind of issue. I know that there are many people in the House and many in the Senate who believe just as deeply and just as passionately on the other side, and they do not want to see this language go on. I am deeply concerned that if we fight this issue out on the appropriations bill, it may end up jeopardizing some other very important appropriations that do not have anything to do with this issue, and I do not see why we should do it.

The issue should be fought out on the authorization bill. We should take the whole issue, the whole issue of the population control money, the whole issue of this proposed language, take it out of the appropriations bill, resolve it in the authorization process where it belongs.

I know that my long-suffering friend, the gentleman from Alabama, who offers this motion to instruct, would much prefer not to have to deal with this in his appropriations bill, and he is right. Let us support this motion to instruct and let us all support taking this issue, the money, the policy, all of it off, effectively getting it off the appropriations process, onto the authorization bill, and then I hope come to a compromise. If not, fight it out in good faith and as between honorable people there.

I thank the gentleman for offering his motion. I intend to support it.

□ 1700

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

Mr. Speaker, I would close for our side by simply saying that I understand the frustration of the gentleman from Alabama [Mr. CALLAHAN], but there is a substantive issue here and a process one.

In substance, if the individuals who seek to impose this straitjacket on the authorizing committee win, it is less likely that we can move forward. The administration has taken a very clear position. This is a very tough issue. Passing this instruction will not be helpful to achieve the goal that most people here have expressed.

I think also from a policy perspective it is important to recognize that if the proponents win with the Mexico City language, more abortions will occur. It is all a function of where we draw the circle. The Mexico City language now tries to take in entire organizations. I guess we could take continents or countries and draw the circle that broad.

But at the end of the day, if the proponents of the Mexico City language on family planning are successful, more abortions will occur across the globe. There is no debate on that.

I urge my colleagues to reject this motion.

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

Mr. Speaker, I would just remind the Members of this body that I strongly support the Mexico City policy, and I am going to support it because it is the will of the House and the conference, to the best of my ability.

But the proper avenue for addressing this is through this vehicle, through the authorizing committee. Because if we do not do it permanently in the authorizing committee, we are going to be faced with this battle year after year after year. The proper place to debate this is in that committee. Most of the proponents, such as the gentleman from New Jersey [Mr. SMITH], are on that conference committee.

Unfortunately, Mr. HELMS in the Senate has given strong indication that he is willing to drop the language in the Senate. I do not know if the gentleman from New Jersey [Mr. SMITH] can hold the votes. If indeed he can hold the votes, then we will not have to debate this issue on an appropriation bill in the near future. That is exactly what this resolution is intended to do.

That is exactly what we are encouraging the authorizing committee to do. It is exactly what the gentleman from New Jersey [Mr. SMITH] wants to do. We are going to probably receive a larger vote to have this done in a responsible manner than they did through the appropriations process yesterday.

I beg the Members to vote for this measure. Let us send it to the committee of jurisdiction and responsibility, and I am sorry to tie the House up this late in the evening.

Ms. PELOSI. Mr. Speaker, I rise with great respect and the highest esteem for the maker of this motion, Chairman CALLAHAN. However, while I agree with him on process, I cannot agree on the substance of this motion.

We debated a motion to instruct on this identical issue on an appropriations bill just yesterday. We have had at least seven votes on this issue on three or four separate bills this year. Although I oppose the gentleman's motion, I respect his desire to keep this issue in the appropriations bill. This authorization bill, not an appropriations bill, is the proper and appropriate place to discuss this difficult and contentious issue.

I oppose this motion because I oppose the Mexico City policy. Mexico City restrictions will cripple international family planning organizations in providing family planning and reproductive health services that have been proven to reduce the number of abortions performed worldwide.

This is not a pro-life issue. This is not a pro-choice issue. This is a women's reproductive health issue. During yesterday's debate, one of my colleagues who supported the Mexico City gag rule also stated that he supports responsible organizations that do engage in family planning. Yet he was one of 147 Members of this body who are on record voting to completely eliminate international family planning funding.

I agree with my colleagues who said yesterday that threat of a Presidential veto on a bill filled with other important issues should not be the sole basis for voting down this issue.

However, if some of my colleagues believe so passionately in the Mexico City gag rule provisions, and I respect that they do, I challenge them to introduce separate, free-standing legislation to do what you will effectively do with this language—to eliminate all international family planning.

The Mexico City provisions will crush our successful international family planning efforts, which work to reduce the number of abortions performed worldwide—in Russia, in Chile, in Colombia, in Hungary, the list goes on and on.

My message today is very simple. Family planning reduces abortions. Family planning saves lives. Mexico City restrictions gag family planning efforts. I urge my colleagues to vote against this motion to instruct.

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

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

The SPEAKER pro tempore (Mr. HEFLEY). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Alabama [Mr. CALLAHAN].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEJDENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 236, noes 190, not voting 7, as follows:

[Roll No. 506]

AYES—236

Aderholt	Blunt	Cannon
Archer	Boehner	Chabot
Armey	Bonilla	Chambliss
Bachus	Bonior	Chenoweth
Baker	Bono	Christensen
Ballenger	Borski	Coble
Barcia	Brady	Collins
Barr	Bryant	Combest
Barrett (NE)	Bunning	Cook
Bartlett	Burr	Cooksey
Barton	Burton	Costello
Bateman	Buyer	Cox
Bereuter	Callahan	Cramer
Berry	Calvert	Crane
Bilirakis	Camp	Crapo
Bliley	Canady	Cubin

Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Flake
Foley
Forbes
Fowler
Fox
Gallegly
Ganske
Gekas
Gillmor
Goode
Goodlatte
Goodling
Goss
Graham
Granger
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hill
Hilleary
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hutchinson
Hyde
Inglis
Istook
Jenkins
John
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kildee
Kim
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kucinich
LaFalce
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McIntyre
McKeon
Metcalf
Mica
Miller (FL)
Moakley
Mollohan
Moran (KS)
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Ortiz
Oxley
Packard
Pappas
Parker
Paul
Paxon
Pease
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Pombo
Portman
Poshard
Quinn
Radanovich
Rahall
Redmond
Regula
Riggs
Riley
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Royce
Ryun
Salmon
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Shadegg
Shaw
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Stearns
Stenholm
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Thune
Tiahrt
Torres
Traficant
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)

NOES—190

Abercrombie
Ackerman
Allen
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Bentsen
Berman
Bilbray
Bishop
Blagojevich
Blumenauer
Boehlert
Boswell
Boucher
Boyd
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Capps
Cardin
Carson
Castle
Clayton
Clement
Clyburn
Condit
Conyers
Coyne
Cummings
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Edwards
Ehrlich
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Fawell
Fazio
Filner
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gordon
Green
Greenwood
Gutierrez
Harman
Hastings (FL)
Hefner
Hinchey
Hinojosa
Hobson
Hooley
Horn
Houghton
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (WI)
Johnson, E. B.
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kilpatrick
Kind (WI)
Klug
Kolbe
Lampson
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney (CT)
Maloney (NY)
Markey
Martinez
Matsui
McCarthy (MO)
McCarthy (NY)
McDermott
McGovern
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Millender-McDonald
Miller (CA)
Minge
Mink
Moran (VA)
Morella
Nadler
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pickett
Pomeroy
Porter
Price (NC)
Pryce (OH)
Ramstad
Rangel
Reyes
Rivers
Rodriguez
Rothman
Roukema
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Scott
Serrano
Shays
Sherman
Skaggs
Slaughter
Smith, Adam
Snyder
Spratt
Stabenow
Stark
Stokes
Strickland
Tanner
Tauscher
Thomas
Thompson
Thurman
Tierney
Towns
Turner
Upton
Velázquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wexler
White
Wise
Woolsey
Wynn
Yates

NOT VOTING—7

Clay
Coburn
Gonzalez
Hilliard
Lewis (KY)
Schiff
Schumer

□ 1722

Mr. NADLER changed his vote from "aye" to "no."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROVIDING FOR ADJOURNMENT OF THE HOUSE AND ADJOURNMENT OR RECESS OF THE SENATE TO A DATE CERTAIN.

Mr. ARMEY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 169) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 169

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on the legislative day of Thursday, October 9, 1997, it stand adjourned until 10:30 a.m. on Tuesday, October 21, 1997, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Thursday, October 9, 1997, Friday, October 10, 1997, or Saturday, October 11, 1997, pursuant to a motion made by the Majority Leader, or his designee, in accordance with this concurrent resolution, it stand recessed or adjourned until noon on Monday, October 20, 1997, or such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble whenever, in their opinion, the public interest shall warrant it.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. RANGEL. Mr. Speaker, on rollcall vote number 500, I was recorded as "yes"; however, my vote should have been recorded as a "no" vote.

PERSONAL EXPLANATION

Mrs. CLAYTON. Mr. Speaker, I was unavoidably detained during rollcall number 493, the Vento amendment. If I had been present, I would have voted in the affirmative.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the pending business is the question of agreeing to the Speaker's approval of the Journal.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

REAUTHORIZING THE ENDANGERED SPECIES ACT

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. DINGELL. Mr. Speaker, I want to commend my good friend and colleague from New Jersey, Mr. SAXTON for his leadership in the effort to renew the Endangered Species Act.

The authorization of this precious piece of legislation expired 5 years ago, leaving one of our most important conservation laws vulnerable to attacks and lacking proper congressional oversight. Several years of ideological fighting and Beltway politics have kept interest groups busy while precious species of animals and plants decline and disappear. In the meantime, public and private land conflicts continue to hamper recovery efforts.

The administration has implemented needed reforms. The other body is building a consensus with the administration for improving the act. Sponsors of that effort are aware that their bill is not perfect but it is a product of good consensus and such efforts is never perfect.

The gentleman from New Jersey [Mr. SAXTON] and I have been engaged for several months in discussions, hoping to lead to the enactment of an improved Endangered Species Act. The

chairman of the committee, the gentleman from Alaska [Mr. YOUNG], is participating, as are the gentleman from California [Mr. POMBO] and the gentleman from Louisiana [Mr. TAUZIN], as well as the gentleman from California [Mr. MILLER], the ranking member, who has introduced a bill containing many common sense reforms. It is our hope that these talks will lead to enactment by this body of a bill which protects endangered species of wildlife for the future.

SAXTON, DINGELL URGE HOUSE TO REAUTHORIZE ENDANGERED SPECIES ACT

One week after a Senate Committee markup of changes to the federal Endangered Species Act, U.S. Rep. Jim Saxton (R-NJ) and U.S. Rep. John D. Dingell (D-MI) asked House colleagues for support to reauthorize the nation's most significant conservation law during the 105th Congress.

Saxton, who chairs the House Subcommittee on Fisheries, Conservation, Wildlife and Oceans, and Dingell, who authored the 1973 law, emphasized that reauthorization is five years overdue and further delay only places endangered species and other at-risk species in further danger of extinction.

Dingell and Saxton have participated for several months in bipartisan discussions to determine how the ESA should be improved. While not endorsing the Kempthorne-Chafee-Baucus-Reid compromise, both representatives expressed hope that adoption of a Senate bill would lead to accelerated efforts by the House to pass a bill the President can sign. A copy of their floor statements follows:

STATEMENT OF THE HONORABLE JIM SAXTON, OCTOBER 8, 1997

Mr. Speaker, I come before this body to discuss the need to reauthorize the Endangered Species Act.

I believe the time is now to reauthorize the grand daddy of all environmental laws. It is vital that any piece of legislation that is developed is done so in a bipartisan way. I congratulate the Senate in their effort to craft such a bill. Now, it is our turn in the House to find common ground that Democrats and Republicans alike can agree upon.

This process must recognize that people who are impacted by the ESA have legitimate concerns regarding the way it works. On the other hand our lack of progress in reauthorizing the act has seen the further decline of many species and the biological extinction of others. Now is the time to act.

I want to recognize Chairman Young and the ranking member on the Resources Committee, Congressman George Miller, for their recent efforts to craft a bipartisan bill in the House. The process has been supported by the involvement of Mr. Dingell, Mr. Tauzin and Mr. Pombo. We must set politics aside and do what's right for the people of this country and for the species in which this legislation protects.

STATEMENT OF THE HONORABLE JOHN D. DINGELL OCTOBER 8, 1997

Mr. Speaker, I want to commend my friend from New Jersey, Mr. Saxton, for talking about the need to renew the Endangered Species Act.

The authorization for the Endangered Species Act expired five years ago, leaving our most important conservation law vulnerable to piecemeal attacks and a lack of proper Congressional oversight. For several years, ideological fighting and beltway politics have kept interest groups busy while animals and plants decline and disappear. In the meantime, private and public land conflicts continue to hamper recovery efforts.

The Clinton Administration has implemented some needed reforms. And the other body is building a consensus with the Administration for improving the Act. Sponsors of that effort readily admit their bill is not perfect, but the product of good consensus is rarely perfect.

The gentleman from New Jersey and I have been engaged for several months in discussions about improving the Endangered Species Act. Chairman Young is participating as are Mr. Tauzin and Mr. Pombo; and so is Ranking Member Miller, who introduced a bill containing many common-sense reforms. It is our hope that these talks might give this House has a chance to pass a bill which makes a good law work better for species and landowners.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. HEFLEY). 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.

MARRIAGE TAX ELIMINATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I was unable to attend last night the special order by the gentleman from Illinois [Mr. WELLER] and the gentleman from Indiana [Mr. MCINTOSH], who brought attention to our body, and to the people who are interested in what goes on in this Chamber, about a very important piece of legislation. It is called the Marriage Tax Elimination Act.

□ 1730

This is something that will be of interest to all Americans. We have a situation in this country now where, believe it or not, among the many other facts that we see in our tax system and the way it is handled by the IRS, we see the extraordinary fact that there is a penalty, a tax penalty for marriage.

This is at a time when we realize the sanctity of marriage, how important it is to our family values, how important it is to the education of our youth, the well-being of our Nation in so many ways, and certainly just the quality of our life. We even talk here quite often about our family-friendly Congress and family values. So when we look at our Tax Code and we uncover the fact that there is a penalty for being married, we wonder why in the world that is.

The first thing you might want to say is, how much is this penalty? Is this really something that matters? The answer is yes.

I understand that the average penalty for marriage is $1,400. That is a fair amount of money. It seems to me that would matter to most Americans, to have to pay $1,400 more just because you were married. Then on top of that, if you say how many people does this really affect, clearly not everybody.

The answer is, when we take a look at statistics, it is about 21 million American couples which obviously means 42 million Americans. That is a huge amount of people to be impacted by a tax which we cannot quite figure out why we have got it.

So we now have a piece of legislation that we think is important to move forward and I am pleased to say that as a cosponsor, original cosponsor, that the Marriage Tax Elimination Act is going to see the light of day and we are going to, I believe, take action in this body to correct something that certainly needs to be corrected.

It is probably interesting to note for most Americans that the average family today pays more in taxes than for food, clothing and shelter combined. Many Members say that. But think about that, think about your hard-earned dollars, if you go out and go about your job, the sacrifices you make to work hard, the time away you have from your family, other pursuits you are interested in. You are giving away today in taxes more than you are paying for your food, your clothing and your shelter, which are of course the first areas of responsibility for those in the home. That is an amazing statistic and yet we just seem to sort of take it for granted.

We know now that we have got to completely overhaul our Tax Code and we are planning to do that. We are about to start a great debate across the Nation. Our colleagues, the gentleman from Texas [Mr. ARMEY], the gentleman from Louisiana [Mr. TAUZIN], and perhaps others are going to go out and bring the tax debate to the people in a meaningful and understandable way in the next few weeks.

I am sure they will be saying the same responses as we hear in our offices and that we hear back in our districts when we go home, from people who say the present tax system is unfair, it is inequitable to Americans, it is not efficient, it is not a good way to collect revenues for the government, but most of all, it is absolutely incomprehensible. And we all know the story about putting all the experts in the room with the same set of facts and they will all come up with a different tax liability, a different tax conclusion after reading the reams and reams of documents that are supposed to guide us through how we pay our taxes and go about that responsibility.

So while we are talking about overhauling the Tax Code, while we are talking about reining in the abuses of the family-unfriendly and the consumer-unfriendly IRS, we are also talking about a very narrow specific slice of American life, and that is married

people. I think it is very important that we send that message out, that for those people who are interested in fair treatment under the Tax Code and for those people who are interested in getting married and wanting to stay married, it seems to me they need to know that we are aware that there is a penalty. We think the penalty is wrong and unfair and we are going to do our best to remove that penalty.

The cloud on the horizon for us, sadly enough, is that we did this a few years ago in our Contract With America. Unfortunately President Clinton vetoed that. I hope if we give him a clearer picture of what is going on and how much this matters to Americans, that this time when we pass the legislation we will have his support to repeal the marriage tax rather than his veto.

H.R. 7, THE CITIZENSHIP REFORM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BILBRAY] is recognized for 5 minutes.

Mr. BILBRAY. Mr. Speaker, I rise today to address an item that is being considered by this body, at least for markup, very soon. That is the Citizenship Reform Act of 1997, H.R. 7. For many of us, we may think that under the 14th amendment, the privilege of automatic citizenship is something that is automatic and applies to everyone born on U.S. soil.

H.R. 7 clarifies the fact that under the 14th amendment not every one born on U.S. soil gets automatic citizenship; that there is a conditioning clause in the 14th amendment that says you must be "subject to the jurisdiction thereof".

To clarify this fact, consider that the children of diplomats here in Washington, DC, or back in New York do not get automatic citizenship at this time because their parents are not "subject to the jurisdiction"; the same way that native Americans did not get automatic citizenship until the 1920's because Congress granted it, because basically Indians who were in the tribal environment were not subject to the jurisdiction of the United States, because they owed loyalty and obedience to their tribe before the United States.

H.R. 7 clarifies the fact that illegal aliens do not fall into the category of "subject to the jurisdiction" of the United States, because they first of all are not obedient to the immigration laws, and are committing by their presence on U.S. soil a violation of national sovereignty; and, No. 2, they do not owe allegiance or loyalty to the United States. I think everybody would agree that if an illegal alien was tried for treason and brought before a court for treason, that the most liberal to the most conservative American would be outraged at the fact that somebody who was illegally in the country was now being required to be loyal.

Mr. Speaker, the same argument goes to automatic citizenship. If the child is born of parents who do not owe loyalty to the United States, if that basic obligation is not being met by the parents, the child should not get the automatic citizenship.

This is a thing of fairness, too. Let me remind all of my colleagues, there are people waiting patiently to come into this country legally, and while they are waiting patiently they are, some of them, having children. Those children, whose parents are playing by the rules, do not get automatic citizenship, but right, today we are rewarding those parents who violate the law in coming to this country illegally.

Some people may say it is not that big a deal, why even talk about it? Mr. Speaker, I am here to tell you it is a big enough deal that 96,000 births in California alone were the children of illegal aliens. We are talking about 40 percent of the Medicaid births in the State of California are children of illegal aliens. We are talking about hundreds of millions of dollars a year that one State is spending with Federal funds.

It is an issue that needs to be addressed, and it is first and foremost an issue of fairness. Why should we require the children of people who are legally waiting to immigrate, to go through the naturalization process and ask for permission from the United States to become U.S. citizens? When at the same time, we will reward the parents who have broken the law and give their children automatic citizenship with no processing at all? It just is not rational. It is not fair.

Mr. Speaker, I think that we must also recognize that the Supreme Court has never ruled on the issue of automatic citizenship for the children of illegal aliens. In fact, in the one case that is pointed out so often, the Wong Kim Ark case back in the late 1880's, the court ruled specifically that his parents were legal residents and that legal residents owe allegiance and owe loyalty and must obey the law. And by their legally immigrating, they showed that they were obedient to the Federal Government and the Government of the United States, and that they were "subject to the jurisdiction" by getting permission to enter this country legally.

That definition does not fall on those who have broken our laws and immigrated illegally. In fact, the case that we are referred to again and again is a 1608 case in England, the Calvin case, that says that people who have obligational loyalties get citizenship; those who do not do not get automatic citizenship. In the words of the English, in their flowery way of saying it, they say it is the loyalty and the obedience, not the soil and not the climate that render citizenship.

I think in all fairness we have got to understand that those who are obedient and play by our laws should be rewarded. But, Mr. Speaker, those who have broken our laws, violated our national sovereignty and refused to recognize that they must be "subject to the jurisdiction" of the United States should not today have the right of automatic citizenship.

This Congress should finally tackle this issue, address this issue and send a very clear message, not just to our own citizens, that we believe in fair and equitable treatment but that we will no longer reward illegal immigration with automatic citizenship. I ask everyone to contact their Member of Congress to address this issue and support H.R. 7.

DOMESTIC VIOLENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STRICKLAND] is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I stand today to speak about a silent crime that victimizes 1.8 million individuals annually, most often in the place where they should be the most safe and secure, in their homes. This criminal act is multifaceted and nondiscriminatory in choosing its victims. It knows no boundaries of age, race, social class, income level or education. Its predominant traits are those of emotional and physical abuse. I am speaking of domestic violence.

In recent years an increasing number of new stories involving public figures both as victims and as perpetrators of domestic violence have raised our awareness of this problem. Through media coverage we are slowly beginning to realize the massive extent of this crime which is most often committed in secret. Although these stories are difficult to comprehend and painful to hear, we all need to be aware that this tragedy is more prevalent than we think and more horrible than we can even imagine.

Sometimes the evidence of this abuse is obvious. At other times it goes undetected and leaves its victims suffering in silence. Unfortunately, this problem still seems to be very distant to most of us until someone we know becomes a victim.

A few years ago in Hillsboro, Ohio I met a young woman who was in the process of rebuilding her life after the end of a very violent marriage. She returned to school, received her high school diploma and found a combination of jobs to support herself and her young child.

I was impressed that this self-assured woman had shown such incredible strength by removing herself and her child from a dangerous, intolerable situation. But only a few weeks after I met her, I learned that she had been killed by her estranged husband as she

approached the Highland County Courthouse. She was on her way to seek legal protection from the man she had married, who on that awful night became her killer.

This incident impressed upon me the heartbreaking circumstances that many victims, usually women and children, are subjected to every day all over this country. Unfortunately, many victims feel that they do not have the resources and the support available to remove themselves from such threatening and dangerous situations, and all too often, even if they can escape the immediate circumstances, they remain potential victims.

Thankfully, domestic violence is being driven from the shadows and exposed for the heinous crime that it is. Many individuals and groups now focus their energies on seeking ways to prevent domestic violence and to reach out to the victims and their families.

In my district a community-wide domestic violence protocol is being developed. This will help outline how agencies can handle the incidents of domestic violence in a cooperative way. Our hope is that we can establish a stronger effort to break this cycle of violence. I am proud of the fact that in one of the counties in my district, Highland County, Ohio, men and women have joined together to help those in need.

□ 1745

They are committed to reassuring victims of domestic violence that they are not alone and that hope is available.

At the Federal level, the Department of Justice has developed programs that train law enforcement officers, emergency room attendants and family physicians on how to recognize a domestic violence situation and how to appropriately assist victims who have suffered from this crime. All of these local, State and Federal efforts are working to reach victims like the young mother who recently and unnecessarily lost her life.

Preventing domestic violence is a task to which all of us should be absolutely committed. I applaud all individuals and groups, especially my constituents in Hillsboro, Ohio, who are working to combat this despicable crime.

LEGISLATION REGARDING BREAST CANCER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. Fox] is recognized for 5 minutes.

Mr. FOX of Pennsylvania. Mr. Speaker, I rise today to speak on behalf of legislation that is in the House and the Senate which will do much to help the women of the United States affected by the terrible physical tragedy of breast cancer.

I am speaking of legislation that will prevent the drive-through mastectomies, where women who are being treated for breast cancer have been called to leave the hospital before 24 hours, sometimes the same day as the surgery.

Our legislation was put forth through the leadership of the gentlewoman from New York [Mrs. KELLY], the gentleman from New Jersey [Mr. FRANK LOBIONDO], Senator FEINSTEIN of California and Senator D'AMATO of New York, and earlier today they held a press conference to announce the importance of this legislation which would require a minimum of 48 hours for a stay in the hospital following a mastectomy.

We also have in that legislation a requirement for a second opinion from a doctor with regard to the length of stay and the treatment. And, finally, the legislation calls for reconstructive surgery for each woman that may be affected by the dreaded disease of breast cancer.

Much has been done and much more needs to be done in the way of treatment, detection and prevention of breast cancer in this country. I am proud to work with the national breast cancer officials who are working on a cure and who are working to increase the funding, and I am working with them on the DOD funding, the Department of Defense funding, as well as the National Institutes of Health.

For me this is priority number one in this 105th Congress, to pass this legislation and all legislation which will lead to additional research funding so that in our lifetime we can have a cure, we can have a vaccine, we can have a discovery that will eradicate breast cancer in our lifetime.

Mr. Speaker, this is the number one cancer death causing disease to women in the United States: 44,000 a year. We must do whatever we can from a medical, legislative and public point of view to make sure we eradicate this disease in our lifetime. Tomorrow is not soon enough.

So I thank my colleagues for sponsoring and cosponsoring this legislation and for working for its passage.

LEGISLATION TO ALLEVIATE CONSEQUENCES OF WELFARE REFORM BILL ON ELDERLY NONCITIZENS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK of Hawaii. Mr. Speaker, today I am introducing a bill to alleviate the harsh consequences that many of our elderly noncitizens are experiencing as a part of the Welfare reform bill enacted last year.

At age 94, one of my constituents is now being threatened with the loss of food stamps because she cannot prove she is a U.S. citizen. She entered the United States in 1919 from Japan. Her husband is now deceased. She has no support documentation that would show she is a citizen or that she worked 10 years in this country. Soon she will lose her $40 per month allotment.

The stated purpose of the welfare reform bill was to promote self-sufficiency and to eliminate the reliance of government assistance for able bodied individuals. The goal being to return these able bodied individuals back to work.

As a result of the Welfare Reform bill we witnessed a direct attack on our noncitizen elderly population. These individuals clearly should not have been included in the group targeted to return to work. Recognizing this, Congress and the President partially restored some of the benefits unfairly denied this population. However, even with the partial restoration of benefits, many of our elderly noncitizen population are still suffering.

This bill will remedy the unfair result imposed by Congress last year by restoring to a small group of our most vulnerable individuals their food stamps. These individuals are our most needy. We have a duty to assist them in their aging years. This bill eliminates these individuals from a law that clearly should not apply to them.

CONGRESS SHOULD DO MORE PROBLEM SOLVING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PAUL] is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, frequently I am asked, when I am in my district, if Congress is making any progress in solving the problems that this country faces. I wish I could be more optimistic in my answer, yet I am optimistic about the people in the district and the people in the country, because I think they are beginning to see the problems correctly and they are beginning to sense that we should be doing more to solve the problems.

Truthfully, I cannot give them an optimistic answer about the progress we are making here within the House of Representatives and in the Senate. For instance, yesterday we had a piece of legislation come up rather quickly. It was the FDA legislation. There was no announcement the day before. There was no announcement last week. It came up suddenly, under suspension, with only minutes to prepare.

Actually, I came to the floor hoping that I could at least make a statement, asking for 1 minute, but because it was managed by both majority and minority that supported the bill, there just happened not to be any time available to discuss anything in the FDA legislation.

This legislation involved 177 pages. It was not available to me on the Internet. It is a complex piece of legislation, and something that I think is a very

important piece of legislation. I had received numerous pieces of correspondence critical of this legislation and urging caution on its passage. The bill was rushed through rather quickly. There was no vote taken on this and, actually, not one single thing said in a negative manner about this particular legislation.

The pretense of the legislation is to speed up the process, to get drugs approved more quickly, to avoid the bureaucracy of the Food and Drug Administration and, quite frankly, there probably is plenty of bureaucracy over there that slows up the process. But if they are not doing a good job, why would speeding up the process necessarily be helpful?

If they speeded up the process to get drugs out, like Dexfenfluramine, which is a drug now known to cause heart valve disease, I cannot see the purpose of trying to speed up a process that guarantees very little to the consumer. Quite frankly, the Good Housekeeping seal of approval that the FDA puts on it I question. I favor the original Good Housekeeping seal of approval, something done more privately.

But the serious parts of this legislation, which I believe will come back to haunt many in this Congress, and I am predicting they will hear from the constituents and from many groups interested in this issue, in the first way the bill itself internationalized regulations for the first time. The regulations are to conform with all other nations when possible. I do not see this as a positive step in any way.

Unfortunately, it diminishes the State's role in regulation and in food labeling and it allows more Federal regulation rather than less. This, to me, is not going in the right direction. We talk a lot about reducing the Federal control, but here is a piece of legislation that comes up rather quickly, no debate, no chance to really debate the issue at all and, at the same time, it enhances and empowers the Federal Government over the States and, at the same time, it introduces this notion that some of these regulations may well become internationalized.

In another area that I think we have done a poor job has to do with the budget. If the American people would go by what is said from here, so much optimism, that we are on the verge of having surpluses and we are running around arguing about how to spend the surpluses, I have to take a different side to that argument. I do not see the surpluses.

For instance, this past year they say the national debt is down to $30 billion, approximately. Well, $30 billion to a lot of people is still a significant amount of money. So a $30 billion deficit should not be ignored and, quite frankly, I think it is lower than was anticipated more by accident than by what we have done, especially if we look at the budget resolution, which actually introduced more welfare programs, not less. So the fact that we have a smaller deficit is not too reassuring to me.

If we look at the increase in the national debt, it suggests another story. The national debt has actually gone up nearly $200 billion in this past year. The national debt went from $5.22 trillion to $5.41 trillion. So why the discrepancy? Why is the deficit so small and yet the national debt is increasing rapidly? There is a very specific reason for this. More money is being borrowed from the trust funds, such as Social Security. That is not the solution. That is a problem.

ORDER OF BUSINESS

Mr. SNYDER. Mr. Speaker, I ask unanimous consent to take my time out of turn.

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

There was no objection.

CAMPAIGN FINANCE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. SNYDER] is recognized for 5 minutes.

Mr. SNYDER. Mr. Speaker, yesterday the Senate had a series of votes which temporarily killed campaign finance reform. I know the general public is confused over what happened over there, but the bottom line is the majority of the Members of the U.S. Senate support campaign finance reform, the American people support campaign finance reform, but the Senate Republican leadership will not let there be a clean vote on campaign finance reform.

And I say to my friends on the Republican side of the aisle, I know there is Republican support. I know there are many Republicans that support campaign finance reform.

Here on the House side we have had no hearings, we have had no votes on campaign finance reform, we have had no bills brought to the floor. In almost a year we have been in session, we have had no debate on the floor on campaign finance reform. And, again, the problem is the Republican leadership of this House.

I say once again, I know there are many Republican Members who will vote for campaign finance reform if it is brought to the floor of the House. The problem is the Republican leadership.

What is the problem? What is the problem with our campaign finance laws? This morning I held up this phony check I had made out here for a billion dollars, and the reality is it is now currently legal to make unlimited donations to the political party of our choice, Democrat, Republican, Reform Party, or any other party. Whether we are an individual, whether we are a corporation, whether we are a union, we can write out a check for any amount of money we choose to, as long as the account is good, and it is legal under campaign finance reform.

That is wrong. It contributes to the cynicism of this country, and it is a problem that needs to be fixed.

To discuss possible fixes to this very real problem facing America, I would like to yield to the gentleman from California [Mr. FARR], a leader in campaign finance reform.

Mr. FARR of California. Mr. Speaker, I want to engage with the gentleman in this discussion because, obviously, the gentleman saw yesterday that the Republican leadership in the Senate broke things, and the U.S. public is asking for a campaign reform fix. We have legislation here before us. In fact, the legislation before this House does not require that the Senate has to fix their side, we can fix just this side.

I have H.R. 600, which has more cosponsors than any other bill in Congress. It is the bill that historically has passed this House under Democratic leadership. It is the bill that received the most votes when this issue came up before the 104th Congress. It is a bill that totally reforms campaign expenditures, campaign collections, the whole gamut from A to Z, and it is a substantive bill.

The issue here is that we are the legislative branch of government. We are here to fix things that are broken. This is not just about hearing and smearing, it is about acting and doing. We need to have on this floor a vote on campaign finance reform.

The gentleman and I cannot do much about it because we are in the minority party, but the majority party has indicated that they are some day going to do it. They have the ability to do it now, and we hope they will give us the date and the time soon and that there will be particular bills like this, H.R. 600, that are comprehensive, that allow us to have a vote on it, because I believe that this House, in a bipartisan way, can send a bill to the President that will reform campaign finance methods of collecting, spending and conducting campaigns in the United States of America for people who run for the House of Representatives.

I appreciate the gentleman's leadership. The gentleman has certainly brought about the evidence that there is too much money in politics and that we can fix it together.

Mr. SNYDER. I appreciate the gentleman's comments. There are several good ideas out there, and they are incorporated. I think we now have 85 bills filed. If no bill gets to the floor of this House, none of those bills are going to be discussed, and it is very discouraging, given the uproar in the last election cycle from the American people about the volume of money

spent, that we see that we are not doing anything about it this year.

Mr. FARR of California. So the question is when.

Mr. SNYDER. The question is when.

Mr. FARR of California. The question is how.

Mr. SNYDER. The gentleman knows how. We have other Members that know how. The issue is having the debate to make the final decision about the how.

Mr. FARR of California. Well, we have colleagues here, and we hope that they will join us, listening to us, and demand that a vote be brought on campaign finance reform so that together, in a bipartisan fashion, we can fix it in a comprehensive form. Not just plug up one little leak or two little leaks, but do the whole thing so that we limit how much money people spend on campaigns.

That is the issue. We have to take the big mass, obscene expenditures out of campaigns, and we have a way of doing it. It has gotten to the President before. President Bush vetoed it, unfortunately, the Senate Republicans filibustered in the past, but now we have the ability because we do not need to have it go to the Senate and we can get the President to sign it.

So all we need to do is get 218 votes here and the job is done and, hopefully, it will be done soon.

Mr. SNYDER. In closing, I will just say it comes down to the question of the Republican leadership, the leadership in this House saying to the Members, yes, it is okay to bring that bill on the floor of the House.

□ 1800

PROPOSAL BY FDA AND EPA TO BAN MEASURED-DOSE INHALANTS

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

Mr. FOLEY. Mr. Speaker, I want to bring to the attention of the Members and Members outside of this Chamber a proposal by the FDA and EPA to ban measured-dose inhalants which contain CFC's, or chlorofluorocarbons, that are used by people suffering from asthma.

Now, clearly, the goal of the FDA and EPA is laudable. They want to remove CFC's from all products in order to protect the ozone. But let us start with the basic premise that, first and foremost, the measured-dose inhalants contribute insignificantly to the problem.

But let us also stress, the need for these is so great, 30 million Americans suffer from asthma. CFC's are able to propel the medication necessary to help a struggling asthmatic sustain life, receive that important breath, and go on living a reasonably healthy life.

In 1999, through the Montreal protocol, the EPA and FDA wanted to start removing from the list products that are currently available to substitute one item that currently is on the market. Clearly, we expect further research to indicate that there will be options and alternatives.

What we are asking in a bill that I have filed is that the EPA and FDA report back to the Congress with a wide range of options available for asthmatics so that they can find products suitable to solve their medical emergency when necessary. Currently there are over 70 types of inhalants available on the marketplace.

My colleague, the gentleman from Rhode Island [Mr. KENNEDY], testified that he uses three different types of inhalants during the day that help provide life-sustaining breath to his lungs. I was an asthmatic as a child and suffered greatly when I tried to strive for breath.

These products are not contributing to the problems in the ozone. I talked to Dr. C. Everett Koop on Friday, and he clearly indicates that this is the wrong approach by the FDA and EPA, that this is not the problem.

Now, I applaud them for banning refrigerators with CFC's, air conditioning compressors with CFC's, hair spray and underarm deodorants that were polluting the air because of the excess of chlorofluorocarbons. But an asthma inhaler pumps the measured dose into the system and does not leach it out into the air. It is not something you waste. It is not something you spray. It is something you ingest, inhale into the lungs, to gain greater capacity.

So I urge my colleagues to support me in this initiative and urge the Speaker to consider this initiative to allow us to have those agencies report back when there are adequate amounts of materials available that can clearly be CFC-free but also provide the needed relief for patients around our country, clearly a policy decision being made that has the right intentions but has devastating consequences to those that suffer from asthma.

Thirty million Americans suffer from asthma. Thirty million Americans will not find comfort in knowing that they are only allowed to use one inhalant. Right now, the one on the market, to some people, does not contain enough propellant to bring the medication into the lungs.

CONGRESS SHOULD NOT SPEND BUDGET SURPLUS

Mr. FOLEY. Mr. Speaker, the other thing I want to discuss quickly is Alan Greenspan's testimony today that Congress should not spend budget surplus. And I agree.

To get our fiscal house in order, we have got a $5.3 trillion debt, we should be reducing the deficit, reducing the outlay that we are spending on interest on the debt alone, finding ways to reduce that so we will then free up capital that is now being spent on interest to help the needed projects in America, the road construction and other things.

My colleague, the gentleman from Wisconsin [Mr. NEUMANN], and several of my colleagues have cosponsored his measure that would allocate additional increases or surpluses, 1 percent of those surpluses to Social Security Trust Fund restoration, Highway Trust Fund restoration, and, more importantly, reduction of the debt. That would bring us into a balance, if you will, allowing us to use legitimate business principles.

When we have debt, we reduce debt, it frees up capital to spend on other programs. It is very simple, very common sense. And it probably will fail in this city, because people like to spend more than they have, because they are used to it.

We clearly feel that Mr. Greenspan's testimony today indicates that we have significant benefits from running some surpluses. There is nothing wrong with running a surplus. We tell all Americans to save for a rainy day. We tell all Americans they should have a surplus in their checking account. We tell businesses that if they are profitable and have excess revenues, that they are a great thing, an American institution. Only in this building do we consider spending more than we take in. Excellent advice that we should spread around the world.

Five point three trillion dollars in debt, incurring about $265 billion in spending on interest alone on the debt, and not reducing it by a nickel. So if we are to get our fiscal house in order, we need to start now.

I yield back the balance of my time.

TRIBUTE TO DR. EDNA P. DAVIS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me tell my colleagues a story and why I love and respect what public school education can do for all of us.

Today I stand in tribute to Dr. Edna P. Davis. Some would wonder, is she a famous actress or has she dunked a shot on the basketball court? No; Dr. Edna P. Davis is a public school teacher who has taught for 47 years. She lives in Houston, TX. I had the pleasure of joining her colleagues and her church members at Williams Temple just a few short weeks ago in honoring this soldier on the battlefield of education.

Dr. Edna P. Davis is an educator, a humanitarian, and a scholar. I am moved by her words regarding all children when she says, "Every boy and girl, irrespective of race, ethnic group, or color, or below par in physical condition, should be taught to achieve and aspire to high ambitions of their capacity."

She loved education and religion so much that I would like to note, for the RECORD, she wrote "The Education and Religious Life of Dr. Edna P. Davis." No, this is not a self-study to promote herself but her virtues and values and pearls of wisdom, for Dr. Davis is a lover of the written word and the spoken word.

And as we listen to the testimony of her students and her friends and colleagues, they said that she was able to instill in her children and her pupils the love of the English word, the love of the ability to communicate. Her commitment to God's work and others is most appreciated by those who know her best. She is a model of good Christian conduct and academic excellence.

Dr. Davis believes that teachers should be dedicated, teachers should love children. She taught in a public school system. And Dr. Davis' contribution to education, she has taught from kindergarten through the 12th grade.

I am privileged to know one of her students, Dr. Elwin Lee, my husband, who was able to be under her tutelage at Blackshear Elementary School. The children she has taught have scored high on their tests. She never took "no" for an answer. There was no child who could not succeed or take these standardized tests. She has always been punctual, and we could count readily on her attendance record as almost perfect.

The in-depth analysis of Dr. Davis' education and her numerous accomplishments as an educator, her work in the church, and her volunteer work in education with children and extending charitable contribution to Riverside Hospital have made her a legendary figure in our community.

My colleagues would have been amazed at the numbers of individuals who came from far and wide to pay tribute, the representatives from the Houston Independent School District, classroom colleagues, school chums, next-door neighbors, and, most of all, her students, those who work at NASA, those who are law enforcement officers, those who are doctors, those who are individuals who benefited from her teachings.

At an early age, Dr. Davis was trained in the Christian concept of the golden rule. How many of us would benefit from understanding that we really should do unto others as we would want them to do unto us? And her training came from her parents, Mr. and Mrs. Thomas Jefferson Davis.

Growing up in Third Ward in Houston, TX, she noticed early the challenge for a black teenage girl from Douglas Elementary School. She went to Jack Yates High School, which was then on Elgin Street. She studied hard. And at graduation time, she was designated class valedictorian. She was noted as a quiet young woman but a studious young woman, again, someone who loved to understand and learn.

Upon leaving Jack Yates High School, she enrolled at Texas Southern University. At Texas Southern, she pursued her mission as a teacher in the School of Education. She graduated from TSU in 1953, receiving the B.A. and B.S. degree with the highest honors. Summa Cum Laude was bestowed on her for her diligent study.

Seeking intensively to learn as much as she could, Dr. Davis in 1960 received an M.A. in English and history with the same distinction.

Her further study leading to doctorate was centered at Texas Southern University, University of Houston, and New York University. Determined to get her doctorate, she enrolled at Albany State College, away from Texas. From 1974–77, she received the ED.D., the highest degree in the field of education.

Her teaching career began in 1953, when she taught at Booker T. Washington Junior High School under Principal Bryant and Principal J.R. Cunningham at Blackshear Elementary in 1954. For the past 25 years, she has taught at Blackshear Elementary School under Principal George Mundine.

Let me say, Mr. Speaker, that I am delighted to be able to rise today and pay tribute to truly a great American and American teacher, someone who loves children, loves the ability to teach children, and believes that all of our children, no matter who, can learn, truly learn. She is a wonderful American and a wonderful teacher.

Mr. Speaker, I rise to offer words of gratitude and recognition for the wonderful work done by Dr. Edna P. Davis, educator, humanitarian and scholar.

I am moved by her words regarding all children when she said:

* * * every boy and girl, irrespective of race, ethnic group or color or of a below par in physical conditions, should be taught to achieve and aspire to high ambitions of their capacity.

Her commitment to God's work and others is most appreciated by those who know her best. She is a model of good Christian conduct and academic excellence.

Dr. Davis believes that teachers should be dedicated. Teachers should love children. In Dr. Davis' contribution to education, she has taught from kindergarten through the twelfth grade. The children she has taught have scored high on their tests. She has always been punctual and we can count readily her attendance record as almost perfect.

The in-depth analysis of Dr. Davis' education and her numerous accomplishments as an educator, her work in the church and her volunteer work in education with children and extending charitable contributions to Riverside Hospital has made her a legendary character.

In an early age, Dr. Davis was trained in the Christian concepts of the "Golden Rule." Such training came from her parents, Mr. and Mrs. Thomas Jefferson Davis.

Growing up in the Third Ward, she noticed early the challenge for a black teenage girl from Douglas Elementary School; she went to Jack Yates High School, which was then on Elgin Street. She studied so hard and at graduation time she was designated class valedictorian.

Upon leaving Jack Yates High School, she enrolled at Texas Southern University. At TSU she pursued her mission as a teacher in the School of Education. She graduated from TSU in 1953 receiving the B.A. and B.S. degrees with the highest honors. Summa Cum Laude was bestowed on her for such diligent study. Seeking to learn as much as she could, Dr. Davis in 1960, received a M.A. in English and History with the same distinction.

Her further study leading to doctorate was centered at Texas Southern University, University of Houston, and New York University. Determined to get her doctorate, she enrolled at Albany State College, from 1974–77, and she received the E.D.D., the highest degree in the field of education.

Her teaching career began in 1953, when she taught at Booker T. Washington, Junior High School under principal Bryant and principal J.R. Cunningham at Blackshear Elementary in 1954. For the past 25 years, she taught at Blackshear Elementary School under principal George Mundine.

I am pleased to join Dr. Edna Davis' family, friends, and colleagues in congratulating her on her life's accomplishments in education. Dr. Davis your monumental effort has given the gift of knowledge to your students who have become valued members of our society. Your commitment to excellence in education provided many of our children with the good news that studious pursuits, hard work, determination and perseverance will lead to success in life. I would like to offer my heartfelt thanks for your commitment, without which, your students would not have the promise of an unlimited future. Your gift of knowledge to the Houston community will not be forgotten.

Mr. Speaker, I ask that all of my colleagues join me in recognition of a wonderful teacher, Dr. Edna P. Davis.

GROUNDHOG DAY IN WASHINGTON, DC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. PAXON] is recognized for 5 minutes.

Mr. PAXON. Mr. Speaker, I do not know how many of my colleagues have had the chance to enjoy a great movie; it is called "Groundhog Day." And in there, Bill Murray had the recurring problem of waking up and it was Groundhog Day again and again and again, and he had to live the same experiences over and over and over again.

Well, we have our own version of Groundhog Day right here in Washington, D.C., because it was just 4 years ago, it seems like yesterday, that the Clinton administration proposed a Btu tax, and it was met with absolute outrage from across this country. Republicans and Democrats, people from all corners of America, rose up in indignation over a Congress, then controlled

by the Democrats, that would move forward with such an onerous and burdensome tax that hits the elderly, the poor, the working middle class so unfairly, so regressively.

Well, it is Groundhog Day all over again. And we wake up to find what? That the Clinton administration has not learned the lessons; they want to relive that day over again of proposing another Btu tax on the American people.

Saturday, the Washington Times reported that the administration has an interagency analysis team that is looking at tax alternatives to fund the costs associated with the so-called global warming treaty that they are considering signing in Japan later this year. Of course, they want to keep this quiet. They did not want to let this get out. But out it has come.

That information from the Washington Times, combined with information uncovered by the Committee on Commerce, on which I serve, indicates that the severity of the tax that they are talking about makes what happened in 1993 look like child's play.

Let me just tell my colleagues about it. What they are talking about is, decreasing so-called greenhouse gases by just 20 percent by the year 2010 could require an increase in the Btu tax five times greater than that proposed by the Clinton administration in 1993.

What would that mean? A tax of just $200 per ton on carbon could result in a 60 cent per gallon gasoline tax increase. I did not say the total tax would be 60 cents a gallon. The increase would be 60 cents a gallon. Thank you, Mr. President.

They are also talking about, on top of that, a 50-percent increase in the cost of home heating fuel. For those of us who need to heat our homes in the winter, that is devastating. It harms older Americans disproportionately, the working poor, middle-class taxpayers. It will hit nursing homes, veterans' hospitals, right between the eyes.

It will result in economic disaster, a 4.2 percent reduction, or $350 billion reduction in our Nation's Gross Domestic Product in year one of this Btu tax, a loss of over a million jobs in the first year and 600,000 jobs lost every year after the first year right through the year 2020.

I just do not believe we can afford Groundhog Day, to live this nightmare all over again that we experienced in 1993. That is why I am filing a sense of Congress resolution putting us on record in opposition, making clear to the administration that we have no intention in this Congress, this Republican Congress, of passing any Btu taxes and putting that burden on the backs of the American people.

I am very pleased that the National Taxpayers Union, the foremost organization fighting higher taxes, has come out in favor of this sense of Congress resolution and is going to join with us in this effort. But there is going to be a fight. I know there are a lot of people in this body who think this is a no-brainer, there is no chance this is going to move.

Let me tell my colleagues, we have an administration official who was quoted, on background of course, or anonymously, in the Washington Times as saying, in regard to this, yeah, it is going to be tough, but "we have a lot of educating to do."

□ 1815

I do not think there is enough educating to do to convince the American people that this Congress should take out of their pockets that kind of money, a 60-cent-a-gallon gas increase, or a doubling of home energy costs. That is just wrong. We cannot afford it, families cannot afford it, and it has to stop.

This is particularly unfair when we consider the fact that the administration has already exempted countries like China and India, and of course they will not have to pay these energy costs to pay for the global treaty being put in effect, only American taxpayers. That is just wrong and it is going to harm us even more.

My colleagues, I do not think there is any question that this excessive greenhouse tax appears to have all of the makings of a global group hug, leaving America's working poor, the middle class and the elderly flat out in the cold. We cannot afford it. I just hope for a change that Washington learns its lessons.

Usually Washington, under this administration, learns lessons slowly. This time, I am hoping that the American people will contact their Congressmen and women and when we gather back here, I know we are going to hear about it from each other, that when folks at home find out about this they are going to be indignant. They are saying we cannot afford a 60-cent-a-gallon gas tax increase or anything close to that, or any increase in our home energy costs.

Mr. Speaker, it is time to send a message loud and clear to the administration: We are not going to repeat the mistakes that they have tried to put on the backs of this country in the past.

TROOPS IN BOSNIA

The SPEAKER pro tempore (Mr. COOKSEY). Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, I rise tonight to speak briefly about three very important, but unrelated, topics.

First, it has now been more than 1 year since the President promised he would have our troops out of Bosnia. There is no vital U.S. interest there. There is no threat to our national security there. We should not send young American men and women to overseas battlefields unless there is a definite threat to our national security or a vital U.S. interest. The American people do not want us there.

I remember reading 3 or 4 years ago on the front page of the Washington Post that we had our troops in Haiti picking up garbage and settling domestic disputes. Now we have our military doing social work in Bosnia. U.S. soldiers should not be turned into international social workers.

We have spent many billions in Rwanda, Somalia, Haiti, and now Bosnia, trying to settle disputes that we cannot solve unless we continue pouring billions and billions and billions of dollars into those countries. These are billions that some day we will very much wish that we had back to help our own people.

INCREASE IN FUNDING FOR IRS IS UNFOUNDED

Mr. DUNCAN. Second, Mr. Speaker, a few days ago on the floor, I criticized on this floor as strongly as I could the Treasury-Postal appropriations bill for giving the Internal Revenue Service a $538 million increase in funding. What I did not know then and could hardly believe when I found it out later was that in conference $120 million more was added.

Many of us voted against this, but the Congress passed a $650 million increase for the IRS just at the conclusion of hearings on the IRS showing horrible abuse of the American people by that agency.

The cover of this week's Newsweek Magazine really says it all: "Inside the IRS: Lawless, Abusive, and Out of Control." Those are not my words, Mr. Speaker, those are the words of Newsweek magazine. Newsweek says the IRS is lawless, abusive, and out of control.

Mr. Speaker, the people want us to do away with the IRS, or at least drastically simplify the Tax Code. They especially do not want us giving the IRS huge increases in funding. If this is done next year, there is at least a small but fast-growing group of us that will attempt as hard as we can to defeat any increase in funding for the IRS.

SPORTS SALARIES HAVE GONE BERSERK

Mr. DUNCAN. Third and last, Mr. Speaker, is something that makes almost everyone in this country feel underpaid, and that is the scandal of ridiculously lavish sports salaries. The sports world quite simply has gone berserk.

A 21-year-old basketball player that very few people have even heard of signed a contract a few days ago for $123 million over the next 6 years. A couple of years ago my two sons and I were driving along and we heard that a

baseball pitcher signed for $18 million for 3 years.

I asked my sons, "Do you know how much $6 million a year is?" The average person in my district makes between $21,000 and $22,000 a year. If a person averaged $25,000 a year for 40 years he would make $1 million. If a person is way above average and making $50,000 a year he would make $2 million over a 40-year career. A person would have to average $150,000 a year for 40 years to make the $6 million this pitcher now makes pitching a baseball one day out of every four. This is totally out of whack, Mr. Speaker.

An earlier speaker tonight discussed what he called a matter of fairness. Americans pride themselves on being fair. This is not fair at all, to pay even mediocre athletes several million dollars a year. No one can really earn or deserve some of these salaries, yet we are all helping pay these salaries through higher prices for everything.

I have always fought against higher taxes, but we really should greatly increase the taxes on all of these athletes, movie stars and CEO's who make over $1 million a year, and lower taxes on middle-income people, even if only as a simple matter of fairness.

We also should begin a boycott of all of these major league sports teams who are paying these ridiculous salaries, and especially a boycott of all products with their nicknames on them because they take in so much money in this way.

I know we will not do this, Mr. Speaker, but if these salaries continue to escalate in such a crazy manner, the Congress should at least take action on the tax front. Already, mainly thanks to big government, the gap between the rich and the poor is growing rapidly. We need to recognize this problem and do everything we can to make sure that America once again becomes the fair Nation that it was in the past.

CONGRESS SHOULD NOT BE CAUGHT UNAWARES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. BACHUS] is recognized for 5 minutes.

Mr. BACHUS. Mr. Speaker, sometimes we are caught unawares without any warning. Last month there was a commuter strike in San Francisco where over 270,000 commuters found themselves without a way to work and a way home, when the 60-day cooling-off period expired on a labor dispute out there and the San Francisco Bay area's commuter railroads were shut down.

About the same time here in Washington, afternoon commuters who were going home on VRE suddenly found that their trains were not leaving Union Station, and tens of thousands of them were stranded when dispatchers at Norfolk Southern called a wildcat strike. Now, these were regional strikes, they were unforeseen but they caused a great deal of disruption.

What may be happening to our Nation that I think most of the Members of this body are unaware of is another strike on the magnitude of the UPS strike. The gentleman from New York mentioned "Groundhog Day," where suddenly Bill Murray woke up and it was the same day all over again.

We could very well be facing that again later this month. The date: October 22. Amtrak is faced on that day with a possible national shutdown because of an impasse between the Brotherhood of Maintenance of Way employees and themselves over wages and work rules.

What precipitated this latest crisis was a Presidential emergency board, actually ruling 232, recommending that Amtrak pay the union employees what amounts to $25 million in wage increases, including some retroactive payments, and left another $30 million in arbitration. If this pattern were to continue, if this Presidential emergency board ruling were applied to all 27,000 Amtrack employees, it would cost Amtrak an additional $136 million. Amtrak, which as we all know is financially strapped, has simply taken the position that it cannot pay what it does not have, and it cannot pay these increases.

As I said, this 30-day cool-off period expires on October 22. That is one day after we return from recess. At that time, I fully expect that Congress will be in the middle of resolving a strike or taking steps to prevent a strike. If Amtrak is shut down, it will not be a commuter authority, it will not be like San Francisco or Virginia, it will be nationwide. It will not be thousands of commuters, it will be millions.

On the northeast corridor alone, think about this impact: Not only does Amtrak operate several hundred trains, but also commuter authorities in Boston, the MBTA operates over Amtrak territory; Connecticut DOT, Long Island Railroad, New Jersey Transit, SEPTA, Southeastern Pennsylvania Transit Authority; MARC and VRE. We are talking about commuters all up and down the northeastern corridor being unable to get to and from work. We are also talking about 73 freight trains on the northeastern corridor alone that would not be able to get to and from their customers.

If this happens, the strike in San Francisco will pale by comparison and it will not be one city.

What can we do about this? I would urge the Members of this body to come together and push for reauthorization of the Amtrak bill, or to authorize the Amtrak bill that has been reported by the Committee on Transportation and Infrastructure on which I am a member.

I would also urge labor not to take this position of a win-at-all-costs position. Unfortunately, they are holding up the authorization legislation this year because they are opposed to the same language in the bill that two years ago they wrote, language which would have been enacted as part of this year's tax bill and given Amtrak access to funds. Now, these same unions are demanding a pay increase. They are now demanding that Amtrak pay this.

In conclusion, Mr. Speaker, we have got to start thinking about what we are going to do. If we do not, we will wake up October 22 or sometime thereafter faced with a national crisis, and the American people, and us, will be caught unawares.

Mr. Speaker, I include for the RECORD data in support of the topic of my special order this evening:

EFFECTS OF A 1 DAY STRIKE AGAINST AMTRAK

Amtrak either operates or allows access over its tracks to 10 commuter agencies serving communities in 12 states. A one day strike would strand or frustrate the communities of nearly 600,000 commuters.

Depending on the scope of the strike, all Amtrak trains could potentially cease operation. Amtrak's average daily ridership is 60,000 passengers. This would idle 253 trains, stop service to 510 communities, 130 of whom have no direct air service, and 113 of whom do not have intercity bus service.

Each day of the strike will likely cost $3.8 million of lost revenue while costs will likely go up. In addition, Amtrak receives nearly $200,000 each day in mail revenues which would likely be lost. Mail service would be delayed to 35 cities nationwide.

Freight train operations on Amtrak owned property would also be disrupted or canceled. On the Northeast Corridor alone, freight operators serve 308 customers, including such large industries as Chrysler, Proctor and Gamble, and Delco Battery. Twenty-seven of the 308 customers are listed as Fortune 500 companies. Amtrak is a vital link for all freight shippers and their customers along the Northeast Corridor. Each day approximately 73 freight trains use the Northeast Corridor and 2 daily trains serve 6 customers on the track Amtrak owns between Porter, Indiana and Kalamzaoo, Michigan.

There is currently nearly 250 non rail-related construction sites on or near the Northeast Corridor. To access these sites, construction crews must cross Amtrak property each day to access job sites adjacent to the corridor. In the event of a strike, Amtrak could not safely allow access over its property potentially curtailing or idling work at these sites.

In addition, to the lost revenues, Amtrak expects that additional costs will be incurred from the securing of facilities and equipment. This cost will escalate with each day the system is idled.

The effects of the strike will linger for several months and be reflected in lost reservations and customer uncertainty. The strike will also damage customer loyalties enjoyed by commuter authorities. Even a short strike could be devastating to the Virginia Rail Express still reeling from service disruptions in June and July.

Once any portion of the railroad right of way that Amtrak owns or inspects has had a complete shutdown, it could be up to 24 hours before any train can operate again.

This time is required to perform federally mandated safety inspections.

If a system shutdown lasts more than 2–3 days, condition such as rusty rails could keep the railroad shutdown for as much as 1½ days beyond resolution of the dispute. If a system shutdown lasts longer than 3 days, it will take as much as 1½ to 3 days before trains can operate again.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Washington, Mrs. LINDA SMITH, is recognized for 5 minutes.

[Mrs. LINDA SMITH of Washington addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

WHITE HOUSE INTENTIONS AT KYOTO CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. DELAY] is recognized for 5 minutes.

Mr. DELAY. Mr. Speaker, I rise today to talk about the Clinton White House and its intentions at the Kyoto Conference regarding global warming. Most Americans are not aware that there will be a conference in Japan.

Protecting and preserving the environment is a goal shared by all Americans. We all want to drink clean water, we want to breath clean air, and we want to pass on a cleaner America to our children. We could get there by taking common sense steps to clean up our environment, by encouraging smarter partnerships between State and Federal governments, and by relying on sound science while resisting media scares, but we cannot get there by increasing regulations, increasing taxes, limiting freedom, slowing economic growth, and hurting our Nation's competitiveness. We cannot get there with policies that encourage abortions worldwide.

Sadly, the Clinton administration has embarked on the second path. They have promulgated clean air regulations that will strangle economic growth and affect every American family's lives.

□ 1830

They have floated an energy tax that will hurt American consumers, proposing as much as a 60-cent increase in the cost of a gallon of gas. They have publicly supported policies that will lead to a worldwide assault on unborn children, and they may even sign off on a global warming treaty that will hurt our competitiveness at the expense of other nations, cost Americans thousands of jobs, all for a cause that makes, frankly, Chicken Little seem rational.

Today I want to focus on the Global Warming Treaty that will be discussed at the Kyoto conference later on this fall. Asthmatic children will be victimized by this treaty. Just look at what is going on today.

In order to stay in compliance with its provisions, the Environmental Protection Agency has embarked on a crusade to ban inhalers used by asthmatic children because they contain chlorofluorocarbons. Though CFC-powered inhalers account for less than 1½ percent of the world's CFC emissions and although these same inhalers are the best and cheapest way for inner city children to get relief from asthma, and I do not know if Members know, but inner city children are six times more likely to die from asthma attacks, these inner city children get relief by these cheap and good inhalers, but the EPA wants to eliminate these products from the market.

Dozens of medical groups have petitioned to bring some common sense to the EPA, but those pleas, unfortunately, have fallen on deaf ears. The regulations will go forward, no matter what will happen to the children of this country and around the world, for that matter, because many countries follow the lead of the EPA.

But it is not just asthmatic children who will be victimized by this treaty. Unborn children will also be victimized. Just last week the Vice President, AL GORE, implied that overpopulation fosters global warming and suggested that expanding abortion programs in developing countries would help protect the environment.

According to Washington Times, the Vice President said, and I quote,

> The Vice President, warning that the overpopulation fosters global warming, yesterday suggested expanding birth control and abortion programs in developing countries to help reduce the environmental threat.

Mr. Speaker, killing children is no way to protect the environment. Children will not be the only victims of this Global Warming Treaty. Our Nation's economic health is also at stake. At the Kyoto meeting the United States and other developed nations may enter into an agreement that will force them to reduce greenhouse gas emissions. That agreement, however, will let developing nations off the hook. In fact, developing nations such as China, South Korea, India, and many others, will not face any emissions reduction requirements. These nations will benefit at the expense of the United States and retroactivity of the developed world. The United States will be forced to raise taxes and impose harsh emissions restrictions and regulations, causing U.S. companies to ship jobs and factories overseas to those nations not bound by the Kyoto treaty.

Mr. Speaker, I think the real environmental disaster is this administration and its attitude towards our world's children and for America's working families.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2169, DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–314) on the resolution (H. Res. 263) waiving points of order against the conference report to accompany the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2607, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 105–315) on the resolution (H. Res. 264) providing for consideration of the bill (H.R. 2607) making appropriations for the government of District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes, which was referred to the House Calendar and ordered to be printed.

HOUR OF MEETING ON THURSDAY, OCTOBER 9, 1997

Mr. DREIER. Mr. Speaker, I ask unanimous consent that when the House adjourns today that it reconvene at 9:30 a.m. tomorrow.

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

There was no objection.

THE INTERNAL REVENUE SERVICE CUSTOMER SERVICE IMPROVEMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. MORAN] is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, my constituents continually remind me of their frustration with the IRS. Not all the problems taxpayers have with the IRS are making headlines. The kinds of problems my constituents tell me about are less spectacular but no less frustrating. Oliver Wendell Holmes famed the quote, "Taxes are what we pay for a civilized society," but in my opinion, this does not justify the government's collection of taxes in an uncivilized manner.

I have introduced the IRS Customer Service Improvement Act. I have supported the IRS Customer Service Improvement Act legislation addressing

numerous taxpayer complaints in dealing with what most Americans consider to be one of the most onerous of all Federal agencies.

For example, I recently spoke with a CPA in Kansas who told me of his many experiences with the IRS. One of his greatest frustrations has always been the ability to reach anyone at the IRS when he had a question he needed answered. Recently, in an attempt to get some simple information, he was forced to assign an employee to staff a phone and wait to connect with an IRS agent. Well, patient paid off Mr. Speaker, and they finally did get through—5 hours later. This is just one example but it is simply unacceptable—and the list goes on.

The IRS Customer Service Improvement Act addresses seven areas of taxpayer concern.

First, it would require the IRS to implement a plan to have all phone calls answered promptly by IRS employees, not machines or voice mail mazes.

Second, the bill would require all letters and notices mailed out by the IRS to be signed by an IRS employee. Too often notices are mailed out, sometimes in error, to taxpayers who then have to sort out what their mistake was and what they need to do about it.

I hear this complaint repeatedly. And while we expect taxpayers to be accountable; IRS agents should be as well.

Third, the bill would equalize the interest rate you pay the IRS for underpayments, making it equal to the interest that the IRS owes from you for overpayments.

Currently, the IRS holds an unfair advantage.

Fourth, one of the really discouraging revelations of the oversight hearings has been the IRS's preference for targeting taxpayers who do not have the resources to defend themselves from audits.

The IRS Customer Service Improvement Act would address these injustices by shortening the period of limitations the IRS must meet to assess additional taxes on returns filed by middle-and low-income taxpayers. Current limitations allow the IRS to find errors on three-year-old returns that can snowball into 3 years' worth of penalties and interest for people who cannot afford to fight. The new limitation would not apply to fraudulent returns, so those who do, in fact, cheat would not be protected.

Fifth, simple mathematical and clerical errors should not lead to large, unexpected penalties. This bill would require the IRS to notify taxpayers of mathematical or clerical errors in their returns within 6 months. Late notice would cancel penalty and interest.

Six, taxpayers would have the opportunity to correct their errors quickly, within 60 days, without facing penalties. Most Americans are more than willing to make good on simple mistakes if given the opportunity.

Seventh, the bill would include a provision that makes electronic filing of taxes voluntary for small business.

[The Taxpayer Relief Act of 1997 included a 1-year delay in the enforcement of mandatory electronic filing, but this provision, like the bill sponsored by the gentleman from Washington [Mr. HASTINGS], makes the exemption permanent.]

Make no mistake, this legislation is certainly not a substitute for full-scale, long-term tax reform, which should be the goal of this body. If these provisions are successful in making the IRS more accessible and fair, it still would not change the fact that the U.S. Tax Code is far too complex and takes too much money out of the hands of working families.

Until the day that wholesale tax reform is in place, the American people will be forced to continue to deal with the IRS every day. With this bill we can help level the playing field for taxpayers, while making the IRS more accountable and accessible. if you want to remind the IRS what the "S" in its name stands for, please join me in supporting this bill.

I would now like to further elaborate on how our tax code in all its complexity, negatively weaves its way into all our lives. While acknowledging the fact that we must have some capability of collecting taxes, we must pursue avenues by which we do so more efficiently and accurately. Further we must leave behind what is perceived as a cold, heartless bureaucracy that cares little of the frustration and devastation it places upon those the IRS purports to serve: the American Taxpayers.

Mr. Speaker, I quote, "The purpose of the Internal Revenue Service is to collect the proper amount of tax revenue at the least amount of cost, serve the public by continually improving the quality of our products and services; and perform in a manner warranting the highest degree of public confidence in our integrity, efficiency, and fairness."

Does this statement accurately reflect your view of the IRS? If you are like most Americans, probably not. However, this is the actual mission statement that guides the IRS in serving the American people.

With businesses throughout our Nation constantly reevaluating and retooling their efforts in improving customer services, too often our Federal Government remains unresponsive and behind the curve in serving its clients—the American taxpayers. Nowhere in government is this more frustrating or directly touches more lives than when dealing with the IRS.

Recently this Congress passed some healthy tax relief. In general, my constituents viewed this very positively. However, they also expressed justifiable criticism that the tax relief provisions that were passed further complicated an already complex Tax Code.

And while I agree, we must observe that this is the absurdity of the present tax code: to even cut taxes we must complicate the tax code further.

Mr. Speaker, let us look at some notable statistics involving the Internal Revenue Service: The IRS is twice as big as the CIA and five times the size of the FBI, with over 100,000 employees who control more information about individual Americans than any other agency. Currently there are 480 separate IRS tax forms. Over 10 million correction notices are sent out each year. Small businesses spend $4 dollars in compliance for every $1 dollar they actually pay in taxes to the IRS. Individuals and businesses spend at least 5.4 billion hours a year figuring out their taxes, more man-hours than we spend building every car, truck, and airplane manufactured in America. It is estimated that we spend between $200 and $300 billion each year paying others to complete their complex tax forms for them. According to the IRS, in 1995, 2.1 million tax returns were audited at a cost to the IRS of nearly $1 billion dollars.

The IRS has spent $4 billion dollars on upgrading its computer system that it now admits doesn't work. According to a recent General Accounting Office report that the IRS could not account for $216 billion in delinquent taxes in 1996. Other comprehensive GAO audits have shown consistently that the IRS cannot even balance its own financial books. Again, the agency charged with the collection and accounting of the nation's tax revenues has consistently failed to balance its own books.

Mr. Speaker, this is a pretty sad commentary on the current state of the IRS.

We now have a unique opportunity, and in fact an obligation, to begin a serious national debate on how best to fundamentally reform our Nation's broken tax system. It is a system where we spend simply too much time filling out too much paperwork to send too much money to Washington.

Under the current tax code the Federal Government simply has too much power and control over peoples' lives.

Since the income tax was first established, politicians have talked about reforming, fixing, or replacing the system, only to end up making it more unfair, more complex, and more intrusive. The New York Times, in a 1909 editorial opposing the very first income tax, predicted, "When men get in the habit of helping themselves to the property of others, they cannot easily be cured of it."

Eighty-eight years later, this prediction has proven disturbingly true. For the time being, however, let us implement the reforms included in the IRS Customer Service Improvement Act as we move toward further discussions over replacing the current Tax Code.

THE ISSUE OF PARTIAL-BIRTH ABORTION

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Wisconsin [Mr. NEUMANN] is recognized for 60 minutes as the designee of the majority leader.

Mr. NEUMANN. Mr. Speaker, I rise this evening to speak about a topic I do not want to generally talk about on the floor. And to my colleagues who follow C–SPAN on the afterhours quite regularly, I have never spoken on this

particular topic before, and frankly, I would rather not speak on the topic, because I do not think we should even be talking about this topic in the U.S. of America. It should be an issue that was dealt with a long time ago. It should be an issue we do not even need to talk about, because it is so simple and straightforward in terms of how wrong it is.

Two years ago, three years ago, when the good people from southeastern Wisconsin elected me to this office and gave me the privilege of serving here in the U.S. House of Representatives, one of the first things that happened out here in Washington, as I swore to uphold the Constitution of the United States of America, part of that Constitution guarantees life, liberty, and the pursuit of happiness to every American citizen.

When I think about the topic, and we dealt with this here in the House today, and it is the reason for being here this evening to talk about it, when I think about this issue and how it relates to our Constitution, and equally more important is how it relates to the moral values in the United States of America, and how we could let this continue in this great Nation we live in.

So I rise tonight to speak on partial-birth abortions, and I am going to spend a portion of the hour allocated here this evening on this topic. Again, it is a topic that I would rather not talk about, because I do not think the issue should even be discussed. It should very simply be solved. There should be no partial-birth abortions in the United States of America, or in any civilized society.

I think one thing that happens in our society is we take very difficult topics and we say they should be shoved under the rug. We would rather not see them and not know them, because if we do not know them, we do not have to be upset about them.

To be perfectly honest, when I was sworn in 2 years ago, I had no idea that partial-birth or live birth abortions were going on in this great Nation we live in. Some people gradually from the pro-life community forced me to focus on this particular topic. They forced me to focus on what a partial-birth or live birth abortion actually was.

What happened to me as I learned about this topic and learned what was actually happening is it became harder and harder and harder to not specifically address the topic, because it is so wrong. We cannot turn our backs on it. It does not go away by hiding the fact. It is an issue. It is a fact that partial birth or live birth abortions are going on in the United States of America today.

I have to say that if this was done to a dog or if it was done to an animal, the Humane Society, the people that protest these sorts of things, they would be standing out on the Capitol steps today protesting that this was being done to animals. Yet, we continue to do it in America to live babies.

I want to describe what a partial-birth abortion is. I want to show Members just how outrageous this process is. Again, I know most people in America do not want to know about it. They cannot believe this sort of thing is going on thousands of times in the United States of America each year. I think it is important, and it is something we as a society cannot turn our backs on.

What happens in a partial-birth abortion is a doctor takes a forceps and reaches into the womb of a pregnant woman. He finds the leg of the baby or the ankle of the baby, and he literally pulls the ankles and arms of the baby out of the woman.

At this point, with the ankle and the arms actually out of the woman and the legs moving around, the doctor sticks a scissors or a forceps in the back of the head of the baby, so just before the head is delivered the baby is killed. That is what a partial-birth abortion is. I have to tell the Members, back home when I talk about this topic, the room gets dead silent. Any time I am in a room talking about it there is dead silence, because people do not want to talk about it.

What is really amazing to me is they call me radical. I am willing to say we should end this practice in the United States of America. I am the one they call radical because I say this is wrong. Killing a baby whose arms and legs are moving around, putting a scissors in the back of the head of that child, makes me radical when I say that practice should be stopped? What kind of a Nation is it that we live in that would consider my position on this, that this practice should be stopped today, as radical, and the people that say it is OK if we go ahead and do this, for whatever excuse they want to, those are the normal people in this country? Wrong. Those are the radical people in this country.

It is about time it was brought to the attention of the American people just exactly what is going on in a partial-birth abortion or live birth abortion, and the process should be banned. I would like to bring folks up to speed on what is happening on this particular issue.

We have brought a bill to the floor of the House of Representatives to ban this outrageous practice. As a matter of fact, in the House of Representatives we have from the State of Wisconsin nine elected Representatives here in the House. Some are Democrats, some are Republicans, some are pro-choice, some are pro-life.

All nine elected Members from the House of Representatives from the State of Wisconsin voted to end this practice. Whether we were pro-life or pro-choice, wherever they are on that particular discussion, they all understand that this topic is far beyond normal, and it should be ended immediately, and all nine of us voted the same way on this issue again today.

□ 1845

As a matter of fact, in the House of Representatives 297 out of 435 of us looked at this picture and said this is outrageous. I know there are some others over there who said, well, we probably should end it in most cases but maybe sometimes it is all right.

And again the bill did make the exception for the life of the mother, but they want to add things like the "health" of the mother. We are not sure they are talking about financial health or mental health or physical health. But they want to make enough exceptions so that we can keep doing this in this Nation, and that is just plain wrong.

Mr. Speaker, I point out, this is not just a pro-life/pro-choice discussion. Looking at this picture, if this was an animal that we were describing up here, there would be activists all over this Capitol protesting this procedure. This is a life, a precious baby. I was there when all three of our children were born, and I cannot imagine on our worst day in this Nation that the good people in this country would be willing to understand this process and not stop it.

So in the House, 297 of us voted to end the process. In the Senate, the majority have already voted to end partial-birth abortions in America. The bill is about to go to the desk of the President of the United States, and he is expected to once again veto the bill. After the bill is vetoed, it will come back to the House of Representatives. When it comes back to the House, we will have another vote on it. We need two-thirds, or 290 votes on it, to override the President's veto.

Mr. Speaker, we had 297 votes here today, and we fully expect to overturn the veto in the House of Representatives. In the Senate, they are currently three votes short of the necessary votes to overturn a veto by the President of the United States.

So this evening to my colleagues I have two messages. First, I would like to encourage my colleagues to talk to the people in the House that did not vote the right way today and encourage them the next time to take a look at what a partial-birth abortion is. Get rid of the political rhetoric. Get rid of the idea that we are going to be called a radical if we vote to end live-birth abortion.

Mr. Speaker, the radical people are the ones who think it is all right that if the arms and legs of the baby are moving around, that it would somehow be acceptable to stick a scissors in the back of the baby's head. That is radical, and it is about time somebody

starts calling those people the radical people that they really are and starts understanding that the people that are fighting to stop this procedure are the normal people and represent the masses of people in the United States of America.

In the State of Wisconsin, people looked at this procedure the last time this vote came around, and they actually started recall petitions against the two Senators from Wisconsin who voted to allow this procedure to continue. They were short. They accumulated 300,000 petitions. They were short of the number necessary to actually do a recall.

Now, I do not know how I feel about recall elections; not real good about them for the most part. But the idea that this many people got motivated to do something about stopping this process, that says a lot. I think it says a lot about the people of Wisconsin and nationwide, because when people understand what a partial-birth abortion is, it is going to become clear that the process should be stopped.

What I expect to happen in the not too distant future, I expect the bill to go to the President of the United States, and I would expect the President to veto this. And I would hope my colleagues would talk to the President and with their friends on the other side of this body and do everything they can to make sure this is not vetoed and that this process is banned and outlawed in the United States of America.

I also hope when we get the bill back that we maintain the 290 votes necessary to override the veto here in the House. And I hope that the good Lord provides the wisdom to the Senators who voted for allowing this procedure to continue to see the wisdom to changing their vote the next time it comes back to them so that we can override the President's veto.

Mr. Speaker, I very seldom talk on this topic. Most folks who follow C-SPAN presentations know that I talk a lot about budget and budget procedures and tax cuts and so on. But before I go to that topic, I would like to go to another one that I have not talked about for some time, and that is the Social Security system.

There are a lot of senior citizens in America today that rely heavily on the Social Security system for their day-to-day living needs. In Washington, we have been bringing good news to people. We have been bringing the news that for the first time next year the budget will be balanced, the first time since 1969. We are lowering taxes, the first time in 16 years that has happened. Medicare has been restored for our senior citizens.

But all the problems have not gone away, and we need to understand that even after we balance the budget, the Social Security system remains in jeopardy. So before I go into other budgetary matters this evening, I want to talk briefly on the Social Security system and make sure that we make clear what is happening in the Social Security and what we need to do to solve the problem.

The Social Security system last year brought in $218 billion in revenue. They went into the paychecks of working families and people in America today and took out Social Security taxes. When they were done collecting those taxes, they collected $418 billion. They wrote out checks to our senior citizen of $353 billion. That is right, they actually collected more money in taxes than what they paid back out to our senior citizens in benefits. That is $65 billion, as a matter of fact, that they took in more than they paid back out to our senior citizens in benefits.

Mr. Speaker, the reason for that is because the baby boom generation is rapidly headed toward retirement. And when the baby boom generation gets there, these two numbers are going to be turning around. There will be less money coming in from taxes than money going back out to our senior citizens in benefits.

The idea is, we collect the extra money now and put it into a saving account, we let the savings account grow until the baby boom generation reaches retirement, and then when these two numbers turn around and there is not enough money coming in to pay the bills, we go to that savings account, get the money, and make good on the Social Security checks that have been promised to our senior citizens. That is what is supposed to be happening.

It should come as no great surprise to anyone who closely follows Washington that that is not what is going on. What Washington is doing is, they are taking that $65 billion, they are putting it into the big government checkbook. Think of this much the same as any household checkbook. They are putting it in the general fund or the big government checkbook.

When they are done writing checks out of the big government checkbook, they have overdrawn the checkbook. That is the deficit. So they write out more checks than what they have in the checkbook each year. That is why we have had a deficit each year since 1969.

With no money left to put down in the Social Security Trust Fund, or into that savings account, they simply at the end of the year write an IOU to the Social Security savings account.

This is what is going on today. Instead of that money being put aside in the Social Security Trust Fund the way it is supposed to be, the money is going into the government general fund, the big government checkbook. They spend all the money out of the big government checkbook so there is no money to put in the Social Security savings account, and they simply write an IOU to the Social Security savings account. Mr. Speaker, that is wrong and needs to be stopped.

It is important to understand that when Washington says they are going to balance the Federal budget, what Washington means by balancing the Federal budget is, when they are done writing these checks out of the government checkbook, there is an even or zero there.

Well, what that fails to take into account is, this $65 billion that came from Social Security that is supposed to be down here in the trust fund was put in the big government checkbook, and even if the big government checkbook is balanced, they still have not put the money down in the Social Security Trust Fund.

So even after we reach a balanced budget next year for the first time since 1969, and let us not downplay that, that is important and good, it is a great step in the right direction, but even after that is done and we reach a balanced checkbook or a balanced budget, they are still using the money that is supposed to be put in Social Security to make it look like it is actually balanced.

So what are we doing about that? In my office, we have drafted and introduced legislation. It is called the Social Security Preservation Act. And this legislation does not take Einstein to figure out. I think in most businesses across America today it is straightforward. It is what you should be doing with your pension fund. It simply says that the money collected for Social Security must be put directly into the Social Security Trust Fund.

Again, this is called the Social Security Preservation Act, and it is very simple. It simply says that that surplus money that is being collected today for Social Security to preserve and protect Social Security for our senior citizens must be put into the Social Security Trust Fund.

It never fails to amaze me. When I am at a town hall meeting and say, "How many people think we ought to be doing it this way?" it is virtually unanimous. Outside of Washington, everybody believes we ought to be doing this, not just a few or one or two here or there. It is pretty straightforward. If a business took the pension money, put it in the checkbook and spent it and put an IOU in the pension fund, it would be illegal and they would be arrested. There is no question about it.

So the second topic I wanted to deal with tonight before we get into some of the other budgetary matters is the idea that this money for Social Security needs to be set aside for the purposes of Social Security.

The third topic that I wanted to go into, and, again, as we go into this, it is important to note that we are going

to hit the first balanced budget for the first time since 1969 next year. We are going to start running surpluses. So what we should be doing is restoring that money for the Social Security Trust Fund.

Mr. Speaker, I think it is important that we know that we have hit a balanced budget for the first time since 1969. As we talk about these tax cuts, the tax cuts are part of the surplus that is being accumulated, and there is enough money in that surplus to both restore the Social Security Trust Fund, keep a balanced budget, and reduce taxes at the same time.

I am going to show why that is all possible in a few minutes, but before I do I that, we should go through what is in the tax cut package, because of everything else we have done out here in Washington, D.C., this year, this is going to have the most immediate, direct impact on the people who get up every morning and go to work for a living.

What we are really talking about when we talk about tax cuts are these folks who do get up and go to work for a living. Those folks, instead of sending money to Washington, they get to keep it for their own homes and their own families. That is what tax cuts are about.

Let us start with one that affects 550,000 Wisconsin families; 550,000 Wisconsin families alone will benefit from the $400 per child tax cut next year.

The way the tax cut works is this: For all the children under the age of 16, at the end of the year the folks figure out their taxes and how much they would have sent to Washington, D.C., and subtract $400 for each one of those kids. It is very simple to understand: Figure out how much would have been owed, subtract $400 off the bottom line. This is a tax credit, not a tax deduction.

But let me put this a better way. In January of next year, what should happen is, those 550,000 families should go into their place of employment and simply ask that they reduce the amount of money sent to Washington by $33 per month per child.

So on January 1 of next year, I would hope that the Wisconsin families and others like them all across America would go to their place of employment and reduce the amount of money that is being withheld for Federal tax purposes by $33 per month. The $33 per month is $400, the total tax credit, divided by the 12 months in the year.

So I hope on January 1, if it is a family of five out there, three young kids at home, 3 times 33, or roughly $100 a month that should be kept in their own home instead of sending it to Washington.

Mr. Speaker, there is more to it. A lot of times people ask me about education. I am a teacher by trade, and I think education is extremely important for the future of this country. If our education system is not strong and our young people are not well educated, there is no hope for this country. I think the significance and the importance that we place on education is seen in the tax cut package.

As a matter of fact, if he is a freshman or sophomore in college in virtually all the cases, if they are paying $2,000 or more to go to college, freshman or sophomore in college or tech school, they will get to keep $1,500 more in their own home next year to help pay for their college tuition. For freshmen and sophomores, it is basically $1,500 in most cases, and for juniors and seniors, it is 25 percent of the first $5,000 of cost, or roughly $1,000 in most cases. So when we talk about college students or people going back to school for an education, this is real dollar help.

A family of five in Wisconsin where one is in college and two of the kids are still home, they will be keeping $2,300 a year more of their own money in their own home starting January of next year. They should literally increase their take-home pay by $200 a month.

A family of five, one in college and two kids still home, they get $400 for each one of the kids still home, which is $800, plus $1,500 for the college tuition credit; $2,300 for a family of five, two kids at home and one off to college.

Mr. Speaker, it does not end there. I had a person at one of our town hall meetings ask me. She said to me, "I am married without any kids, and I am going back to school." This young lady apparently was working full-time as well as going to school at the same time. She said, "Does this affect me?" And the answer to that question is definitely yes.

As a matter of fact, to that young lady who asked me the question, what happens for her is, the tuition that she pays to go back to school while she is working full-time, if it is less than $1,000, will be fully refunded by decreasing the amount of taxes she sends out to Washington.

If we are talking about young people who are trying to get themselves a better opportunity by improving their education, that education cost will be deducted at the end of the year and will show up as a tax credit for them.

So it is not just the college-age students that we typically think of as college-age students. It is young people out in the work force, going back to school to provide a better opportunity for themselves and their family in the future.

One more thing. There are a lot of college graduates that take their first job and then, while they are working, go back to school to get their master's degree. That would fall under the classification of 20 percent of the first $5,000 of costs. So those folks that are back in school getting their master's degree after they have already graduated from either high school or college, they are eligible for this tuition tax credit.

Mr. Speaker, our commitment to education, however, did not end there. In addition to the college tuition credits, we have set up a program where, if there are young children in the family, up to $500 a year can be set aside for those young children, so that when they reach college age there will be money available for them to go to college. It works like this.

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They can put up to $500 per year into the account. The money accumulates tax free until the child reaches the age to go to college. They can then take the money out of that account and use it for purposes of going to school.

Where I found that a lot of people are interested in this is that the grandparents, a lot of times there is a lot of grandparents with grandkids who wonder what they should get them for Christmas, birthdays, whatever. We found a lot of grandparents that are interested in using this educational savings account as a gift to the grandchild. And what better gift than something that will help them with their college education when they reach college age?

The tax cut package did not end there. A lot of young people asked me, "What about us? You have not talked about us yet." A lot of senior citizens asked me, "You really have not hit us yet in terms of helping lower our tax burden."

To them, if 74 percent of the seniors in Wisconsin own their own homes, and lots of young families own their homes and are transferred around the country from maybe a higher home cost area to a lower cost area, the home sale tax code has changed. If it is their personal residence and they have lived in the home for two years and they sell it, there are no Federal taxes due on the sale of that home. That impacts folks in a lot of ways.

We have people from California where home prices are higher than they are in Wisconsin, transferring to Wisconsin for whatever job purpose, to provide a job opportunity, for a better life for themselves and their family, so they sell that home in California and they come to Wisconsin where it is a little less priced for a home. Rather than owing big amounts of money to the Federal Government for taxes on the home they sold in California, there is no tax due on that sale.

It works also for senior citizens who used to have what is called the 55 exclusion. A lot of folks were very familiar with the one time age 55 exclusion. That is gone. A lot of our senior citizens took the one time age 55 exclusion, sold their big home and bought a

smaller home that they plan to live out their retirement in. If they bought that smaller home 10 or 15 years ago, they might have bought it for $40,000 or somewhere thereabouts, it has probably appreciated significantly.

Maybe now our senior citizens are ready to sell that home that they bought at age 55 or age 56. So they took the one time exclusion 10 years ago, they are in this other home. If they would have sold that home before, there would have been no exclusion, they would owe Federal taxes on it. Under the new law when the senior sells their home for whatever reason, there are no Federal taxes due provided they have lived in the home for a two-year period of time.

Again, there is an upper end cap in this, but in Wisconsin it will affect virtually none of the homes, and elsewhere in the country there may be some effect. But foremost cases, there are no Federal taxes due.

The other ones that talk to me about it is people where all their kids are grown and gone and they have left the home. Kids are saying none of these things have affected me yet. There is also what is called the Roth IRA. We have a lot of union workers in particular who say, "I am in a 401(k) so I cannot do anything more to save up for retirement." The Roth IRA is available even if people are already in a 401(k) or some other kind of retirement plan.

The Roth IRA works like this. They put in after-tax dollars but the money accumulates tax free to retirement, and when they reach retirement and take the money out, it is absolutely tax free. This is a dynamite way to save up for retirement. They put in after-tax dollars, the money accumulates tax free. When they take it out at retirement, it is absolutely tax free.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, I think the important point of all this is there are a lot of different savings accounts that may work for a family, but the emphasis is that the tax system as we have passed it recognizes the importance of saving for the future. Right now I think the consumer debt is something like $4 trillion nationwide. It may even be bigger than that. But we as a society need to start saving money for the future. And by implementing these new IRA type savings accounts, that is what we are doing.

Mr. NEUMANN. Is it not great that instead of the government dictating and mandating what kind of program is going to fit all the people in America, instead of doing that, we set this plan up and we let people decide which way they would like to save up for their own retirement.

The other great thing about the Roth IRA is that if they are a young couple and they do not own their own home yet, they would like to save up to buy their first home, they can put the money into the Roth IRA. It earns interest tax free. They can take up to $10,000 to buy their first home, or if that same young couple would later like to go back to college and save up to go to college, they can take money out of the Roth IRA for purposes of either the first home or going back to college. It is really a good setup for an awful lot of people in this country.

I have not mentioned the capital gains tax cut. Maybe Mr. KINGSTON would like to go through a few of the details on the capital gains tax cut.

Mr. KINGSTON. Mr. Speaker, I appreciate the gentleman yielding to me.

The capital gains tax rate has been 28 percent on items that a person sells for a gain, the amount of money that they have made on it. Now, it is ironic because there again we are taxing savings and we are taxing money that has already had taxes paid on it.

The typical example that I see over and over again in my area, which is a growth area where we have a lot of senior citizens, many of them have saved all their lives. Now they are in their upper years and they want to cash in maybe some of the stock that they have saved and maybe use it for a medical emergency, maybe for some long-term care, whatever, residential care, but they are taxed at this 28 percent rate.

Under our plan, depending on what their bracket is, they would be taxed at 20 percent, possibly as low as 15 percent, depending on their income bracket. Personally speaking, I would love to have zero capital gains tax for people like that, but if we can start with that, I think it will help seniors a lot and, again, encourage people to save money.

Our office went back to 1956 Treasury records and every time that the capital gains tax rate was low, revenues from capital gains had increased. But when the rate is high, people hold their assets and as a result there is not much revenue from it. I believe that this is going to be extremely beneficial, not just for the economy but for deficit reduction.

The gentleman has been such a champion on deficit reduction, I almost would be willing to predict that with the surge of new sales of assets and so forth because of this capital gains tax reduction, that we will potentially as soon as next year be able to balance the budget.

Mr. NEUMANN. I do not know if you caught the new numbers now being talked about out here in Washington. We are looking at a $23 billion deficit, the lowest deficit since the early 1970s. As a percent of GDP, it is the lowest deficit we have had since the very early 1970s.

Mr. KINGSTON. Under the Neumann budget, which you authored and I supported, had that passed, that deficit would have been zero probably.

Mr. NEUMANN. That is absolutely correct. Do you remember when we first introduced that? I was three months here on the House floor. Our leadership was kind enough to allow us to have a vote on our package. We only got 89 votes on it. It would balance the budget by the year 2000. Everybody said we cannot possibly do this by the year 2000.

Here we are in 1997, and because of two things, the economy has remained strong, but while the economy remained strong this body out here, the people that are here now slowed the growth of Washington spending. In the past whenever the economy was strong, Washington spending exploded. They spent all those extra revenues.

I have a chart, if the gentleman would bring that chart; as long as we are on that topic, I think it helps us to see. I think it is important to be able to see a picture of what has happened with the strong economy, with the strong economy at the same time revenues were growing to the Federal Government.

The body that is here now since 1995, rather than increasing spending as they always did in the past, we have slowed the growth of Washington spending. Before we got here in 1995, back in 1993–94 spending was growing at 5.2 percent annually at the Washington level. At the same time revenues started growing very rapidly to the Federal Government, we have literally slowed the growth of Washington spending. So it is these two things together that have put us in a position where we can literally get the budget balanced in fiscal year 1998.

I am not afraid to go on record, 1998–99, we will have the first balanced budget since 1969. We can do all of this because of this picture.

Mr. KINGSTON. Does the gentleman plan to reintroduce a budget next year which will balance the budget by 1998–99?

Mr. NEUMANN. I believe that we should introduce a budget that is balanced in 1998, yes. I think it would be inexcusable for this body, short of some major change in the economy, to not get to a balanced budget by 1999 at the very latest. The revenues are there. Our spending growth has been curtailed. There is no reason in the world that we cannot hit a balanced budget.

We keep talking about this in Washington language, a balanced budget, and out there in the real world that does not always mean a lot. Let me translate it because Alan Greenspan did a great job of it today. He talked about the fact that if we could get to a balanced budget and actually go past that and start running surpluses so we start paying down the Federal debt, interest rates may drop another half to a full point, so we could see lower interest rates.

That means something to families. When they are making their home mortgage payment, if the interest rate is lower, they just keep more money in their own home instead of sending it out here to Washington. That is what this is about. It is about real people having the opportunity to be able to afford to buy the American dream, a home or a car of their choosing, because the interest rates have stayed low. And when the interest rates stay low, when people buy those houses and cars, others have to go to work.

We talked about welfare reform. We finally got welfare reform to a point where able-bodied welfare recipients are required to go back into the work force. If a person is capable of working in our society, they cannot stay on welfare all their life. There is child care available, there is health care help there, but they have to get a job if they are able to work in this society.

Mr. KINGSTON. The way I always explain it, we get a lot of criticism: Why are you trying to cut taxes? I say it is very fundamental. Middle class people have more of their money, more of their own money in their pocket because we in Washington confiscate less of it. Then what is going to happen is they are going to spend more. They will buy not necessarily a lot of glamorous things but lots and lots of very important things in the economic chain: more CDs, more socks, more pairs of shoes, hats, shirts, basketballs. When they do that, more jobs.

Mr. NEUMANN. More jobs here in America for our kids so they can have the opportunity to live the American dream.

Mr. KINGSTON. That is exactly right. Because what is going to happen, the local drug store and the sporting goods store, the local restaurant, local clothing store will all expand to meet the new demand because American consumers have $300 or $400 more disposable income in their pocket. And when they expand, they create those jobs. More people are working, less people are on welfare, more people are paying taxes and the revenues are going up. That is the situation that we are in.

Mr. NEUMANN. In the community I live in in Jaynesville, WI, we build Suburbans and Tahoes there. And we can see the direct result of this picture of the deficit coming down so the interest rates stay down low. People can afford to buy Suburbans and Tahoes. That is job security for our people.

It is a direct translation. Low interest rates mean people can afford to buy the Suburbans and the Tahoes. When they buy those, they can afford to make payments on it. When they buy those vehicles, that means our people in Jaynesville stay employed. That is what this is about. It is about job opportunities.

Mr. KINGSTON. Yet as we are discussing this, and with a lot of gleam, I would say, to the degree that the deficit has fallen, the numbers are roughly about $260 billion down to $23 billion.

Mr. NEUMANN. Actually I have a chart here. I have one that actually shows where it was when we came.

Mr. KINGSTON. I think it is important. Let us show how much that deficit has fallen.

Mr. NEUMANN. When we came here, many of our colleagues tonight are playing basketball, so this is no pun intended. There is a good spirited basketball charity game going on out here tonight, but if we had all played basketball and not done our job, this shows what would have happened to the deficit.

This is the deficit stream that we inherited in 1995 when we came here. Remember 1993 was that big tax increase where they were going to try to get this under control. Even after that big tax increase, this is what we inherited in 1995 when I was first elected to office. The gentleman is right. It was going all the way up to $350 billion, if we did not do something about it. This is our 12 months work. Our first year, 1995, our 12 months in office, we brought the projected deficit down to this yellow line.

But at the same time we laid this green line into place. And just like we had done before, we made a promise to the American people that we would get to a balanced budget. Only this group is very different. Before 1995, every time those promises were broke. But we made a promise, too. It is this green line on the chart. The blue line is what we are actually doing. I think it is so significant. We are now in the third year of a 7-year plan to balance the budget but instead of the broken promises before 1995, we are not only on track, we are ahead of schedule to the point where we will get it done next year.

Mr. KINGSTON. The gentleman has touched on a very important point. In between the blue line of where the money actually is and the green line of where the plan is, I am scared to death that even on a bipartisan basis we will rush out and spend the money. I always say this is like somebody who is on a six-month diet and finds out at the end of the second month that they are ahead of projections, so instead of finishing the diet, in three months they go out on an eating binge and eat lots of ice cream and cake to celebrate. Are we going to do that? Are we going to rush out and spend this money, or are we going to do the right thing and apply it to the national debt?

Mr. NEUMANN. The "rush out and spend it" part? Over my dead body. That really is the attitude of an awful lot of us out here in Washington right now. We have had it with those past practices of breaking the promises to the American people, and we have had it with the 1993 concept of raising taxes.

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I do not know if the gentleman has had the opportunity to hear some of our colleagues here on the floor tonight before us. During the 5-minute portions this evening, they were talking about this big conference that will go on in Japan where they are going to tax our energy here in America but leave countries like China out from under this tax. And they are going to tax energy as much as 60 cents a gallon for gas. Has everyone forgotten what 1993 was like?

Mr. KINGSTON. If the gentleman will yield a second; also exempt China, Brazil, maybe India, and a couple of others.

Mr. NEUMANN. North Korea.

Mr. KINGSTON. North Korea. Major U.S. competitors will be exempt from this Clinton gas tax proposal. And why the administration thinks the time is right to increase the gas tax 20 to 40 cents a gallon——

Mr. NEUMANN. Sixty cents a gallon is what they are projecting under this proposal.

Mr. KINGSTON. Can my colleague imagine what that will do to the economy, to small businesses?

Mr. NEUMANN. What amazes me is that in 4 short years, the amount of time it has taken to turn this picture around, that we have actually curtailed, slowed the growth of Washington spending, we have had these changes from 1993, everyone has forgotten that in 1993 they raised virtually every tax they could think of.

We have gone through the tax cuts here and we have had a good time talking about finally how we are going to leave more money in the pockets of the people. It is not a gift from us, it is their money. We finally had a good time talking about the fact that taxes are coming down for the first time in 16 years. Has everyone forgotten 1993?

The discussion was a Btu tax; 4.3 cents a gallon gasoline tax. They did not spend the money to build better roads, they just spent it on other Washington programs; a 2.5-cent a gallon extension of another gas tax, and for senior citizens, the Social Security tax rates from 50 to 85 percent. I cannot even get done with all the tax increases they did.

Mr. KINGSTON. It is interesting because some of our colleagues right now are really pushing a Federal takeover of local school construction. They want the Federal Government to go in and build school systems.

Now, as the gentleman knows, bricks and mortar has always been the domain of local school boards. And school boards in local communities that have been responsible and have kept up with it, do not have the problem.

But what is also interesting about this debate, this urge to go out and

spend the money that some of our liberal colleagues have, is that when the gentleman and I talk about education, when the gentleman and I talk about the strengths of education, when the gentleman and I reflect back on our own educational history, we do not talk about, hey, I went to this beautiful school; it was three stories tall, and the bricks were so wonderful and the glass windowpanes were so special and the light sockets were just out of this world. We do not talk about that. We talk about, hey, I had Miss. Jones, I had Miss. Reynolds, and I had Miss. Musey, and I had Miss. Smith, and they were great teachers and they made a difference in my life. And not one of them would have been any different in a different building.

Our children need to be in decent buildings, but the big problem in education today is we need to put money into the teacher in the classroom, not into the bureaucracy in Washington that is going to dole out on a political basis bricks and mortars and makework projects for educational bureaucrats. It is ridiculous. Let us give the money to the kids in the classroom and the teachers.

Mr. NEUMANN. That is really the fallacy of this whole thing. What would lead anyone to believe that this Government, Washington, can reach into the pockets of the American people. This money is not manna from heaven. This money has to come from somewhere. So we will reach into pockets of the working families in America, the working people in America, and they will bring the money to Washington. They will pay hundreds of bureaucrats to decide how to spend the money, and then they will send 35 or 40 or 50, or whatever number they happen to get to in this particular case, back to build new schools. And they will pat themselves on the back because they collected $1 from the taxpayers and sent whatever the number is, 50 cents, if we are in a good day, back to build new schools with.

First off, why should Washington reach into the pockets of the people in Janesville, WI, bring the money out here to Washington and then Washington make a decision about who gets a new school? Why should that not be the responsibility of the parents and the teachers and the community to make those decisions? That is what it is all about.

Mr. KINGSTON. Can the gentleman imagine a Washington IRS-type bureaucracy building local schools? I know to some liberals that is a great deal.

It is interesting, as a matter of fact. Here is a copy of the Washington Times as of last Tuesday where the President opposes citizen oversight of the IRS. I mean is this the national Democratic Party now that has come down to supporting the IRS and the fact that many folks back home think it is time to overhaul the tax system, overhaul the IRS, to stop some of the harassment of our citizens and the President and the Democrats are defending the IRS?

It does not make any sense at all. I do not want an IRS-type bureaucracy to run the local school construction projects.

Mr. NEUMANN. I think it is important that folks know that, in addition to getting the budget balanced for the first time since 1969, taxes coming down for the first time in 16 years, restoring Medicare for our senior citizens, what is next on the horizon is a bill that has been introduced that would literally sunset the entire IRS Code. We would literally sunset the entire thing in the year 2001. And what that would effectively do is force us to come up with a new, fairer, simpler tax system.

When I describe this to folks in our town hall meetings, this is the one thing that absolutely brings an across-the-board cheer because everyone hates the complexity of the Tax Code.

Mr. KINGSTON. If the gentleman will yield. I thought we were together, on a bipartisan basis, on the IRS reform. I had no idea that the administration was going to defend the IRS and try to make tax reform a partisan issue.

But I will say this. If it is a partisan issue, the Republican Party is going to be on the side of the American taxpayer for simplicity and clarity, and let the President defend his 111,000 IRS employees.

Mr. NEUMANN. Would the gentleman hold that chart up. I had not seen that before and I would very much appreciate seeing it. The White House is now championing the IRS.

Mr. KINGSTON. This is not Republican propaganda. This is an actual newspaper headline. The Washington Times, a well-respected newspaper. The headline of it, Tuesday, September 30, 1997, "White House Champions The IRS. President opposes citizen oversight."

I will read the gentleman the first paragraph. "The White House yesterday came to the defense of the embattled IRS, vowing to vigorously oppose congressional efforts to create a citizen oversight board to protect Americans from agency abuses."

Mr. NEUMANN. There are a few things, I guess, that we really do think an awful lot different between the President and ourselves. He did sign the budget deal, and he did sign the bills that lowered our taxes and that stuff but, my goodness gracious, there is a huge difference of opinion in supporting the IRS or thinking we should come up with a new Tax Code, something simpler, something easier, fairer for our people, something they could actually fill out themselves instead of going to an accountant every year.

I see the gentleman from Minnesota has joined us.

Mr. GUTKNECHT. I thank the gentleman for yielding. I saw the gentleman here on the floor and he was talking earlier about the budget. I do not know if the gentleman had a chance to talk a little bit about it. The gentleman from Wisconsin and myself both serve on the Committee on the Budget, and I know the gentleman from Georgia has been interested in the budget, but I think sometimes we need to remind people how well we are actually doing.

I do not know if the gentleman shared this number with the folks who may be watching us in their offices, but when we passed our original 7-year balanced budget plan, we said that in fiscal year 1996 we would spend $1586 billion. Does anybody know how much we actually spent in fiscal year 1996? The answer is $1560 billion.

Mr. NEUMANN. Say that again real slow so we get that.

Mr. GUTKNECHT. We said we were going to spend $1586 billion, but this Congress actually spent $1560 billion.

Mr. NEUMANN. So we spent less money than what we said we were going to spend. Washington actually spent less money than what we originally said we were going to.

Mr. GUTKNECHT. The Republican Congress spent $26 billion less than we said we were going to spend.

But that is just part of the good news. That at a time when revenues actually increased by $20 billion more than we expected. Now, that is good news. I guess the problem with the media seldom does good news make the news.

But if I can share what happened in 1997, because the news gets even better, and I think a lot of people have said, well, there really is not much difference, but let me give one other quick number. In fiscal year 1997, going back to our original 7-year balanced budget plan, we said we were going to spend in fiscal year 1997, $1624 billion. We actually spent, and, in fact, it may actually, when the final books are closed October 1st, and we do not have the final numbers yet, but the preliminary numbers of the Congressional Budget Office said we would spend $1612 billion.

Mr. NEUMANN. If the gentleman will yield, it is down to 1602. The most current numbers, we just got them yesterday, as a matter of fact. I apologize for not getting them out yet. It is down to 1602. So we are now $22 billion under. This is less Washington spending than what we promised.

When I tell folks this, they absolutely do not believe it until I actually show it to them. It is there in the budget. I challenge any of our colleagues to go back to the budget resolution, check out what we promised we were going to spend not more than and

find out that when he actually spent less than what was in the original plan.

Mr. GUTKNECHT. So if the gentleman's numbers are correct, in fiscal year 1997, we took in over $110 billion more than we expected and we spent over $22 billion less.

Now, here is the question. Here is the question for anybody who happens to be listening to this, for any Member of Congress. Does anybody really believe that Congress would have actually hit its spending targets, in fact gone below its spending target, at a time when revenue increased by more than $100 billion? Does anybody really believe we would have spent less if the other party still controlled Congress?

Mr. NEUMANN. The first night when I found these numbers, I called my wife and said, "You are not even going to believe this. I found out that, when we go back to our 1995 promises, we had over $100 billion more revenue coming in and we actually spent less money." She said to me, "Someone is giving you bad numbers." So my wife would not even believe it at first.

I have gone through these numbers time and time again. I challenge each and every one of my colleagues to take the time, sit down and look at these numbers, and really understand just how far we have come as a Nation when we could have over $100 billion extra revenue come in and spend less money. Because what this really means is that we borrowed less money on our children and our grandchildren's backs, and that is what this is about.

Mr. KINGSTON. If the gentleman will yield. Regardless of the deficit reduction and potentially balancing the budget next year, we still spend about $300 billion a year on interest on the $5.4 trillion national debt. Now, that is the second or third largest single item on the entire budget every year.

That is money that could be in the pockets of the American families, the moms and dads out there for their children, or it is money that could go to other projects, education, health care and so forth. But we only begin the job when we balance the budget. And the fear that I have is that because the revenue is so much higher than projected, what is going to happen is we will have a lot of liberals coming out there with new spending programs.

We are already hearing it on let us go out and build a new Federal school program. And I am scared to death we will go back down the donnybrook we were in in 1993 and 1994.

Mr. NEUMANN. That is exactly why it is so important that folks understand that even after we get to a balanced budget we still have a $5.3 trillion debt that an average family of five sends $580 a month just to pay the interest on the debt.

That is what we are doing today. And even after we have a balanced budget, that debt goes on. And that is why it is important that we have introduced legislation to deal with that.

Mr. GUTKNECHT. I know that this chart is too small for people to see, but if people want to contact my office, I will certainly be happy to send them a copy, but it says that for the last 20 years, the 20 years from 1975 until 1995, on average, for every dollar that Congress took in it spent $1.21. For fiscal year 1997 that number will be less than $1.02.

So when people say we are not making a difference, we are actually spending less than our original spending targets at a time when revenues are exceeding our wildest expectations. And I think the real good news, and the gentleman from Georgia is correct, balancing the budget is not just an accounting exercise. Sometimes we have to even remind people on the Committee on the Budget. It really is about what kind of a future are we going to leave to our kids. It is about generational fairness.

For a long time those of us out in the Midwest, and I do not know if the gentleman has the same kind of feeling, I suspect he does in rural parts of Georgia, but the American dream, to a large degree, was to pay off the mortgage and leave the kids the farm. What Congress had been doing for so many years is we had literally been selling off the farm in small pieces and leaving our kids the mortgage. We all know that is morally wrong. And we were going to consign them to a lower standard of living.

So balancing the budget is good. I believe we will do it next year. And that is just a start. We have a long ways to go. But it is really about leaving our kids a better future.

Mr. NEUMANN. Reclaiming my time, I think the gentleman hit the nail right on the head. What a lot of families do is pay off their mortgage and hope to leave their children and grandchildren something other than a mortgage to be paying off.

We have introduced legislation, I know that both gentlemen are cosponsors, so we are doing this together, that would literally put the United States of America on a mortgage repayment plan of that $5.3 trillion debt. Would it not be nice to think that we could actually pay down that debt, much the same as a homeowner pays off their home mortgage?

Mr. KINGSTON. I want to say something else, if the gentleman will yield, that ties into this. This week, for the first time in history, the United States President used the line item veto and zapped out about, I think something like 160 different projects for nearly $200 million in savings.

Now, those included Republican projects. Those included Democrat projects. Those included some from just about every State in the country. But that is what we had in mind with the line item veto. And I think it is good that if I put a project in the budget that it gets that extra scrutiny. I like the idea that it has to get through a House committee, then through the full House, then a Senate committee, then the full Senate, and now it is to the President of the United States. Because the more scrutiny we put our spending under, the better fiscal House we will have.

And with that in mind, if we think about what we could potentially do with this line item veto to get to that last $23 billion, I urge the President to keep using it and make sure that we, as Republicans, are responsible, and that our Democrat colleagues are responsible for what we put in the budget.

□ 1930

Mr. NEUMANN. I have to tell my colleagues about my dream when we talk about this, because this is my dream for my own personal future. My wife dreams about going to Hawaii, and I think that is a wonderful dream, too.

But my dream is, I wake up some morning and I get a phone call, and the phone is sitting right by my bed, and it is the President of the United States. And I do not care if it is a Democrat President or Republican President. But he says, "Mark, we are going to balance the budget. I am giving you the veto pen. So get over here, line-item enough junk out of this budget that is wasteful Washington spending, get the budget balanced, here is the pen." That is my dream in life, is that some morning I wake up and the President says, "Mark, you've got the line-item veto. Get over here and do it."

I cannot agree with my colleague more. I was one of the original cosponsors on line-item veto. And I would hope that the President does use it more, not less.

Mr. KINGSTON. If the gentleman will yield, I do want to say one thing to keep in mind. The line-item veto only applies for deficit reduction. So if, in fact, the deficit is zeroed out next year and the budget is balanced, which we all hope that it is, we will effectively not have a line-item veto.

The gentleman from Michigan [Mr. UPTON] has sponsored legislation which I have cosponsored, and my colleagues probably should look at it if they have not, that says, even if there is no deficit, the President would still have a line-item veto for the purpose of continuing to ferret out wasteful spending.

Mr. NEUMANN. I think that it is important that he keep in mind that even when we have no deficit, a "Washington balanced budget," that we are still using that money out of the Social Security Trust Fund. And we need to address that problem.

What we have introduced is the National Debt Repayment Act. What happens in the National Debt Repayment

Act is, after we get to a balanced budget, we cap the growth of Washington spending at a rate at least 1 percent lower than the rate of revenue growth.

I brought a picture to show what happens. The red line shows spending going up, and too fast probably for the three of us, but spending going up, but at a slower rate than the revenue line.

Mr. GUTKNECHT. If the gentleman would yield, I think his assumptions are that we would still increase Federal spending at faster than the inflation rate.

Mr. NEUMANN. This is correct.

Mr. GUTKNECHT. So we are not talking about draconian cuts in any Federal spending.

Mr. NEUMANN. Absolutely not. And I think my colleague and I would probably not do that. We would not want it to increase faster than the rate of inflation for sure. But even if it goes up faster, it has got to go up slower than the rate of revenue growth.

By doing so, we create this middle area here. That is the surplus. We take one-third of the surplus and supply additional tax cuts. And Alan Greenspan today said, as we are going through this process, the interest rates will come down, and that will promote a stronger economy. And he suggested if we are going to do tax cuts, that we make them across the board, reduce the marginal rate kind of thing. And I think he is right there.

The other two-thirds of this surplus, we start making mortgage payments on the Federal debt. When we pay off the Federal debt, the money that has been taken out of the Social Security Trust Fund would be returned, because that Social Security Trust Fund money is all part of the Federal debt.

So under this plan, three things happen. First, the senior citizens who are worried about their Social Security can rest assured that Social Security would be restored. As we are paying off the debt, the money taken out of Social Security would be put back. Second, the people in the work force today would be entitled to additional tax cuts each and every year as far as the eye can see. And third, and I would say, to me, most important of all, we can look forward to paying off the mortgage, as my colleague suggested earlier, and passing this great Nation of ours on to our children debt free instead of giving them a legacy of a $5.3 trillion debt.

That is what this bill is about. I think it is the right thing. I know my colleagues are both cosponsors on it. We are working very hard to get it to the floor of the House. I am optimistic that between the senior citizens who want their Social Security restored and care an awful lot about the future of this country, the people in the work force who would prefer to pay less taxes and not more taxes, and, most important, all of us who care about the future and what kind of a country we give our kids, that we would bring this to the floor and pass the bill.

Mr. GUTKNECHT. If the gentleman would continue to yield, I have explained this program at town hall meetings in speeches around my State district. And almost everywhere, in fact everywhere, we get almost unanimous support for this plan. It is common sense. I think it is what the American people want.

As I said earlier, it really is the American dream: Pay off the mortgage, leave your kids the farm. That is what we want to do for the next generation of Americans.

Mr. KINGSTON. One thing I would like to see discussion on, instead of just straight more tax relief, perhaps move towards tax simplification, with the intent of accelerating the debt paydown, because if we can do it this way in the year 2026, if we just change taxes to make it simple, I believe many, many people in America, given the choice of reducing their tax rate 5 percent versus going to a flat tax or a consumption tax, they would probably say, give me this tax simplification, because the extra money I am having to pay my accountant and lawyer to file my taxes is a tax anyhow. So just give me tax simplification.

I am very proud that the Republican party has taken the initiative on that. I am proud that the gentleman from Texas [Mr. ARMEY] and the gentleman from Louisiana [Mr. TAUZIN] are going to be going around the country having debates on consumption versus flat taxes.

I have not fully decided which route we should go in terms of the folks back home, but I welcome the dialogue in the debate.

Mr. GUTKNECHT. If the gentleman would continue to yield, I want to make it real clear, they are not mutually exclusive. We can balance the budget, we can actually pay off the debt, and we can simplify the Tax Code all at once. All it requires is the kind of discipline we have demonstrated for the last 3 years.

I think the gentleman from Wisconsin [Mr. NEUMANN] is putting up a chart now. We have to continually reduce the rate of growth in Federal spending. We have literally cut it almost in half in terms of the real rate of growth, inflation-adjusted dollars, almost any way we want to measure it.

And as the numbers I indicated before, in fiscal year 1997, Congress took in over $110 billion more than we expected but we spent $20 billion less. It is that kind of discipline that will allow us to balance the budget, pay off the national debt, and simplify the Tax Code so that the average American can understand it.

Mr. NEUMANN. Reclaiming my time, concluding tonight, isn't it exciting to be here having this conversation? How different it is currently than it was in 1993 when they were debating which taxes we had to raise and how high we had to raise them because, after all, we could not reel in Washington spending.

That was 1993, broken promises of a balanced budget and higher taxes. But in our first 3 years here, we have literally slowed the growth of Washington spending. We did not reach into the pockets of the American people and take out more taxes to balance the budget. We slowed the growth rate of Washington spending.

By slowing the growth rate of Washington spending, we are now in a position where we are not only going to balance the budget 3 or 4 years ahead of our promised schedule, but we are also lowering taxes on families and workers all across America. Senior citizens, middle-age folks, union members, all Americans are going to benefit from the tax cut packages. Isn't it exciting to be here having this conversation? What a changed America.

Again, I think we should point out the discussions that are starting at the other end of Pennsylvania Avenue again. When they are talking about tax increases, it is almost like they forgot 1993. We are not going to let that happen. We have got a different vision for the future.

What is next? Next is, we abolish the IRS Code 3 or 4 years from now so we have time to replace it with something that is simpler, fairer, easier for our people to understand. We are going to put the Nation on a mortgage repayment plan so that we pay off the Federal debt by the year 2026, or sooner, so we can give this Nation to our children debt-free. As we are paying off the debt, we restore the Social Security Trust Fund. And, of course, we are going to continue to lower taxes on the working folks in America.

People say we cannot do all those things. Three years ago they said we could not do all these things either. If we just realized that people in America can do a better job spending their own money than the people out here in Washington can do spending it for them, that is what this is all about. Slow the growth of Washington spending programs. Keep the absolutely necessary programs, but slow the growth of Washington spending so people can keep more of their own money. We can do the right thing, start making payments on the debt, restore the Social Security Trust Fund, and come up with a new, simpler Tax Code.

It is exciting to think about what possibilities lay in front of us, how far we have come, and how far we still can go to make this a better Nation for our children and grandchildren.

Mr. KINGSTON. Dwight Eisenhower said that, "Once the American people have made up their mind to do something, there is little that can be done to stop them." I agree with that. I think the American people have made

up their mind. Congress has to keep their own feet to the fire.

EARLY CHILDHOOD DEVELOPMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Massachusetts [Mr. McGOVERN] is recognized for 60 minutes as the designee of the minority leader.

Mr. McGOVERN. Mr. Speaker, we in the Congress are charged with the task of finding the best course for our Nation, and the debate on this floor is the compass with which we chart that course.

None of the issues debated in this Chamber has an easy answer, and very often agreement does not guarantee an immediate solution. President Clinton, during his State of the Union address in January, called upon us to act on behalf of children, saying that politics should stop at the schoolhouse door.

Well, I certainly agree. I would add to the President's sentiment by declaring that that effort to improve the climate of learning and development for our children must start long before our children ever reach the schoolhouse door. Partisan politics should play no role in the development of our children. Politics should stop at the foot of the crib.

Newspapers across the Nation have highlighted new scientific findings in the field of early childhood development. For years, conventional wisdom taught us that if a child was intelligent, she must have been born intelligent. But, as an April 28 editorial in the New York Times so appropriately stated, "After birth, experience counts even more than genetics."

Talking to our children from birth, holding and playing with newborns, and even looking them in the eye during play can have a profound impact on the development of their intellect, making them better students and making them more confident and productive members of society. These early years are critically important to our children's full and healthy development.

That is why we must invest more time, more study, and more resources in our efforts to promote a healthy start to life for our kids. Getting this message out to the public today will play a key role in our Nation's ability to compete in the global economy of the future.

Imagine, a child's ability to relate to others is a permanent part of a child's personality by the age of 2, and the brain connections needed for math and logic are formed by the age of 4. Who would have thought that so much about our kids' future and social, academic performance would be determined by such an early age? But yet, it is.

When I visit with people in my district of Massachusetts, parents and child-care providers did not miss these news stories. The people in my district care deeply about this issue. Let me give my colleagues just one example.

Over the past several months, a working group of parents, child-care providers, education specialists, and medical personnel have developed a parent and provider survey under the auspices of the Central Massachusetts United Way "Success-by-Six" program. The survey is an effort to gather information about conditions affecting young children and their families in the Greater Worcester area. The survey seeks to discover what is working well, what the strengths in the community are, and how things can be better.

The overwhelming response to the survey thus far has resulted in a need for second printing, and the response from both parents and providers who have mailed in responses to the survey has been a phenomenal 50 percent.

Parents from central Massachusetts are no different from parents all across the Nation. And do parents across America think we are doing enough? Well, according to a Newsweek poll, over half of our Nation's parents do not believe that the Government and business policies adequately support families with very young children.

Mr. Speaker, the studies that I have mentioned regarding early childhood development indicate that environmental factors affect children's intelligence and healthy development much more than we have ever believed. These environmental factors are largely under our control. I repeat, these environmental factors are largely under our control.

I strongly believe that we cannot look at these findings and simply do nothing. The issue here is children, children all across the Nation, who need more than we have given them to date. The debate here in this House should be how best we can help our children or families in our Nation.

Let us look at the facts. In the United States, over five million of our youngest children are cared for by other adults while their parents work. According to a 1995 national study conducted by the University of Colorado Economics Department, many of the child-care centers to which we entrust our children are unlicensed, staffed by poorly-paid adults, and over 90 percent of these facilities lack adequate services to respond to the developmental needs of each child in their care. About half of these facilities actually provide care that is deemed unhealthy for our Nation's children.

In some of America's poorest neighborhoods, some 70 percent of children have difficulty with simple communication. This deficiency can be directly attributed to poor nutrition, a lack of health education, and inadequate personal care.

Nobel Laureate economist Robert Solow estimated that the cost of child poverty to the United States is as high as $177 billion per year. I would argue that the cost of the most basic principles of our society is far higher if we ignore the basic needs of our youngest children.

The suffering is felt in economic as well as human terms. I have met with business owners who tell me that finding people equipped with the necessary skills to compete in today's economy is increasingly difficult. Without giving our kids the help they need at an early age, it will get no easier.

Mr. Speaker, the child poverty rate here in the United States is among the highest in the developed world.

□ 1945

According to the General Accounting Office, studies estimate that of the approximately 100,000 American children who are homeless, nearly half are under the age of 6 years old. These children will not be on an even footing developmentally and they are likely to lag behind their peers for the rest of their lives.

No resident of Westport, MA, which is in my district, would sail the waters of Buzzard's Bay with an anchor dragging behind their boat. Neither can we allow our children to hang off the stern of this Nation. We have work to do, we have much more work to do. Parents want us to address these issues now and the call to action could not be more clear.

I am proud to have joined with my distinguished colleagues in this House, the gentlewoman from Connecticut [Ms. DELAURO] and the gentleman from Maryland [Mr. HOYER] in introducing a bill to address the issues of early childhood development. Our legislation provides greater funding like Head Start and Early Start and various family support services. Our bill also offers State competitive grants to identify and reward those early childhood programs that are working today, that are working.

We are reaching across the aisle to address the needs of children, and I hope that this call will be answered by my colleagues on the other side of the aisle. Let us enter into the debate on this issue and make early childhood development a national priority today.

Mr. Speaker, I would just like to add that we should also applaud the interest and the leadership that the President of the United States and the First Lady have demonstrated on this issue. On October 23 there will be a White House Conference on Child Care similar to the one held earlier this spring on early childhood development. I would urge the President to continue his leadership, to continue his interest on this issue, and I would further urge that these issues be the centerpiece of his State of the Union Address and of his agenda next year.

At this point, Mr. Speaker, I would like to yield to my colleague from New

Jersey [Mr. PALLONE] who has been a strong advocate for early childhood development issues and all other education issues.

Mr. PALLONE. Mr. Speaker, first of all, I want to thank the gentleman for leading this special order tonight, because as he mentioned, the topic is early childhood development, but this is really part of the overall Democratic education agenda. As Democrats, we as a party from the very beginning of this Congress, and even before this Congress, have said that it is important that we prioritize education.

I know our colleagues before were talking about the budget, and the gentleman and I and my colleague here from Maine and others were all very insistent that during that balanced budget debate, that education, primarily higher education, be prioritized. We managed to basically tell the Republicans on the other side that if they did not put in programs so that there would be more money available for higher education, we would not agree to the budget, the proposal that they put forward.

Mr. McGOVERN. Mr. Speaker, I would just say, I wish our colleagues on the other side of the aisle would appreciate that one of the ways to save money, one of the ways to keep the budget in balance and to have a healthy economy is by investing in our children, by investing in education, beginning at age zero.

We had to fight tooth and nail, as the gentleman knows, to get them to agree to modest concessions on education and the budget. What good there is in this budget on education is due to the efforts of the Democrats, and I would like to point that out to my colleagues on the Republican side of the aisle.

Mr. PALLONE. Mr. Speaker, there is no question about that. Not to keep being partisan, because I do not want to just say bad things about our Republican colleagues, but the bottom line is that the Republican leadership in the last few years has repeatedly tried to cut back or even eliminate some of the education programs that impact the secondary schools, impact the kindergarten-through-12 grade level.

For example, Goals 2000, which provides a small amount of money to local school districts to try innovative programs in the public schools, they have repeatedly said that they did not want to fund any more. But tonight, as part of this education agenda, we are stressing early childhood development.

I know that the gentleman from Massachusetts [Mr. ALLEN] has been a leader. The bill that he mentioned, the Early Learning and Opportunity Act, is a tremendous piece of legislation, and if we do manage to get it passed in this Republican Congress, I think it will go far towards helping basically low-income families, primarily, but a lot of people, get an early start in teaching their children to read, speak and interact with others. It basically dovetails with the existing Head Start program, but starts the kids at an earlier age.

Head Start, from what I understand right now, is strictly above 3 years old. There is the Early Start program that the gentleman mentioned which deals with kids under 3, but that is a very small program. I think the statistics show that Early Start impacts or enrolls less than 2 percent of the eligible kids, whereas Head Start reaches about half of the eligible kids. So both programs need to be expanded, but the gentleman is zeroing in on the zero-to-3.

I just wanted to say from my own experience, right now I have a 4-year-old, a 2½-year-old, and a baby that was just born 10 days ago, my daughter, Celeste.

Mr. McGOVERN. Congratulations.

Mr. PALLONE. I thank the gentleman.

I listened to what the gentleman said, and I have watched this amazing development with the 3 children, in Celeste's case, only 10 days now, and what the gentleman said is true. I feel bad because I am not always there and my wife has to do the interaction most of the time, because we are down here in Washington and they are back in New Jersey. But it is amazing how they begin to learn from the very beginning, and the environmental factors are so important.

I watch my wife, who just insists on reading to them and having books around all the time, and stressing the importance of learning the alphabet and watching programs on TV that provide instruction in pre-reading skills, and it is just so crucial. We can just see that they are absorbing everything every day, and if they are not constantly involved in some way in an effort to learn, they will not learn as quickly.

So that really has brought home to me the value of what we are trying to do by expanding Head Start to reach out to children from zero to 3. I think it is so crucial. It is just one of the most important things we can do in terms of investing in education, and in the long term providing children as they are growing up with a really good start, so to speak, so that they learn and they can become valuable members of society.

I have a lot more to say about the gentleman's bill, but there are other Members here, and maybe I can defer to them and come back to some of the other things that I wanted to point out.

Mr. McGOVERN. I yield at this point to the gentleman from Maine [Mr. ALLEN], my distinguished colleague who has also been a champion on these issues and on all education issues.

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding. I want to thank the gentleman for the bill that the gentleman and the gentlewoman from Connecticut [Ms. DELAURO] have put forward. I am proud to be a cosponsor of that bill.

I would like to talk a little bit about the science. What the gentleman from New Jersey [Mr. PALLONE] was just saying about his child and what he is seeing in a baby that is only now a few days old, we know a lot more about the brain of infants than we ever did before.

About 15 years ago, neuro scientists assumed that brain structure was genetically determined at birth. They did not recognize how important a child's early years are and how the experiences of those early years have an effect on the brain itself, and how important environmental conditions are, such as nourishment, care, surroundings and stimulation.

The impact of the environment is particularly compelling and it affects how the brain is wired. To explain that, during the first 3 years of life the number of synapses in the brain increase rapidly, all of these connections between different parts of the brain. But then the number of those synapses holds steady through the first decade of life, and those that are not used decline and atrophy and basically disappear. So the formation of neuro pathways in the brain is directly related to the quality of care that young children receive.

I went to the White House Conference on Early Childhood Development a few months ago, and one of the speakers said quality child care is brain food. The fact is that too many of our young people today are not being fed enough brain food, and in fact, for too many working parents in this country, the cost of quality child care is really not affordable. It is too high for many of them, and we need to do more than we have.

I want to connect that research with some of the stories that I am hearing back in Maine. When I go and talk to superintendents or teachers right now, they are telling me that when kids come to them in kindergarten, there are now an increasing number who seem unable to sit still. They will spit at their classmates, they will fight with their classmates. They are really not ready for school because they are not able to interact productively with other kids in that kind of session.

What they are saying is, we need to do something about these kids, because most kids have good parents, most kids get a decent start in life, but there are some, some really who do not.

It points out the need as a matter of Federal policy, as a matter of State policy, as a matter of policy for every school board that we look to what happens before kids come to school. In Bath, ME, there is a program called Success By Age Six, and part of that

program involves home visits, prenatal, postnatal, the kind of encouragement for parents, the kind of help for parents so that they can be productive in stimulating their children, helping them develop the skills that they will need to get along with adults, to get along with other kids, to start to have the ability and interest in learning to read or start to have the ability and interest in learning mathematical concepts.

When we think about our children, when we think about the kind of stimulation they need in those early years, we need a set of Federal, State and local policies that makes sense, that reflects what we know in terms of science and what we know in terms of our own common sense, what we are hearing around the country. I think that is the direction we need to go in.

Mr. MCGOVERN. Mr. Speaker, I would just say to the gentleman that he is right on target when he says the science exists, the science is there. We know how important those early years are.

The White House conference that occurred earlier this year highlighted how important those early years are, those years, zero to 3, and yet this Congress right now is not doing nearly enough to help complement that science.

We are trying very desperately to get Republican support for the bill that the gentlewoman from Connecticut [Ms. DELAURO] and I have introduced. We are trying to build a bipartisan consensus here that more Federal resources need to go into helping States, for example, support innovative programs that help early childhood development, that help promote child health care. Those things are vitally important, and yet it is a constant struggle to try to get that bipartisan support.

Again, I wish my colleagues were still here. They talk very passionately about numbers. They talk very passionately in a very sterile way about numbers, but I would suggest to them, as I said earlier, that investing in our children, investing in these programs that help our children develop into healthy adults and into productive adults is a wise and important investment that will save this country tons of money in the future.

Mr. ALLEN. Mr. Speaker, an earlier speaker on the other side said that he had a dream, and that his dream was that the President called him and he was given an authority to exercise the line-item veto.

Well, I have a dream as well. I think we on this side of the aisle, we as Democrats have a dream as well, and it is to leave no child behind, and that what we need to do as a country is recognize that the Cold War is over. We have balanced the Federal budget. We look out ahead for the next 10 years and we see a Federal budget that is close to balance, either a modest surplus or a modest deficit for 10 years.

It is time for people in this country to say that the great mission, the great challenge that we have as a country in the next 10 years is to leave no child behind, to make sure that children in this country have adequate health care, a solid education; that they are prepared before they ever get to kindergarten with the appropriate child care and the kind of stimulation they need, and that we are going to make this country strong for our children. If we do that, I think our prospects for the next century are very, very bright indeed, but we need the national will.

Rob Reiner, who has been a leader in promoting child care, quality, affordable child care, has said what is missing today is that we do not have the national will to treat this problem with the seriousness that it deserves. I believe on this side of the aisle we are determined to do that, and I look forward to working with all of my colleagues on that.

□ 2000

Mr. MCGOVERN. I just wish my colleagues on the other side of the aisle had the passion with regard to children that they do about B-2 bombers. The fact of the matter is that we should be able to, in a bipartisan way, be able to come together and to support these kinds of programs that help our children develop into healthy adults.

I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I do not mean to keep using my own experience, but I cannot help it. When I listen to my colleague, the gentleman from Maine, talk about the interaction, he pointed out how it is important for kids at that age not only to interact with their parents, but even to interact with other kids.

One of the things that I notice with my son, who is 2½ now, is how much he has learned from just interaction with his older sister, who is 4. And she did not have that advantage because she was by herself. She was not able to have somebody who was teaching her. But it is just constant.

She will pick up a book and she will say, can we read? And neither one of them can read, but they sit there and try to make up the stories as they look at the pictures, and just the advantages that some kids have. Obviously we can buy them the videotape and they will learn something from the videotape. We have books we can provide them.

If a kid is at home and does not have the books and the opportunity, maybe if they go and spend some time in child care, where there is someone who provides them with the educational materials and has other children there who will interact with them, it makes such a difference. I can just see it myself. I just want to stress that, because it is really crucial.

Mr. MCGOVERN. Mr. Speaker, I yield to the gentlewoman from Connecticut [Ms. ROSA DELAURO], who has been a leader on this whole issue to promote early childhood development legislation here in the House.

Ms. DELAURO. Mr. Speaker, I want to thank my colleagues. I am delighted to join with them. I am really excited about this piece of legislation, and about introducing it along with my colleague, the gentleman from Massachusetts [Mr. MCGOVERN], and with my two colleagues here, the gentleman from Maine [Mr. ALLEN] and the gentleman from New Jersey [Mr. PALLONE], who are aboard this very exciting effort.

Mr. Speaker, it is trite, but these are exciting times with what the science has uncovered. Think back to your own childhood. I can remember my father used to read to me all the time. It got so sometimes you are tired, and you figure you skip some of the pages because you are tired, and you want your son or daughter to go to sleep. But he would tell me later on that I would just trip him up. He would start to leave something out, and I would say, oh, you missed that piece, or something like that. But that is the kind of thing.

When the gentleman said he hated to bring it back to his own experience, that is what the experience needs to be about. When we take a look, I think the science is so exciting, not for the science itself but for what it translates into, and what we are able to do. We are given a wonderful opportunity here to do something with this.

Before age 3, the brain has the ability to learn and organize new information 10,000 times more effectively than the brain of a 50-year-old. This is these little, teeny people. They have all of this capacity, and the kinds of experiences that affect the brain.

I think it is important for parents to know this, for grandparents, for child care providers, for public officials, that when children under a year old experience severe stress, that is whether they are hurt or whether they have a fear or something, or whether they are hungry, that the brain changes, the brain changes. You have what they say, and I am not a scientist. I do not know if some of my colleagues are scientists. But the way the neurons are patterned and so forth, some are used more and some are used less, so the physical surroundings that a child has can often explain the later link, if you will, to some of the problems that we have today like school failure, juvenile delinquency, antisocial behavior.

I think it is important for us to realize that, again, in terms of our own obligation as elected officials, one-third of America's victims of child abuse are babies under 1-year-old. That is not only the problem for today, that is the problem in the future.

Mr. ALLEN. Mr. Speaker, I want to raise a fascinating study that I heard about a couple of weeks ago in Sacramento County, California. The study period looked at all of those 9- to 12-year-olds who had been arrested for a crime.

During the study period there were 132 9- to 12-year-olds who were arrested for a crime. It turned out that exactly one-half, 66 of those children, were already known to the California Department of Human Services as being alleged victims of abuse or neglect, and half of them were not known to the department. That is very interesting, because in Sacramento County at that time there were 1,100 children between the ages of 9 and 12 who were known to the Department of Human Services as being victims of abuse or neglect. There were 73,900 other children who were not so known.

So if we think about the likelihood that someone who has been a victim of abuse or neglect will commit a crime, it is not double or triple or ten times or 20 times or 50 times. On the basis of that study, you are 67 times more likely to commit a crime between the ages of 9 and 12 than a child who is not a victim of abuse or neglect.

Every conservative, every person who believes we have to conserve our public money, ought to support investment in children, because dollars put into taking care and improving the lot of kids who are victims of abuse or neglect will pay off a thousandfold down the road.

Ms. DELAURO. The opposite pole is if babies do have trusting and reliable relationships, and that is with parents, grandparents, and caregivers, because we know today that men and women are in the workplace. Families cannot afford to stay home all of the time with their children. So we want to make sure that when they have day care, that needs to be sound and solid, where parents can trust the quality of that day care, the quality of the individuals who are providing that care.

The one thing that really, excuse me, just blows my mind is that while babies have an enormous capacity to learn, as I understand it, if it is not used, it is not that you can draw on the reserve and use it at another time. It goes away. It is gone. It loses the ability.

They have studies in animals, for instance, that if their eyes are covered right after birth, the brain then loses the ability to deal with visual information. So just to sum that up, with the brain, you either use it or you lose it. That is why, given the information, what we do not want to do with this information is put it on a shelf.

Mr. PALLONE. If I could just interrupt for a moment, one of the things that I often notice with little kids, and I do not know how young we can go, but obviously very small kids, is if the parents are bilingual, or if they know one, two, three or more languages, that the kids very easily go back and forth between the languages. Yet if you go a few years later, you cannot learn the language. It is much harder.

Is that basically the explanation for that?

Ms. DELAURO. It is, because you are not using, and again, I am not a scientist, but you are not using the part of the brain that differentiates those sounds. So children can learn languages, they learn languages easier at a much earlier age. Again, if we think about ourselves, or if we had that experience or learned a language in high school or earlier, if you had that experience at home, you can draw on both pieces.

My colleague, the gentleman from Maine, said if we miss this opportunity to provide children who are from the zero to 3, some places have programs that are from zero to 6, and you get that interaction with parents and caregivers, and you read to children, and you may think it is not coming through, but it is in many ways. I think if we do not take advantage of this opportunity we are not doing our jobs. We are not doing the job we were sent here to do.

Mr. MCGOVERN. I fully agree with my colleague, the gentlewoman from Connecticut. I just want to pick up on one thing that the gentleman from Maine said about the cost effectiveness of early childhood care. I want to read two statistics.

Long-term studies of the Perry Preschool Program for poor children found that after 27 years, each $1 invested saved over $7 billion by increasing the likelihood that the children would be literate, employed, and enrolled in post-secondary education, and decreasing the likelihood that they would be school dropouts dependent on welfare or arrested for criminal delinquency.

Another study of the short-term impact of the Colorado pre-kindergarten program found it resulted in a cost savings of over $3 million over 3 years in reduced special education costs alone. So there is a very conservative, fiscally conservative argument to be made in favor of investing more in these preschool programs, in these early childhood care programs, because we save money. It is the fiscally responsible thing to do.

I do not think we can stress that enough, because there are some who would say, well, we are just talking about more taxpayers' money being invested into education, more into kids, and for what? Well, the reason why we are doing it is because these programs work. They also save us money in the long term.

Mr. PALLONE. The other thing that I think is so crucial is that a lot of people are not even aware of the fact that right now we are not providing the funding even for Head Start. My understanding is that only about even less than half of the kids that are eligible for Head Start, which basically goes from 4 to 5, are now in a program.

So even if we were just able to expand the amount of money available for Head Start and allow those eligible kids to be participating in that, that would go far. Early Start, less than 2 percent who are eligible are being cared for.

So the gentleman, and my colleague also, the gentlewoman from Connecticut, they are talking about, really, trying to make a major investment here that we need to make, but it is not being made. I do not want our constituents out there to think that right now Head Start is fully funded, because it is not. There are long waiting lines. I know in my district a lot of these Head Start programs, they have long waiting lines for the kids to get in, and they have not been able to accommodate even half of the kids that want to participate and are eligible.

Mr. MCGOVERN. What we are doing here is a call to action, urging our colleagues here, urging the White House, to continue its leadership on this issue. Much more needs to be done, much more needs to be invested. It is the right thing to do.

As my colleague, the gentleman from Maine [Mr. ALLEN] pointed out, we know the science. We are not making this all up. There are studies too numerous to mention that document the importance of these programs and the importance of focusing attention on those early years.

Ms. DELAURO. Sometimes people say, why should the Federal Government—some of our colleagues on the other side of the aisle say, why should the Federal Government get involved in this? The Federal Government, in terms of preschool education, has been involved, for the very serious commitment in terms of Head Start. Head Start works. We know we have to make sure that it has continued quality, and that is the effort.

Therefore, this is a natural progression, even the wealth of information that we have, to look at how we then can expand this effort and be able to get to our children as quickly as possible, to have them get a good start on life and an ability to be able to ultimately compete.

Mr. MCGOVERN. Mr. Speaker, I yield to our colleague, the gentleman from North Carolina [Mr. MCINTYRE]. I welcome him.

Mr. MCINTYRE. Mr. Speaker, I thank the gentleman for yielding to me.

As we look ahead to the continuing of what we do with young children coming up through the schools, there are programs like Head Start that are making a big difference in counties such as I come from, in Robeson County, N.C. Also there are other programs

that I wanted to briefly address that will help us in this continuum from the young, early childhood right through growing up, children in elementary, middle, junior high, and high school, and even our community colleges and universities.

As a former chairman of a weekday school and day care program in my own church back home in Lumberton, NC, I share this great endeavor to help our children get a good start and a head start and great start in life.

As we look at our children getting a head start in living and learning, we can also look at exemplary programs we have here in our Nation. One of them was referred to by President Clinton in his State of the Union Address back in early February, when he referred to Gov. Jim Hunt of North Carolina, a program called Smart Start that our State legislature has endorsed and that is growing by leaps and bounds in counties throughout our State. I commend this exemplary program on giving young children that smart start to get going in life, such as we have in North Carolina.

There is also another program that we have been directly involved in at the Federal level that we can support. I hope that in the conference committee that will be coming forth with its report very soon, that we will support the Communities in Schools Program. As the old adage goes, if something is not broke, let us not try to fix it.

The Communities in Schools Program is one that has worked. In my home county of Robeson County, we are the only county that has a fully federally funded program that works with at-risk youth and also young children to help keep them on the right path. So as those young children have the opportunity to go into school from their early years to their early school years, they can be involved in computer programs, they can be involved in learning programs, they can be involved in constructive programs to help prepare them, not only as better students, but ultimately as better citizens.

□ 2015

The Communities in Schools program in Robeson County is one that has worked with educators, local community leaders, law enforcement officers, and students working together. And it has helped in the health, social, education, and cultural aspects to give support for youth who may not have the advantages at home that we all would hope that our children would have but, in reality, so many, unfortunately, do not have.

The Communities in Schools program in our area has benefited more than 10 schools, starting with young children coming into the elementary schools right on through the elementary, middle schools, junior highs, and even at my alma mater, Lumberton Senior High School, where we had part of the Internet Learning Program, which I spoke on to several students back in February of this year.

When we look at the successes of a program like the Communities in Schools, we realize this is one area where the Federal Government can help on the local level. We all know we do not want Federal intervention and the Federal Government telling us how to run our schools. I do not believe anybody really wants that. We know what is best for our local communities. But the local communities need help from a Federal level. Whether it is from a program like Head Start or Smart Start like in North Carolina or where it is a situation where we can come in with a Federally funded program in a low-wealth county such as Robeson County and work to help children who are trying to maintain that Smart Start or that Head Start, we can carry it forward with a program like Communities in Schools.

When something is already helping families, already helping youth, already helping teenagers push them in the desire and direction that we all would have for them to be constructive, positive citizens for tomorrow, then it is a program that we should continue to support. And I am urging my colleagues in the conference report to support this program.

Another thing I wanted to mention is that we are having an education forum in my district on November 3. It is a day before a bond referendum is being voted on in part of our district, and we had another bond referendum voted on in my district today to support schools. But we realize there are three essential elements to help support our kids move through these years as they prepare and go through school. And that is supporting a commitment, supporting construction where necessary, and supporting the age of technology in computers.

First of all, when we talk about commitment, it is ourselves having that commitment. One thing we are going to do in our district is have an education forum to bring together those who have worked with young children right on through high school, parents, teachers, school volunteers, as well as those who are professionally equipped to work with young people to talk about what can we do to sustain this opportunity for young people.

As one myself who has volunteered the last 17 years in the classroom of both public and private schools throughout my area, I have sought to teach these kids the attributes of good citizenship which I call the "Three R's of Citizenship": Understanding their "Rights," something we all love to hear about and want to maintain as children and youth and definitely as adults, but also matching those rights with "Responsibility," that for every right that we claim, there is a duty or responsibility that we also must sustain. And then third, as we teach our young people to balance these rights and responsibilities, they will then come to the perspective of understanding what we all want, and that is "Respect."

So as we work with young people in our area in teaching them their rights and their responsibilities to ultimately lead to respect, we realize that that is the goal of so many of these programs, that we are working with kids to give them that start so that they ultimately can fulfill their role as a good citizen.

When we talk about, in addition to commitment, we talk about construction, making sure that our outdated school buildings in a lot of rural areas and inner city areas especially cannot sustain a positive learning environment if there is not a positive facility in which to learn.

There are several bills pending now we have in the Congress which I am cosponsoring that I hope we will join together with our other colleagues to push through: The Partnership to Rebuild America's Schools Act and also the sponsorship of the State Infrastructure Bank, which would allow States to decide where their greatest concern is with local school boards and then support and get the revolving loan funds that a poorer county may not have to make sure that school construction occurs where needed.

And then, finally, the other area besides commitment and construction is that area of knowing that we can move forward with computers and technology, when we realize that there is an opportunity to allow businesses to donate to the schools computer equipment and get a tax deduction, like they currently get for charitable institutions but they do not get it when they give it to a school. And I believe that in order to give incentives to businesses in the private sector to support our schools, that we can give them that opportunity to work with that.

So often when we talk about looking ahead, and we are all concerned about jobs, we are all concerned about the economic environment that families have, we realize that as new industry moves into an area, they will talk a lot about rail and utilities and water and the other kind of things to bring in positive employment. But then they always lean over and say, "Tell me about your schools," because not only will the management bring their children into that school district, but they will be drawing their labor pool for the future from those very schools.

And when we decry the lack of role models today in society for our young people, they are not all going to be the movie stars or athletic stars. The other

99 percent of our children are crying for role models. And where are they? They are standing right here in this Congress. They are back home in our communities and our businesses. They are in all aspects of our community leaders.

Mr. Speaker, if we will take the time ourselves to call up the teacher and say, I will come talk to your class about law or government or health or private enterprise, or if I cannot get up and talk well on my feet to a classroom, I will come read to little Johnny, or, better yet, I will come listen to little Janie read to me, that kind of private, personal involvement that all of us as citizens can take will make a big difference in supporting our children for the future.

Robin Cooke once wrote that, "Education is more than a luxury, it is a responsibility that society owes to itself." And I hope and pray that, with God's help, we will have the wisdom to make the tough decisions not only to understand that responsibility but to have the courage to fulfill that responsibility beginning right here in the highest halls of government, to our going back to the halls of our schools at home to work with children. Our children, our Nation, our future require that we do no less.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman for his very eloquent and passionate statement. And he said something that I think is worth repeating, and that is that what we are advocating here today is not having the Federal Government dictate to the States and localities what they should be doing in their respective school districts, but what we are advocating here today is that we step up to the plate and provide the resources necessary so they can do their jobs.

I, like the gentleman, have traveled my district and talked to schools at every grade level. I have been impressed and inspired by the intelligence of these young kids, by the quality of the teachers. But what has concerned me in some of the visits that I have made is the lack of equipment, the crumbling schools.

Mr. Speaker, there are schools in my district in Massachusetts that were built when Ulysses Grant was President of the United States. That is a great tribute to the architect and the builder. But when Ulysses Grant was President of the United States, they did not think about the Internet, about the need to rewire classrooms and all the things that we have to deal with in this day and age.

So what we here are all advocating is that the Federal Government do what it can to help our local school districts. We know how expensive it is to rebuild a school. It can cripple a community. I have been impressed by the fact that a number of small towns and cities in my district have made the sacrifices to try to finance new school buildings. But they need help, and we should be here to help them.

Mr. Speaker, we spend a lot of money on things that I think are foolish. I think that our defense budget, for example, is way over budget. The fact of the matter is, it is so big that I think even Dr. Strangelove would be impressed by the incredibly high number. Why are we not investing more in our kids?

I think the quality of education that we provide our young people is just as essential to our national defense as some of these newfangled weapons that we keep hearing about. Again, I commend the gentleman for his statement and I agree with everything he said.

Mr. ALLEN. Mr. Speaker, if the gentleman will yield, I came to this Congress from the Portland City Council, 1 year as mayor and 6 years on the Portland City Council. And while I was there, I heard from, I think, almost every person in my district about the significance of high property taxes.

I have only been here for 9 months, but I will bet that in the course of the debates in this Chamber over the last few years about education, that no one has stood up and said, "I am for abolishing the Department of Education," or, "I am for cutting funding for Head Start or other education programs," and in the same breath said, "And I will advocate at the local level for an increase in property taxes to support additional education programs." I bet that has never happened, because the same people who would say we want the Federal Government out of education would say also that we are not going to support increases in local property taxes to fund education.

The fact is that when it comes to 0 to 3, 0 to 6, the Federal Government is the funding agency. This Government, we already fund Head Start, and, as the gentleman from New Jersey said, we do not provide Head Start for all the kids who need it or for all the kids who qualify according to our regulations. What we have to do is to make sure that we take seriously the problems around this period, 0 to 3, 0 to 6.

But it is going to be a partnership between the Federal Government and the State governments and local governments and school boards and the private sector. We cannot do it alone here, but we have to set the goals and urge the people in this country to take this issue seriously.

Ms. DELAURO. Mr. Speaker, if the gentleman would yield for a second, we all represent different areas and different parts of the country, whether they are urban or suburban or rural areas.

I keep going back to the fact that we have been privy to some of the most recent, the most up-to-date, the most scientific data about how we can make the biggest impact on our children. Startling data. We cannot have it more clearly, as my colleague from Massachusetts pointed out earlier. This is it. We have this period of time when we can make the biggest impact for this child's future.

And all that research is wonderful, again, wherever we live, but if it does not spur us to action, the kind of action that we are talking about, and the gentleman from New Jersey and the gentleman from North Carolina have spoken about, if we do not act on that, then, one, I think we are derelict in our responsibility, and I think that we really are shortchanging our kids.

Just two or three statistics that I think are important to note which then trigger off a number of things that say, what are the responses? What ought to be the responses? One-third of victims of child abuse are children under 1 year of age. Parents of all ages and income levels say they need more information on care for their children and how to stimulate their healthy development.

The United States is the only industrialized country in the world which does not have paid maternity leave. We have got millions of mothers and fathers who have to leave their kids and return to their jobs in those critical years. We are talking about the 0 to 3, the 0 to 6 years, and those early months of a child's life.

No one is suggesting that folks do not have to work today. Families have two people in the work force because they need to. But talking about tools, government cannot do everything. Government should not do everything. Government should provide some tools to people.

More than half of the mothers of babies under 1 year of age work outside of the home. But studies show that nearly half of the child care available for these infants is of such substandard quality that it threatens those babies' health and safety. We are not talking about bells and whistles; we are talking about basics for good development.

Mr. Speaker, if we do not take advantage of the scientific information, of that national will that has been talked about, to take some of the resources that have been the tradition of the Federal Government in early childhood education now with what we know, and as we extend it to help the families from 12 years of education to 14 years of education with the tax bill that was passed, and we provided some help there to make 14 years of education universal, what we now have to really apply ourselves to and commit ourselves to is looking at those ages from 0 to 6 so that that period of time is accounted for and all of the positive stimulus that a child can have to develop needs to happen, which is why I am so excited, not the legislation itself, but it is the science and what the legislation can do together for early learning and opportunity.

And I think this kind of a conversation is just the kind of thing that we need to do, and all Members on both sides of the aisle ought to be engaging in this kind of discussion.

Mr. PALLONE. Mr. Speaker, if the gentlewoman would yield, the other thing I wanted to mention, I know that my colleague from North Carolina touched upon it as well, is that Head Start now and Early Start and the legislation that the gentleman has proposed for expanding Early Start, basically it is not just a situation where we are providing child care; we are also providing parents with parenting skills and families with support skills.

□ 2030

I have seen in the Head Start programs where they try to get the parents involved. It is amazing to me sometimes how little some parents know about basically raising kids or doing certain things.

I remember when I was, going back to my own experience again, I remember when I was in the hospital when my first child was born, my daughter Rose Marie. And at that time they had not changed the insurance yet so you were able to stay a few extra days in the hospital and then, of course, we got into the whole thing with the HMOs and the managed care tried to cut back on that. We had to pass a law to extend the days again.

But they would have programs with the mothers and some fathers, too, where they would teach you how to bathe the child or do different things. I was surprised because a lot of people really did not know how to do some of these things.

One of the nice things about the Head Start program and Early Start is not that we are just talking about bathing skills, but they really do try to get the parents involved and teach them skills so it is not just a question of just providing funding for child care. This is a way of providing support and getting people together so that they become more self-sufficient ultimately. There are even programs involved in some of the Head Start programs where they will get involved in employment and help people find jobs, that type of thing. So it is a whole, there is a lot involved.

I just think it is so wonderful that you are talking about expanding this. I just wish that it were possible one day that every child who was eligible for Head Start and every child who is eligible for Early Start was able to take advantage of it. We know how successful it is, not only for the child but also for the whole family experience.

Mr. MCGOVERN. I think that is the type of bold thinking that we need more of in this Congress. I again will commend the President and the First Lady for their leadership on this issue. Head Start is a program that works. We should fully fund it.

The gentleman is absolutely right about some of the skills and support that these programs provide. There was a front page story in the Los Angeles Times a few weeks ago discussing the alarmingly high number of young children who do not brush their teeth on a regular basis. I mean very simple things that we all kind of take for granted here, but it is a disturbing statistic, and programs like Head Start help combat that kind of trend. They deserve our support.

Mr. ALLEN. Mr. Speaker, I do not know that we have talked enough about one of the conclusions of the White House Conference on Early Childhood Development, which is, and I gather there is a new report coming out that will also emphasize the importance of this particular point, home visits, prenatal and postnatal home visits are critical to helping parents cope.

Let us face it, in this country today we have too many teen parents, too many youngsters who are parents at a time when they still need parents themselves. If they are going to be able to bring up their kids, parenting skills are essential.

In the Bath-Brunswick area in Maine, the Bath-Brunswick child care agency has started a program of home visits. It works. It is very helpful.

In the Charlotte-Mecklenburg area in North Carolina the school system has developed a series of brochures that they will give, they will do prenatal visits and postnatal visits, and a series of brochures that will help young parents sort of get some basic information about how to encourage stimulation in their kids.

In Hawaii there is, I am told they have a very comprehensive prenatal, postnatal set of home visits. There is one statistic out of what Hawaii has done that just amazes me. It has to do with usefulness of home visits, not just as a matter of parenting education, not just as a matter of improving our kids' chances in life, but as a way of reducing child abuse.

That number is this. As a result of this program, repeat instances of child abuse have been reduced from 62 to 3 percent. Repeat instances of child abuse have been reduced from 62 to 3 percent. That is a large part of the reason, home visits.

The fact is if we are going to deal with the phenomenon of young people today growing up in the kinds of families with all the stresses and strains that modern families have, we need to focus like a laser on zero to three and zero to six and make sure that all our kids have a chance to grow up in a healthy, productive home.

Ms. STABENOW. On that point, if the gentleman will continue to yield, I congratulate all of my colleagues for standing up for children and for public education. These are such important issues. We will have in front of us tomorrow issues dealing with public education.

But to share with my colleague from Maine, we in Michigan have been focused on those very same issues. I was very proud back in 1982 to sponsor something called the Children's Trust Fund in Michigan, focusing on parent education and child abuse prevention. We have done a 10-year study of the dollars spent on working with young parents when children come home from the hospital.

It is a Big Brothers, Big Sisters kind of concept. The fancy name is perinatal coaching, but it is based on the idea of giving support to young parents from the moment they step into their own home with that newborn, to help them as they learn new parenting skills and be able to work with them through the first year of the child's life to raise that child, to give it the kinds of skills you talked about.

Michigan State University followed this kind of effort and the efforts of working with parents of young children up through Head Start for 10 years. And they compared the amount of money spent on prevention with the amount of money spent in school later on, on substance abuse problems, mental health, dropouts, and ultimately crime. And they were able to measure that for every $1 we put into the kinds of things you are talking about this evening, we saved in Michigan $19. We literally have an ounce of prevention worth a pound of cure.

We now can demonstrate. One of the frustrating things about prevention is that folks always say you cannot measure it. When you lock somebody up, you know you are creating a safe community. When you are doing preventing on the front end and stopping abuse in the first place, so children do not grow up and potentially end up in those prisons, we do not have a way to measure it. In Michigan, in working with important efforts in Lansing, important efforts around the State, we have measured that and can demonstrate that from a taxpayer's standpoint, as well as just plain common sense for children and families, focusing on what we are talking about tonight makes sense.

Mr. MCGOVERN. Mr. Speaker, I yield to the gentleman from North Carolina [Mr. MCINTYRE].

Mr. MCINTYRE. I was going to mention this briefly to tie in with the coordination and cooperation not only from the Federal level but State and local. I think it is important to emphasize that the support mechanisms cannot of course come up from here in Washington. We want to target help where we can try to give the maximum use of any Federal dollars that are spent in situations to help those on the local level best meet those crying needs of our young children in early childhood.

A practical way to do this is something that I know we have done in North Carolina. Ten years ago I had the privilege of being a charter member of the very first North Carolina Commission on Children and Youth. One of the key things you can do is bring together concerned private citizens and those who serve in the public sector, as well as those from social agencies and churches and synagogues, other houses of faith, to come together and tackle the problem on the State level and then of course to bring it down to the local.

Our Commission on Children and Youth was so successful that just within two years the State legislature redesignated it and started a new commission called the Commission on the Family. Then we dealt with these issues that would carry from early childhood right on through the sunrise right on through the sunset of life.

But when we looked at that, we took it yet another step. We encouraged local communities to start commissions on children and youth and the family, to help support these kind of programs so that when we come into an area and make a difference, you have local leaders involved from the public and the private sector.

In my home town of Lumberton, we were one of the first four communities in North Carolina 8 years ago to start a local commission on children, youth and the family. I served as a charter member of that. What we sought to do is exactly what my good friend from Maine was just talking about, and that is, we offered programs not only to help support families and offer them ways to increase their parenting skills but we actually said to the local churches and the local civic organizations, if you would like to offer a class on parenting skills, we will offer it for a set time and you can become involved.

That brought it right home. It was amazing the number of people that signed up and said, "Yes, I want to be a good parent. I want to help my kid in those early years, but show me how because I have never been a parent before."

I think when we can find ways to bring the Federal, State and local level together and encourage these types of local commissions, it will make all the difference.

Mr. MCGOVERN. I would say to my colleague that he is absolutely right. We need to reach out to the local level. There are some amazing things going on in my district in Worcester and Attleboro and Fall River. It is inspiring, some of the programs that are now being implemented. But they need the help. They need the support.

When I go back home, what they tell me is, "We would like to duplicate our efforts and triplicate our efforts but we do not have the resources." We will have a forum on November 1st in my home city of Worcester to try to bring people together to try to find ways to promote some of what works. I hope we can bring that message back here to Washington and get the necessary resources and backing.

I thank all my colleagues for joining in this special order tonight.

CAMPAIGN FUND-RAISING INVESTIGATION

The SPEAKER pro tempore (Mr. COOKSEY). Under the Speaker's announced policy of January 7, 1997, the gentleman from Indiana [Mr. SOUDER] is recognized for 60 minutes.

Mr. SOUDER. Mr. Speaker, I think before moving into the general topic I am getting into tonight, I want to express my support for many of the education initiatives, although I think sometimes we get it backwards and think Washington is the fount; unless something is done out of Washington, it will not be done.

I know that it was under a Republican President that Head Start was created, and Ed Ziegler of Yale University worked with then President Nixon because he felt there were some gaps. We ought to look to Washington to fill gaps, not to be the end-all, be-all of education.

Sometimes I think while the motives are correct on the other side, that is, that we need to help our children, and all of us who are parents of young children, older children, are very concerned about education and it is not a partisan type of thing, but we do have some substantive disagreements over whether it should come out of Washington and be controlled out of Washington or whether it should start with the parents and back home.

I am joined tonight by my friend, the gentleman from Arizona [Mr. HAYWORTH]. I know he wanted to make some opening comments, too.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will yield, likewise, I thank those who preceded us this evening in this Chamber for discussing the issue of education. I think the gentleman from Indiana makes a very salient point when he distinguishes part of the difference of how best to deal with schools, how best to deal with this precious notion of educating our children and what is at stake in the future.

I was pleased to hear many of our friends on the other side talk about local initiatives but this, I believe, is the key. That is that initiatives can develop at home rather than be Washington-based, with a Washington community then trying to send those notions down to the schools, if you will. Things can happen at home on the front lines with volunteerism, with innovative teaching, with people taking time in their respective communities to adopt a school. But my colleague from Indiana is quite right when he mentions that there are ways for government to fill in the blanks.

I would take this time, Mr. Speaker, to inform my colleagues on the other side, as I have through many interoffice letters, of a couple of pieces of legislation that I think are vitally important, both of which are drawn on a rich history of bipartisan cooperation. The first I would commend to everyone in terms of attention is the Education Land Grant Act of 1997, a bill I developed for those rural school districts that live adjacent to federally controlled land.

It is based on what happened in the Sixth District of Arizona in the 104th Congress, where the small town of Alpine, Arizona did not really have any resources to build a new school. Its tax base had been eviscerated because the folks there were not really allowed to ranch or to harvest timber any longer because of some court orders. So they came to me and said, "Do you think we could get a conveyance of 30 acres of Forest Service land, so that we could save what scarce resources we have on books and bricks and mortar and teachers and students and building a new school?" I was pleased that during the 104th Congress we passed a conveyance of land of 30 acres to the Alpine School District.

I got to thinking, based on our history, is there something else we could do. I looked back to the Morrill Act of the 1800s during the Lincoln administration where through land grant opportunities, Federal land was given back to the States for the creation of institutions of higher learning. Out of that grew the notion of the Education Land Grant Act where we can go and convey acres, up to 30 acres at a time to those school districts adjacent to Federal lands, so that they can save their precious resources for school construction and for improving the quality of instruction within those schools.

I would commend that to my colleagues on both sides of the aisle. And also a bipartisan bill I coauthored and cosponsored with my friend the gentleman from Georgia [Mr. LEWIS]. We do not agree on a lot, but one thing that we think is important has to do with mathematics rather than philosophy. It is the notion of raising the ceiling for private bonding authority for local school districts working with banks and financial houses that are private.

□ 2045

Right now Congress has a ceiling of $10 million there. When we checked, we have seen that banks and other financial houses say we can raise that level to $25 million with no problem whatsoever and that can help school districts across the country as well.

One other note on the Education Land Grant Act, or as some have come

to calling it, with an acronym, HELGA, the Hayworth Education Land Grant Act, we should stipulate, Mr. Speaker, that the lands we are talking about are not Park Service lands nor wildlife refuges. Those areas would not be available for conveyance to local school districts. But so much other land is federally controlled from coast to coast, and specifically in the American West, that there is a variety of land that could be available that is not Park Service land nor wildlife refuges that could make a real difference for many different school districts.

So I am pleased to join my friend from Indiana, and based on what we heard in the previous hour, in offering other approaches to education, which we believe may be more practical and certainly can have profound effects for all congressional districts, for all school districts from coast to coast.

But, Mr. Speaker, I would be remiss in joining my friend from Indiana if we were to neglect the reason we are primarily here tonight, and it is something as basic as education and, indeed, one of the first things we learn, and that is the notion of what is right and what is wrong. And, sadly, recent events in Washington force us, really compel us to come to this floor to discuss inaccuracies, discrepancies and what, sadly, may in fact be widespread breaking of laws.

I yield to my colleague from Indiana, because I know in his role on the committee overseeing this, he has had firsthand experience on this legislative day.

Mr. SOUDER. And it is important to note, because people may get confused sometimes in these special orders when we, some of us in particular, have been trying to point out some of these problems that have developed in basic justice in this country and abuse of the political process, it does not mean we are not doing lots of other things. I also serve on the Committee on Economic and Educational Opportunities. It was my first choice. For 4 years in the House and for 4½ years as a Senate staffer, my first focus was children and family issues. I was Republican staff director of the Children-Family Committee; worked on many of these issues, and worked on them with Senator COATS in the Senate.

I have a deeply held conviction of the importance of education in the system, and I get tired of hearing we do not care about public schools. My kids have gone through public schools, I went through public schools, my wife went through public schools, and that is an important issue to us. But I am also on the Committee on Government Reform and Oversight, and we have also seen a perversion of our political process.

I wanted to, first, on the eve of an important day, because tomorrow the House investigation begins on the abuses in the political process, and particularly the campaign process, I would like to sketch a little background. I know the hearings that we held today, where we gave our opening statements, will probably be aired later tonight if not later this week, and then tomorrow we have our first witnesses in the House investigation, but I wanted to put a little bit of context into what we are doing and how this developed.

I want to start with a little bit different spin. A man named Dick Morris, who has become relatively infamous around the United States, has written a book. While it may not be the most interesting book that has ever been written, and quite frankly is a little bit self-serving, as many of these type of books are, nevertheless gives us some very interesting insights as to how the political process can become corrupted.

Let me give my colleague a brief book synopsis that really outlines how we got to what has been happening since we came into Congress. And that was, basically, in 1994, after the election that brought the gentleman from Arizona [Mr. HAYWORTH] here, brought me here, the President was in deep trouble. Much like happened in Arkansas when he was defeated after one term as Governor, he realized he needed to change his strategy, and he brought Dick Morris back.

One thing Dick Morris suggested, and he writes about it, and he writes about it proudly, was they needed to have a permanent campaign. An interesting thing happens when are going to have a permanent campaign. It means one has to have a permanent fundraising operation. And early money is hard to raise, so one has to go to some places that may or may not be quite as up front and a little different, plus there is the need for huge quantities of this money.

They wanted to run ads in the district of the gentleman from Arizona [Mr. HAYWORTH] from day one, pounding him, from the time he got elected until his reelection came up. They wanted ads running while we were in this government shutdown debate trying to spin to the American public. Quite frankly, our side sat back and waited until the election.

In this process, a man named Harold Ickes, Jr., it is clear in Morris' book, and some is not as clear in the book, Ickes and Morris fought when they were in New York City growing up. Because Harold Ickes is most liberal he has been committed to the liberal cause. Dick Morris is committed to the latest poll. It is not that he does not have some convictions of his own, but his convictions are a little movable and he is willing to try to win elections first.

Harold Ickes did not like that and he found himself getting cut out of the process from the White House. It is documented in other places too, but Morris more or less ignores him in the first part of the book. Then an amazing thing happens. Harold Ickes, whose memos, quite frankly, have been very important in this, because he had some with the President's initials on them and Mrs. Clinton's initials on them, Harold Ickes was suddenly brought in and Morris delineates why: Through praise. He praises him for his fund-raising efforts and how much money he has been able to bring in.

And Ickes got access in the decision-making process of the White House by being the point person with the outside in how the money came into the system. This is documented by the memos he left the White House with.

So Morris takes over and takes it in a polling direction. So we get things like welfare reform, that Ickes did not like, and the liberal Democrats did not like. Ickes gets back into the process through fund-raising.

Interestingly, also, the Vice President of the United States is praised repeatedly in this book for his wonderful efforts in fundraising.

Now, in the book there is no indications there was illegal fund-raising, but that gives us the ideas of the pressures in the system that were occurring that lead to the dramatic fund-raising abuses. And that has not really been laid out exactly why did this happen and what was different and why were there such massive amounts of money. It was because they decided to do a permanent campaign.

But some of this actually started earlier. In the Committee on Government Reform and Oversight, from the time we took over and we started to investigate, we heard there was this problem in the Travel Office. And we started looking at the Travel Office and we wondered, well, why is this person walking around the White House without a security clearance? Why is this person walking around? Why are the Thomasons involved in such a little thing? Because it did not seem that many dollars. And even though they owned the travel agency, why were they involved in this?

And as it evolved, we discovered they were trying to get the travel budget elsewhere; that there was this person over here who was a girlfriend or boyfriend of this person and there was a Clinton distant cousin over here. And we started to see the pattern we are now seeing in full bloom a couple years later. So as we were investigating the Travel Office, we started to check on where did these security clearances come from.

The next thing we know we turn up the FBI files case, because we start saying how did they get these clearances. Hey, some of these names, they do not have any business having. These people are Republicans. They have not been in this administration. John Towers is dead, as a matter of fact.

Mr. HAYWORTH. If my colleague from Indiana would yield for just a second, if I am fully cognizant of the reports and our recent history, we are not talking about a few files. We are not talking about a dozen files. Could the gentleman from Indiana provide for the record how many files are we talking about?

Mr. SOUDER. We honestly do not know. We know there were at least 200, then 400. It appears there were at least 800. Chuck Colson went to prison after the Nixon administration for showing one.

We documented that interns had them, that multiple people had them. We know they were out there. What has not been documented yet is whether they have been abused. But merely having people's secret files, with any allegations, raw allegations, unproven allegations are in these files.

Mr. HAYWORTH. Indeed, to draw the proper analogy, and I thank my colleague from Indiana for yielding, but it would seem to me these FBI files contain very personal information. And it would be akin to someone, a pickpocket, having hundreds of wallets that he had purloined from different folks. Now, maybe the pickpocket never used the credit cards in the wallet, maybe the pickpocket never took the currency out of the wallet to spend, but yet that wallet, something very close to someone, personal possessions, were taken away and in the possession of someone else who could have used that information, that currency, if you will, in this information age, in a very disparaging way.

Sadly, again, it seems that was another example of some folks in the executive branch running roughshod over constitutional rights and, indeed, our traditions of law in this country.

Mr. SOUDER. And to take the gentleman's analogy further, in addition to, in effect, pickpocketing people's billfolds and private things that were official and on record, this is not a matter of FBI files where they just have whether an individual has been picked up for a parking ticket or where they went to college. These are when an individual applies for a secure government job and they go try to find out what anybody says about them.

So there are raw unedited transcripts of if somebody says I saw him at dinner somewhere and he was having an affair. I saw him at a gay bar one time. I heard that he beats his kids. These things are in those files and individuals do not even know they are in their files, and yet we have kids, we had all sorts of people walking around with these.

The question comes, were they potential blackmail files for people who were holdover, or for people who they had to do business with outside, or for, quite frankly, staff members who used to work in the administration and came over. We do not know, and that is still unanswered.

But as we moved through this, we turned up Craig Livingstone, and he was in charge of White House security and the files, along with Anthony Marceca, who had been kicked out of different campaigns for multiple questions, had had various problems in their lives. The question was who hired these people? Craig Livingstone would not say who hired him. The attorneys would not say who hired him. They said maybe Vince Foster did, which was always the convenient answer. It was always the dead guy when we tried to get an answer.

But then we found out they had a data bank. And from the files investigation we turned up they had this data bank. And as we looked at the data bank, they had these piles of documents with little codes on them. And we found out that the codes were amounts of money that the people gave, and they had a code so they could know at the White House how much money these people gave. And that was the codes for coffees and Lincoln bedroom. And that is how we evolved into the coffees and the Lincoln bedroom question.

So this has been an unfolding process as we go through this, and we are now seeing the last phase of this, which is the foreign money, in what appears to be at least on the surface. And we are trying to get the evidence, and that is the purpose of these hearings, of were we penetrated by foreign governments? Was national security compromised? Did they make land deals or other government decisions based on who was at the Lincoln bedroom; based on who was at a coffee? Because we have seen this pattern.

And I want to relate two other things that make us extra suspicious. The American people are generous people, and they will give people the benefit of the doubt, but we have seen a repetitive pattern of stonewalling through all these investigations. And every one we get into, there is this excuse as to why they cannot give us the information of why this person has fled overseas. Sixty witnesses pleading the Fifth Amendment. Twenty-five so far have fled overseas. They always have an excuse.

I also happen to have, for a variety of reasons, chaired two investigations of the INS. I, quite frankly, and bluntly, was reluctant, because the chairman was not here at that point. Mr. Zeliff, who had led much of this, decided to run for governor of New Hampshire, and I wound up chairing the subcommittee.

But I was reluctant, because I was afraid that in investigating these things would be perceived as anti-Hispanic. But at some point the truth just stares us in the face. We saw the piles of documents that civil servants, many of them Democrats, were bringing in bundles of tests, citizenship tests filled out in the same pencil, in the same handwriting; there are people coming in and saying we had eight boxes of applications that never had a background check; and we watched and heard these people say that the deadline was the voter registration deadline.

The deadline was not to try to get people in. We wanted legal aliens to become citizens. And out of the 1.1 million who came in, at least a million were completely legitimate. But it appears that up to 100,000 were not. We had rapists. We had all sorts of people brought in because of the pressure to get the voters registered for an election, which ties in with Morris' whole scenario.

So we already have the public acknowledgment that the INS has fired people and cleaned up their process, and are working hard to do this, but the INS clearly violated the law.

Now, interestingly, Mr. Zeliff and, then full committee chairman, Mr. Clinger, were pursuing another category. In this other category was the White House communications agency. I wound up at that hearing as well and chaired part of the hearing, and found it, quite frankly, one of the more boring hearings I have been to. I confess that not everything we do here is interesting, even when we pretend it is interesting.

We heard GAO tell us that the White House Communications Office had major reporting problems; that it was funded under the Department of Defense, and the Department of Defense was accountable, but the political people at the White House, because usually they had a fairly low to mid level defense person over there, was being pressured by White House high ranking political people. And we, in particular, were looking at a major waste of a huge broadcast system they had purchased with a high percentage of their budget that then they could not get on one plane so they were not using it.

Also came out charges of a variety of different things that they were looking at.

□ 2100

One the charges of this office that we said could easily be abused, that GAO said could be abused, that we were holding a hearing on, one of their charges was to videotape key events at the White House.

As of last night, the media started to ask questions, because we turned in fraud potential in this office a year and a half ago, and it is clear in the process not only has this committee, full committee, been requesting tapes and they only turned up yesterday edited, but these tapes, we had a hearing where we were investigating this agency and they did not come up. And then when the tapes come up, it is, "Sorry, the audio is missing."

Some people did not seem to have read Watergate. And that is, when there is a missing 14½ minute gap in Rosemary Woods' transcript at a very key point, people jump to logical conclusions. And when the tapes come back without the audio in the part where the allegations have been that there was fund-raising, we have doubts.

One of the things I went to this chairman of this subcommittee today to follow up on is, I think we need immediate hearings in this subcommittee that is already investigated, on top of the hearings from Chairman Burton that are starting, and say, "Okay, who filmed the stuff, the stuff that was played on C-Span the other night that was clearly edited? Where is the full tape? Did you doctor these tapes? What happened to the audio of these tapes? Who did this? Who authorized you to do this?"

This is shocking, that they went through and did this and abused a Defense Department agency, which we had already been warning about, that they had potential fraud in the way that they were setting it up.

As the gentleman from Arizona [Mr. HAYWORTH] knows, I am on the same committee with the gentleman that is looking into this issue, the Government Reform and Oversight Committee, and was there for the opening statements today.

My colleague raised some serious points about this issue of the tapes. I just want to bring a little levity here because, quite frankly, there are parts of this thing that I find incredibly humorous. Let me just kind of walk through it.

The tapes the gentleman has been referring to are videotapes of the so-called coffees that the White House conducted, where they invited in these individuals, most of them, coincidentally, major donors to the Democrat party and of the White House and of the President, but maintained, and had maintained for months now, that these were not fund-raisers, "Look, these are reasonable and legitimate, and we are having nice discussions, but they were not fund-raisers."

What I find humorous about it is a couple of different things that reveal how we got the revelation of these tapes. For example, when the White House, first in response to our committee's subpoena, searched for the names of the individuals we knew had attended those coffees, according to press reports, and I am quoting here from George Lardner, Junior's Washington Post story the day before yesterday, they searched for those individuals' names, the White House database came up empty.

As a matter of fact, they could not find anything on those individuals in the White House database. So they said, what we really should do is search under the name "coffees." And, in fact, they did come up with what they call, I think it is a total of 44 hits, under the name "coffees," and that is how we led to the discovery of these tapes. They only bothered to wait from March, when we subpoenaed this information, until, we are in October, are we not? until October to decide, well, let us look under "coffees."

But the fascinating thing is that in Mr. Lardner's story, he goes beyond that and he says, guess what? Somebody had the bright idea of searching under "coffees" to look under "DNC." What is "DNC"? Democratic National Committee. And to look under "fund-raiser."

Now, I do not know why they would look under "DNC" or "fund-raiser," because, as we all know and as the American people have already come to believe in their heart and soul, these were not DNC fund-raisers. And yet the curious thing is, when they did search that same White House computer database under "DNC" or "DNC fund-raiser," they did not get 44 hits, they got 150 hits.

Mr. SOUDER. Mr. Speaker, reclaiming my time, people who put that in there never would have acknowledged it in their own computer system.

Mr. SHADEGG. After all, the White House spin machine has been running around the clock to spin this thing as coffees, get-togethers.

What did my colleague say the other night? What is the coffee shop, prominent coffee shop?

Mr. SOUDER. Starbuck's.

Mr. SHADEGG. This is Starbuck's on Pennsylvania Avenue.

Mr. SOUDER. Only a lot more expensive.

Mr. SHADEGG. Only a lot more expensive. And the fascinating thing is, well, all 44 coffees also happened to be hit under the same computer system for DNC fund-raisers.

Now, let me see, the White House spin machine has been saying these were not fund-raisers, "We were not using public property for fund-raisers." But when they searched DNC fund-raisers, the same 44 turned up. And we know that. Now, what is the difference between 44 and 150? There are 106 others out there that we do not know anything about. I find it absolutely fascinating and tremendously humorous.

But there is one more point in all of this that I want to bring out. When this came out, I happened to be in Arizona en route back to Washington when I first heard this story of the tapes released: "White House releases tapes of White House coffees," not fund-raisers, even though the White House itself in their own computer called them DNC fund-raisers. But when the tapes came out, the national news reporter I heard on this radio story said, "But they do not show any breaking of the law; they actually back up the President's story."

I kind of listened to that for a minute. Then I got here, and I happened to see the tapes the other night. There are fascinating things in the tapes; for example, the missing gap of time. Rosemary Woods surfaces again, and there is, you know, a human gap. Now it just so happens that the gap appears on the one tape where we see none other than John Huang. It is kind of, huh, I wonder how that happened.

Mr. SOUDER. Coincidence. We are jumping to conclusions.

Mr. SHADEGG. Mere coincidence. We are leaping to conclusions. "These were clearly not fund-raisers." They will call them fund-raisers in their database, but that was a goof.

Mr. SOUDER. They had to have some way to distinguish it from other coffees.

Mr. SHADEGG. Of course.

But one last point I want to make on this that is also humorous is that while the news spin was that these were, in fact, clearly not fund-raisers, and indeed nothing in the tape shows the President saying, "give me the money," that is true, it is not there, what is there is the understanding of the people who attended.

The understanding of the people who attended is quite clearly shown on a tape for which they accidentally released the audio. And you know what it is? It is this gentleman in the audience saying, "Hey, I got the checks. I got the checks."

As a matter of fact, the White House spin is, "Well, these were not fund-raisers because the DNC official in the room turned the checks down." Now, I mean, I am certain this is one lost soul who happened to make it to these coffees and had the mistaken notion that he should be offering up these five checks. Clearly, he was a mistaken soul.

The fact that there was a DNC official who said, "Wait until later; wait until later," I am certain these were not fund-raisers. Thank goodness the White House has come forward.

The last point I want to make: Because the White House has been so incredibly forthcoming, I am certain that within minutes of when we discover there are over 150 events, take away the 44, 106 events, the White House will be forthcoming. They will give us all the tapes of those events, computer records, all the lists of people identified; they had never stalled or delayed in any way of providing information; they have never stonewalled or failed to respond to a subpoena until we threatened contempt. I am certain that within minutes the President himself is going to run down here and say, "Here is everything."

As a matter of fact, in this morning's paper, the President said, "Well, they have the evidence." The chairman of our committee, the gentleman from Indiana [Mr. BURTON], pointed out they

do not have the evidence. They, in fact, stonewalled. But I am sure it is just a glitch.

Mr. SOUDER. The key thing is, as the gentleman from Arizona [Mr. SHADEGG] knows, he is an attorney, what we need to do is check out the statute of limitations on a lot of these things.

Mr. SHADEGG. If the gentleman would yield again, I understand. Now they will surface the day after the statute of limitations. How foolish of me.

Mr. SOUDER. What a pattern.

Mr. HAYWORTH. I thank my colleague, the gentleman from Indiana [Mr. SOUDER]. And I am very pleased that we are joined by the gentleman from Arizona [Mr. SHADEGG], because he has distinguished himself in the legal profession as he distinguishes his work here in this body.

I would simply offer one different take on one aspect, because I know my colleague is laughing to keep from crying, because none of this should bring us joy.

It is one thing to have political differences with folks and to have philosophical discussions. In a free society, we champion that. The problem now is a pattern, as my colleague said tongue in cheek, that is really not coincidence, that seems to be a habitual pattern of lawbreaking.

I thought it was very important when he mentioned the videotapes and how they had obviously been edited and when my colleague mentioned the lone, soundless tape.

Let me read today from the Omaha World Herald on this point. Quoting now the Omaha World Herald, "The lone, soundless tape in Clinton's collection is one of the potentially more important videotapes made. It shows DNC fund-raiser John Huang introducing the President at a coffee on June 18, 1996. A Johns Hopkins University professor has testified that Huang said, 'Elections cost money, lots and lots of money. And I am sure that every person in this room will want to support the re-election of President Clinton.'"

Mr. SOUDER. This is the part that is missing.

Mr. HAYWORTH. That is the audio that is missing, according to the testimony of a professor from Johns Hopkins University.

What is also fascinating, and my colleagues have distinguished themselves, I believe, in these special orders where they have helped to inform the American people, but I want to call on my colleague, the gentleman from Arizona [Mr. SHADEGG], for some free legal advice here in the people's House, and it has to do with some other things we have heard now dealing with these issues, because there are some at the White House, some attorneys there, who tell us that if a law is an old law, it should not count any longer.

I refer specifically to the Pindleton Act. Let me ask my colleague, the gentleman from Arizona [Mr. SHADEGG], has he ever seen a situation where a cogent, logical defense is, a law is old, therefore, it should not be observed?

Mr. SHADEGG. Well, certainly I have not. Indeed, perhaps the first laws enacted in the world are laws against murder, therefore the oldest, certainly laws we ought to respect before any other. The notion that an old law is due less deference than a new one is, on its face, absurd. Actually, the existence of a law for a long period of time establishes that it truly embodies the consensus of the society.

Clearly, these are searched-for excuses by the White House to try to get out from under what they have done.

A fascinating parallel is the line, "Everybody else does it." Another one is, "Well, we certainly thought we were complying with the law."

I love that one with regard to the issue of phone calls by the President himself from the White House, because if my colleagues recall the sequence of events, his first story on phone calls from the White House was, "I don't recall making any." And then his second story some several weeks later was, "Well, I know that at the time we did this, whatever it is we did, we believed we were complying with the law."

Now, spare me, and maybe my colleagues can help with this. I have problem with the logic that says, "I do not remember doing it, but if I did it, I remember that I thought I was complying with the law." That one is tough for me.

Mr. HAYWORTH. And even more astounding, as the gentleman from Arizona [Mr. SHADEGG] and the gentleman from Indiana [Mr. SOUDER] will acknowledge, even more astounding was the explanation that we heard from the Vice President of the United States, who stood before a gathering of the press and said that he was proud of his actions but, from that day forward, he would not repeat them.

And he developed for that press conference one of the most infamous phrases that I believe has been hoisted upon the American people, because the Vice President of the United States, the man who, if circumstance and tragedy struck, would be elevated to this Nation's highest office, the Vice President of the United States said, "There is no controlling legal authority that pertains to my conduct."

Mr. Speaker, my colleagues, and those who join us through the miracle of television, coast to coast and around the world, ponder those words, because words mean something.

For the Vice President of the United States to presume and to protest that there is no controlling legal authority can only lead us to conclude, sadly, that the Vice President of the United States believes himself to be above the law, believes his conduct, which is and has been and is suspected of being illegal in this regard, somehow should result in no sanction, somehow should result in no punishment, but instead should be blithely dismissed as just one of those things, because as my colleague, the gentleman from Arizona [Mr. SHADEGG], to paraphrase so many who work in the fourth estate here in Washington in the news rooms here so eager to explain things, so eager to change the agenda for our Nation, as they try to say, "Everybody does it."

□ 2115

Mr. Speaker, I would like to go on the record tonight with my colleagues here to protest that notion; to say most certainly, not everyone does it. Indeed, when we came to this Chamber, when we started to help change the way Washington works, one of the first things we were taught was that these offices are government offices provided by the taxpayers, belonging to the taxpayers and our constituents; they are not to be used in any way, shape, fashion or form, for fund-raising.

This is an elemental lesson in the education of a public servant in this role in the people's House, in the other Chamber, and dare I say at the other end of Pennsylvania Avenue. This is one of the first things we are told and we are taught, and sadly, there are some who have ignored the lesson, some who would presume that they are above the law because they claim there is no controlling legal authority. How tragic, how shameful that utterance truly is.

Mr. SOUDER. Mr. Speaker, reclaiming my time, clearly the Vice President of the United States first was warned by the legal counsel in a memo that has been circulated all over the country in newspapers. He was a Member of this body in the House and knew that we could not do it. Then he was a Member of the other body, the Senate, and told that he could not do it. He has no excuse. We are tired of hearing these kinds of excuses.

The gentleman read earlier from the Omaha World Herald, and in Hotline today, now admittedly, these are audio only; I do not have any video, and also, I only have highlights from some of these editorials. But if I was at the White House, I would not complain about me editing. They are not in a real strong position here.

But I want to show the reaction around the country and express my disappointment with, quite frankly, a lot of members in the other party for not agreeing to speak up. As my colleagues will see if they watch C-SPAN and the upcoming opening statements of the members of this committee, there were a lot of excuses and a lot of dancing around about how everybody does it, which, A, is not true; how we ought to be investigating Congress, which we have no jurisdiction over, we are an oversight committee on the White

House and the executive branch. Our duty is to look into misconduct. That is what our committee's charge is to do and we are going to do that.

Back in the days of the Grant administration when they looked into the Credit Mobilier scandal, they did not say well, Philmore did it; well, so-and-so did it before. They looked at the scandal that was in front of them.

Back in the days of the Teapot Dome, the excuses were not, oh, other people did it. They looked into the scandal of Teapot Dome. Quite frankly, in Watergate, some, including myself, initially felt they were picking on Nixon, but we had the courage to say as it unfolded, what he did was wrong, what the Vice President did was wrong, and that we did not say, look, because Lyndon Johnson bugged Barry Goldwater's room and because Lyndon Johnson covered up, therefore, Nixon should not be kicked out of office just because Johnson did it.

First off, we have not established that other people did what Clinton did. Particularly we are looking at all these scandals put together in one administration. But it is no defense, and when is the other party going to start to step forward?

I want to read these newspapers and show that newspapers around the country have come to this conclusion. Where are the members of the other party?

Mr. HAYWORTH. Mr. Speaker, I just simply want to make the point, and I thank my colleague from Indiana for yielding, because he makes the point that I can recall many of the arguments as I was coming through school, as my colleague from Indiana was, in the wake of the Watergate scandal. And I do wish that many on the other side of the aisle would heed the words of the late Democratic Senator from North Carolina, Sam J. Ervin, who said in response to those types of protestations, well, does that make it right?

Are we to ignore it in this situation because it may have gone on before? That is the type of selective analysis that is akin to saying that if a traffic cop pulls me over and I try to say, "Well, everyone else is speeding," is the traffic cop simply supposed to say "Well, you are right, so I will let you go on your merry way." No, of course not.

By definition, it is going to be selective, but how I wish that others would speak up and remember those words of Senator Ervin: Just because it happened before and perhaps was not prosecuted or investigated, does that dismiss the current problem? Of course it does not.

Again, it brings us no joy to do this, but it is a sad tale of woe that goes to the very fabric of our constitutional republic, and to ignore these problems, these discrepancies, these misdeeds would be to do our country a grave disservice.

Mr. SOUDER. Mr. Speaker, I know this will take a couple of minutes, but I want to show how overwhelming public reaction has been around the country.

New Mexico, Albuquerque Journal: "The administration could save itself considerable trouble and criticism if only it learned to be candid."

Georgia, Augusta Chronicle: "It's time for Congress to start drawing up articles of impeachment against Reno. She is open to charges to both conflict of interest and incompetence. It's time to get rid of the worst Attorney General in the Nation's history."

Alabama, Birmingham News: "Apparently, Ms. Reno believes she must have photographs of illegal transactions taking place before she can proceed with a special investigation. Perhaps the videotapes of the coffees and other fund-raising functions at the White House will give her what she's looking for."

New York, Buffalo News: "President Clinton can insist that no money changed hands and no policies changed at all when he schmoozed with donors in White House receptions caught on videotape. But the reality is that the public is entitled to suspect the worst."

West Virginia, Charleston Post and Courier: "Clearly the White House is not cooperating fully with Ms. Reno's probe. That puts her in an impossible bind. The sooner Ms. Reno hands off this investigation to an independent counsel, the better it will be for her and for the reputation of the Justice Department, which is sinking fast."

Ohio, Cleveland Plain Dealer: "If the failure to reveal these tapes to the congressional investigative committees isn't obstruction of justice, it's far from the 'full cooperation' the President and his men keep claiming."

Texas, Corpus Christi Caller-Times: "The President's team is either spectacularly inept or willfully obstructionist."

Michigan, Detroit Free Press: "Janet Reno is part of the problem, not part of the solution."

Indiana, my hometown, Fort Wayne Journal Gazette, another Democratic paper, which many of these have been: "You hear no claims of executive privilege this time. No excuses about controlling legal authority. No accusations that the Republicans did it, too."

New York, Long Island Newsday: "The tapes made Reno look clueless in denying once again the need for an independent counsel."

New Hampshire, Manchester Union Leader: "Of course only the Clintonoids know whether these tapes, under subpoena for six months, were tampered with, altered or edited. Only the Clintonoids know whether these are all of the tapes or whether there were others of a more incriminating nature that have since disappeared. And so it goes in the Clinton klepocracy."

New York Times, New York: "Justice has been conducted in a slipshod investigation."

We already heard from Nebraska and the Omaha World Herald.

Pennsylvania, Philadelphia Inquirer: "Janet Reno needs to get her head out of the sand, tune in to the conflict-of-interest problem, and hand these allegations over to a preeminent lawyer free of political pressure."

Oregon, Portland Press Herald: "Only an independent special prosecutor can bring the credibility needed to determine whether the President and Vice President of the United States violated the law."

Missouri, St. Louis Post Dispatch: "Ms. Reno should seek a special prosecutor for the Clinton-Gore telephone solicitations and ask the prosecutor to investigate the other White House fund-raising investigations as well."

Now, once again, these are not Republican conservative papers.

Minnesota, St. Paul Pioneer Press: "No more than Richard Nixon could 'circle the wagons' during Watergate can a modern White House keep 'losing' documentation of its actions and hold onto its credibility."

California, San Diego Union Tribune: "The Justice Department's investigation of possible White House campaign finance violations has lost all credibility."

California, San Francisco Chronicle: "The long-sought videotapes may show nothing incriminating, but the Clinton administration's history of stonewalling, delay and obfuscation only add to the public perception that an independent counsel is needed to finally untangle the mess and find the truth."

California Stockton Record: "President Nixon had to resort to the infamous Saturday Night Massacre to get the Justice Department to his political bidding, and it ultimately failed. Reno's Justice Department is just rolling over and playing dead."

Washington Post: "The attitude of this White House toward the truth whenever it is in trouble is the same. Don't tell it, or tell only as much of it as you absolutely must, or as helps."

Washington Times: "There has been so much obstructionism in document and evidence production that only someone as naive as Attorney General Janet Reno could believe that it hasn't been intentional."

Kansas, Wichita Eagle: "Many Americans and most Republican lawmakers doubt whether Ms. Reno, a Clinton appointee, has conducted a thorough and honest investigation. And who can blame them?"

North Carolina, Winston-Salem Journal: "The lesson the White House keeps failing to learn is that any attempt at a cover-up usually makes matters worse."

This is overwhelming, from nearly every part of the country, and this is just a sampling, of liberal press for the most part, some conservatives, saying this is outrageous.

Mr. SHADEGG. Mr. Speaker, if the gentleman would yield, I commend the gentleman from Indiana for bringing that information forward. I must say as I stood here I was shocked to listen to that. I had no idea that the editorials across the country and the editorial page editors were that unanimous.

I do want to point out the significance of this particular point the gentleman is raising right now. In any free society, we can only survive if people, largely voluntarily, choose to comply with the law. That is, in a democracy, the success or failure of that democracy is dependent upon respect for the law and respect for the government that creates that law.

It seems to me that it is absolutely patently clear that Janet Reno is not only not doing her job and covering up and rolling over and playing dead, but most importantly, in not doing her job, in covering up, in rolling over and playing dead, in, for example, ruling as recently as this weekend that the Justice Department for the 18th time was going to refuse to open an investigation or authorize a special prosecutor for the President because he had done nothing wrong; moments, literally moments before the White House released these tapes, her conduct, I would suggest, is eating away at the most fundamental aspect of what our society depends upon, and that is faith and credit by the American people in the integrity of this government.

If she continues to cover up for him and to not be forthcoming and to not acknowledge the flagrant conflict of interest she has, and to refuse to recognize the evidence that is staring her in the face, she is helping to destroy the faith that the American people need to have in this government if we are to survive as a Nation.

Mr. SOUDER. Mr. Speaker, I wanted to talk about a couple of actual cases and refer to something else as people look at the opening statements today, and I want people to remember all of these editorials around the country and the universal outrage, and then watch the kind of creative excuses that people come up with here in Washington to defend why they are not speaking out. I believe that eventually we will have more and more Members on the other side, like there were Republicans, say, "I cannot defend this any more. This is too humiliating. This is undermining the core of our system."

Mr. HAYWORTH. Mr. Speaker, I thank my friend from Arizona for joining us here tonight, and the American people.

What my friend from Indiana has pointed out from newspapers, both liberal and conservative, is tantamount to a litany of shame. What is even more compelling and even more difficult are some reports we hear that perhaps White House attorneys met with the Attorney General on Wednesday night, perhaps those people even had knowledge of those tapes and they did not share that knowledge with the Attorney General. Very, very disturbing and serious questions need to be answered.

I would simply point out to those who would wrap themselves in that rather infamous excuse of no controlling legal authority that yes, Mr. Speaker, there is a controlling legal authority. It is called the Constitution of the United States, which gives this body and the other body in the legislative branch oversight ability to check on allegations and to deal with these growing concerns, and it is the role of the people's House and the other body here in the Capitol to exercise that oversight, because our constitutional Republic and those who live in it can demand nothing less.

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Mr. SOUDER. Reclaiming my time, Mr. Speaker, I had a series of pictures, but I want to use this to illustrate another point. This is a picture of the Vice President with Jorge Cabrera. I want to go through this case to illustrate that the things that we are going to hear tomorrow in our first House hearing are not isolated. There are so many that the Senate has already done, that we have pending, it is overwhelming.

I want to go through this case to illustrate several points. The Vice President has been a good student of President Clinton's in more ways than one in fundraising. He attended a fundraiser in Florida for 60 wealthy contributors. One of the attendees was Jorge Cabrera, a drug trafficker with links to a Colombian cartel, and Dr. Joseph Douze, a fugitive who once blew up a bridge. The host for the evening was Jerome "Jerry" Berlin. He was indicted in 1990 and later acquitted on Federal conspiracy charges of bribing public officials. One of the politicians allegedly targeted in that charge was Senator AL GORE, who prosecutors said did not know of the alleged plot.

One guest who paid the minimum $10,000 cover charge said, maybe the reason I got to sit with the Vice President is I was the only honest person in the room. To be fair, a GORE spokeswoman pointed out that the Vice President was disappointed to learn that his picture had been taken with a longtime drug dealer. This is my favorite quote so far of the whole investigation. "He never wants to be associated with people who break the law." That probably makes for real interesting cabinet meetings.

Some of the same donors at the fundraiser later received personal greetings from President Clinton and the First Lady. Only days later the Cali-connected Cabrera was sipping eggnog at the White House at a Christmas party. Cabrera, who gave $20,000 to the DNC, was later sentenced to 19 years in prison for helping to import 6,000 pounds of Colombian cocaine. He was indicted, mind you, when he was going to all of these fundraisers.

At the time of the Gore fundraising and the White House visit, he had already been arrested twice on drug charges in the eighties, and pleaded guilty to nine drug-related charges. Court papers said that by 1995 he was deeply involved with the Cali Colombian drug cartel, the largest in the world.

Ross Perot put it nicely: I never thought I would live to see a major drug dealer give $20,000 bucks in Florida, and then be invited to a big Democratic reception by the Vice President of the United States, AL GORE, and then be invited to the White House for a reception. An invitation to the White House Christmas party was also sent to Dr. Douze, who the government had confiscated his passport, another branch of the government had taken his passport, yet this man was at the Christmas party, and they restricted his travel after his arrest on 11 counts of Federal mail fraud and conspiracy. The Federal judge denied his request to leave the area to visit the White House, but Douze, who was arrested in 1988 for blowing up a bridge in Haiti, received the judge's permission to visit his dying mother in Haiti a few weeks after the Gore fundraiser. He has not returned from Haiti since. How does this happen? They let it.

Rule number one is follow the current law. The moral equivalency crowd is saying everybody does it. No, not everybody does. Everybody does not take pictures with drug dealers who have already been convicted or fugitives or swindlers. This happens when cash and contributions guide, and as I said at the beginning, when your driving force is you have to have money to hold your power, and your goal is to get power in Washington, and then you start chasing the almighty dollar, pretty soon you make mistakes like this.

What we are going to see in the hearing, in the opening statements today, as one Member of Congress said, we are applying guilt by showing fuzzy pictures, because this makes the Vice President look seedy and this Cali cartel person look seedy.

Do Members know what? If I call up Vice President GORE and say, will you give me a fresh color picture of you posing with that member of the Cali Colombian cartel, I do not think he is going to give it to me. The only way I can get a picture is to get it out of a newspaper.

I did not deliberately make this picture fuzzy, just like we do not make

the pictures at our committee fuzzy. But the White House does not want to give us pictures of them posing with John Huang. They do not even want to have videotapes with audio on them being with John Huang. They do not want to give us pictures with John Chung. They do not want to give us pictures with the swindler who bilked new Americans coming into our country in one of the biggest credit card scams.

So the picture tends to be a little fuzzy. But Members know what? Part of the problem here is not that we are making them look like violators of the law, they are. If you pose with drug dealers, there is not a whole lot you can do to clean up the picture, because you are posing with a drug dealer. It is particularly disappointing that in the background checks of this administration, that they have been so sloppy in doing that.

I hope that Members will watch as we go through the hearing process and as we try to bring some of these points out. This is very difficult. I realize a lot of people think it is partisan, but our democracy is at stake. If money can buy this much influence across the board, if agencies can be corrupted, if our national security can be at risk, that is what we are trying to find out. If we do not find it, the President will get off free. If we do not find it, the Vice President will be fine.

But our job as Members of the United States Congress is to look into what appears to be repeated across-the-board types of that, and we need the White House to start cooperating and the Attorney General to start cooperating.

I agreed to lend the last few minutes of this special order time to my friend, the gentleman from Arizona [Mr. SHADEGG]. I want to thank the gentleman from Arizona [Mr. HAYWORTH], too, for his great efforts, not only tonight but at other times, because there is another matter pending right now in conference committee on national testing, and earlier tonight the gentleman from Arizona [Mr. HAYWORTH] and I were talking about education, as well as some of the Democratic Members. I thought that might be a fitting way to close here, too.

EDUCATION AND NATIONAL TESTING IN AMERICA

Mr. SHADEGG. Mr. Speaker, I thank the gentleman very much for yielding to me. This is in fact a very important topic and a very timely topic. Indeed, the gentleman was just talking about how the campaign fundraising scandals are sadly partisan. This is one on which I would hope we could be mutually bipartisan. In fact, on the floor of this House within the last few weeks we voted, 290-plus Members voted to oppose national Federal school testing as proposed by President Clinton, a national test.

The Senate went a different route, and the Senate has proposed that we should allow national testing, but rather than allow the Federal Department of Education to write that test, they would be comfortable with letting what they claim is an independent body write the test.

In point of fact, when we last discussed this issue on the floor, my colleague from Indiana pointed out quite accurately that that so-called independent body would not in fact be independent, but would consist of people appointed by the President, be totally administration-dominated, and not be independent.

I have a passion about this issue, because I think it is one where many Americans, mainstream middle-class Americans, do not understand why some of us would be so vehemently opposed to testing; why we would stake out such a tough fight on this issue; why, indeed, we believe that if the provision in our bill that says there should be no national testing gets stripped, we are willing to fight, and fight, quite frankly to the death to put it back in.

But let me explain that. I am holding a series of columns which I want to mention tonight. This one, "National Exams Provide Few Benefits for Students," is written by Mark F. Bernstein. I do not know Mr. Bernstein, but he lays the first premise of this fight. He says, point blank, in a very bright and elucidating article, what is tested will be taught. Think of that. What is tested will be taught. That is the first plank in this argument.

The President has not come forward and said, I want to have a national curriculum or national standards. The reality is that if we have a national test written by the Federal Government in the Federal Department of Education, what is in that test will be taught to my daughter, Courtney, and to my son, Stephen, in Phoenix, AZ.

So once we get to that point, we have to say to ourselves, wow, the content of that test then becomes vitally important, because Courtney's teacher will want Courtney to know what is going to be on that test and she will teach it. And Stephen's teacher will want Stephen to know what they are going to test, and that teacher will teach Stephen the information in that test. So what is tested will be taught.

Why should we be concerned about that? Well, many people say these are controversial topics, and some of these articles we have here tonight talk about the fact that when the Federal Government, for example, proposed history standards, those history standards were not what you and I would think about history. They painted a grim and gloomy view of America, of American and western civilization, ignoring many of our heroes and accomplishments and emphasizing our failings.

When the Federal Government proposed English and language art standards, they were so bad and considered such a muddle that the Clinton Department of Education threw them out. So the President came in and said, well, we will not test history, because that is subjective, and we will not test English and language, we will test math and science. Who can object to a uniform standard? How can my Arizonans oppose that?

The sad truth is as Lynne Cheney detailed in an article in the Wall Street Journal on September 29, there are national experts who believe that we should never teach children simple mathematics skills. Indeed, the expert is a man by the name of Steven Leinwand. He sits on President Clinton's committee to do this.

He says, it is downright dangerous to teach children mathematics skills. He wants to test my child on a national test so I can compare my children's performance to those of the children in New Jersey, but he says we should not teach them basic math skills. This is a battle which is going forward soon.

Lynne Cheney wrote another article, "The Latest Education Disaster, Whole Math." That is the kind of math where you do not teach children math skills such as addition, subtraction, multiplication, and division. Marianne Jennings wrote an article, "MTV Math Doesn't Add Up," pointing out how bad this is.

National testing is a potential disaster for the Nation because it would set one standard driven by the Federal Department of Education, and it is a standard that I think we ought to all be concerned about. I trust the people in Arizona, the Arizona education department, and the experts at my children's school board to make the right decisions about what we need to learn. National testing is scary and dangerous.

I urge America to listen up to this debate, and to join us in opposing the President, who may have a well-intended idea but an idea which would be disastrous.

FOOD SAFETY AND FAST-TRACK AUTHORITY FOR TRADE AGREEMENTS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 1997, the gentleman from Michigan [Mr. STUPAK] is recognized for 60 minutes.

LET US GET ON WITH REAL CAMPAIGN FINANCE REFORM

Mr. STUPAK. Mr. Speaker, I appreciate the opportunity to address the House and the country tonight. I could not help but overhear my colleagues who are talking about campaign finance, and the evilness they see about that. But I think it is time for us to stop talking about it and really get on with it.

We have a number of pieces of campaign finance legislation. I think we all

know what the problems are with campaign finance, and we should really go at it and bring those bills to the House floor and actually address it. I think maybe this country and the integrity of this body could be better served in that manner and method.

I find it ironic that they would get up and rail about campaign finance, while it was the majority party here that caught a plane about 4 o'clock in the afternoon and takes corporate jets to go up to New York to raise funds. I think that is the soft money that causes problems in campaigns, and we have some bills like McCain-Feingold and the Shays-Meehan bill here in the U.S. House of Representatives, and I wish we could get at it. We all know what the problem is. Let us cut the rhetoric and get on with the business of campaign finance. Unfortunately, that does not appear to be what is going to happen with majority party in control here in this Congress.

What I do want to talk about is something that is coming forward, something that should be discussed openly, and I hope that the American public joins with me. That is on food safety.

I sit on the Committee on Commerce, the Subcommittee on Health and Environment. We have been devoting some time there to the outbreak of E. coli and other problems throughout this country of our food supply. There is no greater security that a family can provide or the providers of that family provide for young people but to make sure that the food they serve each night is safe for their family's security.

Unfortunately, what we have seen here in the last few years in the U.S. Congress and across this Nation is that the food coming into this country, we have more and more imports of food coming into this country, and the safety of that food has been very questionable, to say the least.

What brings this issue to a head is recently the President came about 3 weeks ago to the Democratic Caucus and presented his legislation to outline his fast-track authority. Fast-track authority, of course, is to allow the President and his negotiators to enter into trade agreements. The trade agreements would then come before the U.S. Senate and the U.S. House of Representatives, and we do not have the opportunity to change, amend, or alter those trade agreements.

In those trade agreements, when we take a look, we can see many difficulties have developed in recent years. This new fast-track authority that the President is requesting is to actually increase our trade with the Caribbean nations and South American countries.

While that is admirable and something we would all like to do, we must ask ourselves, why are we increasing trade at this point in time when our economy is doing so well, and what is the rush to enter into another trade agreement, especially when we take a look at it, and the trade deficit in this country is so high, and every year it continues to go up?

Every President, be it Democrat or Republican, has come to the White House and has said, we are going to cut down on this trade deficit. Well, it has never happened. We have had fast-track legislation for the past five Presidents. That includes President Clinton, President Bush, President Reagan, President Carter, President Ford, and the trade deficit continues to spiral out of control.

Our economy is doing so well, but yet we seem to be in this hurry to fast-track into another trade agreement. We must ask ourselves, why are we doing this? Why are we doing this? What is the rush to enter into another trade agreement? What is the rush to enter into another trade deficit that continues to go up?

When I came to Congress in 1993, January 1993, the issue then was the budget deficit. We have basically erased that budget deficit, but the other deficit, the trade deficit, continues to go up.

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Our economy is growing, more jobs ever in this country, yet our trade deficit continues to spiral out of control.

So what is the rush to give the President more authority, authority to actually enter into more trade agreements which would actually lower our standards here in the United States, especially when we deal with food safety?

Mr. Speaker, that is where I would like to direct my comments here tonight. What is the rush to lower our standards, especially when it comes to food safety?

When I say lowering standards, understand the safety and security of our Nation's food supply has recently been in the news because of the contamination at the Hudson plant in Nebraska. And recently we had Beef America we have seen splash across our screens about E. coli.

If we take the Hudson plant situation in Nebraska, over 20 million pounds of beef was recalled by the company when it was determined that some of the meat was contaminated with the deadly E. coli virus. In response, Secretary of Agriculture Glickman wants more authority to inspect and take action against meat and poultry factories. I think that is probably a step in the right direction.

But at the same time the administration is saying to us, let us increase and give us more authority to inspect and recall meat here in this country, why is the administration then proposing to weaken inspection standards of our supply of food coming into this country by opening up our borders to more and more imported foods? Our border cannot keep up with the increased flow of traffic.

In fact, if we take a look at what has happened to food safety and food inspection in this country since the passage of NAFTA, and I am going to look at NAFTA here tonight because that is the real trade agreement that came under fast-track authority, it came up in 1993, and if we take a look at 1993, here we are 4 years later, Mexican imports to the U.S. are up by 82 percent and nearly 70 percent of those imports are carried into the United States on trucks.

Mr. Speaker, how many do we actually inspect? Let me comment briefly that while the food imports have doubled now in the last 4 years to more than 2.2 million shipments a year, and if we take a look at it, that comes out to about 9,000 trucks per day, 70 percent of those trucks are carrying some type of food products, yet only 2 percent are actually inspected at border.

Yet under this new fast-track authority, the President is saying, let us allow more and more food to come into this country. The trade deficit goes up, our inspection, our food safety, continues to go down. Imports are up, less inspections are taking place, and we have more problems with food safety here in this country.

If we take a look at what has happened, the increased traffic has caused great outbreaks of disease in the United States. After the passage of NAFTA in 1993, the rate of hepatitis A in the border regions rose two to five times greater than the national average.

In Maverick County, TX, the rate of hepatitis A has doubled from 5.3 in 1993 to over 10 times the State average in 1994. That also is true in Webb County, where the rate of hepatitis A has nearly tripled, and in El Paso County and Cameron County the rate has nearly doubled. But yet we are asking, under the fast-track legislation, to allow more and more food to come into the country.

While we are having more food come in the country, what has happened to food inspection here in the United States? If we take a look at the records, and again I sit on the Subcommittee on Health and Environment, and this is some of the information made available to us.

Mr. Speaker, take the U.S. domestic food supply. In 1981, we conducted on the domestic food supply in this country 21,000 inspections. In 1996, how many inspections did we have? We had just 5,000. Why did we go from 21,000 to 5,000? We are not even keeping up with the food being processed here in the United States, yet foreign food imports have doubled in the last 4 years. So while we have more food being processed in the United States, doubling the food coming into the United States, inspections are down six times what they were in 1981.

Is it any wonder then that our food supply has been under real, constant attack by pathogens previously unknown, and like cyclospora that was found in the Guatamalan raspberries that came in earlier this year that sickened some 1,400 Americans? We did not know about those pathogens a few years ago, but now we are finding they are in our food supply. Whether they are Guatemalan raspberries or melons or carrots or lettuce, we are finding them and finding health problems associated with it, but we have less and less inspections here in the United States or in other countries. And again, the food coming into this country from foreign countries has actually doubled.

So the President recently, and I will give him some credit, he took a good first step in trying to say, what can we do to help out and make sure that the food produced in other countries, fruits and vegetables especially, meet the U.S. standards, meet certain safety standards? And what the President suggested was a $24 million program which would help to increase inspections in foreign countries at the farm level, and also U.S. farmers would also face some new sanitation guidelines.

Well, the problem with that is, and if I can go to my home State of Michigan, earlier this year we had strawberries come in the United States from I believe it to be Mexico, that were tainted, and they were only 1 or 2 percent of those strawberries that were tainted with the hepatitis A bacteria, and they were put in with a bigger shipment of strawberries, and they were distributed to schoolchildren throughout this country.

In my home State of Michigan, approximately 140 children were very, very sick. While we only had 1 or 2 percent, it was mixed with a clean batch, and young children all across this country, 140 in my own State of Michigan, got very, very sick.

So while we may inspect on the farm in Mexico or Guatamala, once it is put into a wholesaler and distributor and mixed in with clean fruit and it comes to this border, we are only inspecting 2 percent of the some 9,000 trucks entering the country each day. We are only inspecting 2 percent. We can see how healthy good, safe fruits or vegetables mixed in with bad, because we do not catch it all, can cause a serious outbreak throughout this country.

When I talk about serious outbreaks and food standards, I am talking about making sure that the irrigation water is clean, that there are lavatories, latrines out in the field, field latrines for the berry pickers, and make sure that they are taught to wash their hands, make sure that the water they use that they put on our fruits and vegetables is actually clean water and not already contaminated.

While we have to comply with those standards here in the United States, we cannot, under fast-track agreements or trade agreements, enforce them on other countries because then it becomes a condition or tariff or barrier to free trade.

If we look closely at chapter 7 and chapter 9 of the NAFTA agreement that was passed in 1993, many of those provisions were very weak in chapter 7 and 9 about inspection and what we can and cannot inspect and look for at the border. When we do that, what do we do? We lower our standards.

While we have the world's healthiest food in the food we place before our family each night, we have some assurance, because it is inspected by U.S. inspectors, that it is relatively free of anything that may harm us, we have found that under these fast-track agreements it has prevented our ability, our ability to make sure that the food we put on our table each night is safe.

Let us take a look back, and, again, on the committee I sit on, we received a report in May of 1997 from the General Accounting Office which released a study of the Animal Plant Health and Inspection Service and their efforts to minimize the risk from agricultural products which we may put on our table.

The GAO reported that the NAFTA and the political muscle from importers had put pressure on their agency, their service, to carry out increased inspections more quickly. And, as I said, almost 9,000 trucks per day enter the U.S., but only 1 or 2 percent are actually inspected.

If we look at it, because of staff shortage, one work unit along the U.S.-Mexican border can provide inspector coverage at a very busy area only 8 hours in a 24-hour day. So the port inspections have not been there. Increased inspections, of course, would only help to prevent the problems we are seeing throughout this country with food safety and food health problems.

Mr. Speaker, earlier, about 2 weeks ago, the gentleman from Ohio (Mr. Brown) and I wrote a letter to the President, and we had almost one-fourth of the Members of this House join in that letter. We said we are very concerned about the lack of inspection processes, that NAFTA has contributed to a sharp increase in food imports from Mexico, and the imports of Mexican fruit have increased 45 percent, vegetable imports have risen 31 percent. More than 30 percent of these imports are carried in the U.S. on trucks, but yet we find 1 or 2 percent of these trucks are being inspected.

The provisions of NAFTA, and we have to look at NAFTA because that is the only free trade agreement we have to base decisions on, and the new fast-track that the President has requested will take in South America and Latin American countries. And when we took a look at NAFTA, it has resulted in the imports of fruits and vegetables which have been contaminated with diseases and unhealthy pesticides.

We are alarmed that Michigan schoolchildren contacted hepatitis A from strawberries, and in order to prevent future incidents, we urged the President to do three things:

Number one, renegotiate the provisions of NAFTA which relate to border inspections and food safety and ensure that any future requests, this current request for fast-track authority, include strong food safety protections.

We wanted to increase the funding for border inspections or, in the alternative, if he cannot do that, limit the increasing rate of food imports coming into this country to ensure safe food supplies.

And last but not least, we asked that he begin an aggressive program to label all foodstuffs, I am talking about fresh and frozen fruits, vegetables and meats, and their country of origin, so the American consumer, before they pick that batch of carrots or the head of lettuce, that they know if it was grown in the United States or if it was grown in Chile or if it was grown if Mexico, and then the consumer makes the decision, what is best for themselves and their family.

We look forward to working with the President on these vital public health issues. What we are saying is, let us not lower our standards as we enter into these fast-track agreements.

There are many reasons probably to oppose fast-track. It could be because of environmental standards, it could be because of labor standards, but I think most importantly it is because of food safety standards.

It was interesting today in the Committee on Ways and Means, which was the first committee to actually look at the President's fast-track authority. I was speaking to the Members after the vote. They reported out the President's fast-track authority in a weak vote. It did not contain strong provisions for food safety. It did not attempt in any way or shape to renegotiate fast-track with the NAFTA agreement, the North American Free Trade Agreement, which related to border inspections of food safety. It did not have strong food safety protections. It did not increase any funding for border inspections. And it certainly did not contain any food labeling program.

When we look at that and the report on how the vote came out in the Committee on Ways and Means tonight, we will find it a weak vote. A very small majority of the committee reported out the fast-track legislation.

So, Mr. Speaker, as we begin consideration of this fast-track legislation, I would hope that Members of Congress would take a very, very close look at it. This is not a trade issue. It is really a safety issue. Can we provide for our

families safe, reliable food? Do we have the inspectors to do the job? Can we assure that the fruit or vegetables or meat or poultry coming into this country have been certified, have been inspected? Have the hands, the human hands that handled it, whether it is in the United States or whether it is in another country, have they used proper sanitation practices? Has the water that has been used for irrigation, has it been clean, fresh water?

These are the questions we must all ask ourselves, or we will have more and more E. coli bacteria, cyclospora, or even E. coli contamination.

Mr. Speaker, this is, again, not a trade issue, this is really a safety issue. We urge the President, before he comes and once again asks Members of Congress to approve fast-track, which is a broad trade negotiating authority, that he make sure that those three provisions we have asked for, labeling, food inspection, and make sure we have agreement that does not limit our right to inspect as chapter 7 and chapter 9 of NAFTA does.

□ 2200

We want to make sure that we have every guarantee for the American family. I do not know why we would want to compromise our strong food safety standards in this country to increase trade with other countries. Our economy is doing well. Our trade deficit continues to go up. We must get that under control. Let us not fast track this Nation's health and our children's health for another fast track agreement.

When we take a look at it, I find it really sort of ironic that at a time when the administration is pushing for more regulation of meats and poultry and continues to raise concerns about pesticide safety in this country, those who want fast track extended to other countries want to make it easier for unsafe food to enter into this country.

I find it amazing that when one goes on vacation, if one is from the north land, like I am from northern Michigan, one goes down to maybe the Caribbean or other parts to vacation during the long winter months, what do they say? Do not eat this; do not drink that. But yet that same food is going to come into this country without any kind of label or knowledge.

How do we then guarantee our family's health and safety, especially when we find that back in 1981 we used to make 21,000 inspections. Last year we only made 5,000 inspections. Yet the food coming into this country over the last four years has doubled. Less inspectors, twice as much food coming in, but there is no mechanism to do the inspection.

We certainly hope that as we begin this debate on fast track legislation, that the debate will be on its merits, that we will look at the inspection of not only U.S. domestic food supply but most certainly the food supply that is coming into this country from foreign countries. As I said, imports have doubled to over 2.2 million shipments per year, and we have to have more than just a 2 percent inspection.

The FDA certainly has been pushing for changes since 1993, but unfortunately we have not kept pace with America's food supply. That is why we see the outbreaks of things like cyclospora or *E. coli* or hepatitis A throughout this country. They say, well, it is just along the border of Texas. But I live in Michigan, and when we have 130 to 140 children ill because of strawberries and we have reasons to believe it came from Mexico, a tainted batch, but yet they can make it all the way to Michigan, we know it is a national issue.

So while trade agreements and the standards are something we should all look at, by "standards" I just mean our own standards in this country, before we allow other products, especially food from other nations, into this country, they must meet our standards. I think that is only fair.

I think it was only a year ago when the administration was very concerned about CDs, compact discs, and how they were ready to have a trade war with China because they did not honor our intellectual property rights on things like CDs. What about our health and safety rights on things like food, food safety, fruits, vegetables, meats, poultry? So while there may be many reasons, and we hear many reasons to oppose fast track authority, or at least fast track agreements where the U.S. Congress does not have the right to alter, amend or change, when the agreement comes here we must vote yes or no with no amendments, we always hear about labor standards We hear about environmental standards. But how about consumer protection? How about food safety? How about the safety of the American family?

So I would urge my colleagues, as we begin this debate, as I said, the Committee on Ways and Means has recommended that the bill be considered by the full House, that we have a debate, a debate on the food standards, what has happened, what is happening throughout this country with *E. coli*, with hepatitis A and many of the other pathogens that we did not know about a few years ago which contaminate our food sources. What are the chemicals that other countries use on their fruits and vegetables as they grow them? DDT is one of them used in Mexico that has been outlawed for many years in this country.

Those are the questions that we must ask. So I come to the floor tonight to offer my hand to extend to the administration to assist them as we debate these issues, and at the same time I hope I bring awareness to the other Members who are maybe listening in their office or to constituents throughout this country that they raise the same issues that I am raising here tonight. I do not have all the answers. But if we work together in a collective way, we can guarantee that the fast track agreement has the protections, that we do not lower our standards for food safety, for the health and security of our families.

OMITTED FROM THE CONGRESSIONAL RECORD OF THURSDAY, SEPTEMBER 18, 1997

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 910.—To authorize appropriations for carrying out the Earthquake Hazards Reduction Act of 1977 for fiscal years 1998 and 1999, and for other purposes.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SNYDER) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mrs. MINK of Hawaii, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Mr. SNYDER, for 5 minutes, today.

(The following Members (at the request of Mr. PAUL) to revise and extend their remarks and include extraneous material:)

Mr. JONES, for 5 minutes, on October 9.

Mrs. LINDA SMITH of Washington, for 5 minutes, today and October 9.

Mr. FOX of Pennsylvania, for 5 minutes, today.

Mr. DELAY, for 5 minutes, today.

Mr. ENGLISH of Pennsylvania, for 5 minutes, on October 9.

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. PICKERING, for 5 minutes, today.

Mr. BACHUS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SNYDER) and to include extraneous matter:)

Mr. FORD.

Mr. LIPINSKI.

Mr. KUCINICH.

Mr. FRANK of Massachusetts.
Mr. HAMILTON.
Mr. BONIOR.
Mr. SKELTON.
Ms. ROYBAL-ALLARD.
Mr. TOWNS.
Mr. HOYER.
Mr. DELLUMS.
Ms. FURSE.
Mr. STARK.
Mr. MATSUI.
Mr. KIND.
Mr. BARCIA.
Mr. VISCLOSKY.

(The following Members (at the request of Mr. PAUL) and to include extraneous matter:)

Mr. GILMAN.
Mr. GALLEGLY.
Mr. NEY.
Mr. SOLOMON.
Mr. DREIER.
Mr. GOODLING.
Mr. OXLEY.
Mr. YOUNG of Alaska.
Mr. LIVINGSTON.
Mr. SAM JOHNSON of Texas.
Mr. MANZULLO.

(The following Members (at the request of Mr. STUPAK) and to include extraneous matter:)

Mr. GINGRICH.
Mr. EVANS.
Mr. WEYGAND.
Mr. FARR of California.
Mr. REYES.
Mr. BENTSEN.
Mr. KILDEE.
Mr. BOB SCHAFFER of Colorado.
Mr. BURTON of Indiana.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1122. An act to amend title 18, United States Code, to ban partial-birth abortions.

H.J. Res. 75. Joint resolution to confer status as an honorary veteran of the United States Armed Forces on Leslie Townes (Bob) Hope.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1000. An act to designate the United States courthouse at 500 State Avenue in Kansas City, Kansas, as the "Robert J. Dole United States Courthouse."

ADJOURNMENT

Mr. STUPAK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Thursday, October 9, 1997, at 9:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

5409. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Developing Software Life Cycle Processes for Digital Computer Software Used in Safety Systems of Nuclear Power Plants [Regulatory Guide 1.173] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5410. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Software Requirements Specifications for Digital Computer Software Used in Safety Systems of Nuclear Power Plants [Regulatory Guide 1.172] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5411. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Software Unit Testing for Digital Computer Software Used in Safety Systems of Nuclear Power Plants [Regulatory Guide 1.171] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5412. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Software Test Documentation for Digital Computer Software Used in Safety Systems of Nuclear Power Plants [Regulatory Guide 1.170] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5413. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Configuration Management Plans for Digital Computer Software Used in Safety Systems of Nuclear Power Plants [Regulatory Guide 1.169] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5414. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Verification, Validation, Reviews, and Audits for Digital Computer Software Used in Safety Systems of Nuclear Power Plants [Regulatory Guide 1.168] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5415. A letter from the Acting Director, Office of Personnel Management, transmitting the Office's final rule—Prevailing Rate Systems; Abolishment of the Orlando, Florida, Appropriated Fund Wage Area (RIN: 3206-AI04) received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform and Oversight.

5416. A letter from the Chairman, Board of Directors, Tennessee Valley Authority, transmitting the Authority's strategic plan covering fiscal years 1997 through 2002, pursuant to Public Law 103-62; to the Committee on Government Reform and Oversight.

5417. A letter from the Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in the Offshore Component in the Bering Sea Subarea [Docket No. 961107312-7021-02; I.D. 100197D] received October 8, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5418. A letter from the Director, Office of Surface Mining Reclamation and Enforcement, transmitting the Office's final rule—Ohio Regulatory Program [OH-241; Amendment Number 74] received October 6, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5419. A letter from the General Counsel, Department of Justice, transmitting the Department's final rule—Suspension of Deportation and Cancellation of Removal [EOIR No. 1181; AG ORDER No. 2118-97] (RIN: 1125-AA19) received October 7, 1997, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LINDER: Committee on Rules. House Resolution 263. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2169) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105-314). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. House Resolution 264. Resolution providing for consideration of the bill (H.R. 2607) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes (Rept. 105-315). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1849. A bill to establish the Oklahoma City National Memorial as a unit of the National Park System, to designate the Oklahoma City Memorial Trust, and for other purposes; with an amendment (Rept. 105-316). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LANTOS (for himself, Mrs. MORELLA, Mr. LEWIS of Georgia, Mr. MCGOVERN, Mr. OBERSTAR, Mr. SABO, Mr. SERRANO, Ms. FURSE, Mr. SANDERS, and Mr. MEEHAN):

H.R. 2635. A bill to provide a process for declassifying on an expedited basis certain documents relating to human rights abuses in Guatemala and Honduras; to the Committee on Government Reform and Oversight.

By Mr. BUYER:

H.R. 2636. A bill to provide for the acceptance of an application for payments for fiscal year 1996 under the Impact Aid program from the Maconaquah School Corporation, Bunker Hill, Indiana, and to provide that data included in that application be used for purposes of determining payments for fiscal year 1997 under a related Department of Defense assistance program; to the Committee

on Education and the Workforce, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CASTLE:

H.R. 2637. A bill to provide for the minting and circulation of $1 coins, and for other purposes; to the Committee on Banking and Financial Services.

By Mrs. MINK of Hawaii:

H.R. 2638. A bill to permit lawfully admitted permanent resident aliens who are not less than 80 years of age and who reside in the United States continuously for not less than 50 years to receive food stamp benefits if such individuals are otherwise eligible under the Food Stamp Act of 1977 to receive such benefits; to the Committee on Ways and Means, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MURTHA (for himself, Mr. ACKERMAN, Mr. MORAN of Virginia, and Mr. LEACH):

H.R. 2639. A bill to amend the Balanced Budget Act of 1997 to provide for prostate cancer screening benefits as of January 1, 1998; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STARK (for himself and Mrs. THURMAN):

H.R. 2640. A bill to amend title XVIII of the Social Security Act to combat fraud and abuse under the Medicare Program with respect to partial hospitalization services; to the Committee on Ways and Means, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 2641. A bill to direct the Commandant of the Coast Guard to convey certain property in Sault Sainte Marie, Michigan, to the local American Legion Post; to the Committee on Transportation and Infrastructure.

By Mr. VISCLOSKY (for himself, Mr. LIPINSKI, Mr. JACKSON, and Mr. SANDERS):

H.R. 2642. A bill to amend the Internal Revenue Code of 1986 to clarify the standards for determining whether an employer-employee relationship exists; to the Committee on Ways and Means.

By Mr. ARMEY:

H. Con. Res. 169. Concurrent resolution providing for an adjournment of the two Houses; considered and agreed to.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. LAMPSON introduced A bill (H.R. 2643) to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel M/V SAND ISLAND; which was referred to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 146: Mr. GIBBONS.
H.R. 292: Mr. BURTON of Indiana.
H.R. 335: Mr. MICA.
H.R. 339: Mr. GOODLING.
H.R. 367: Mr. BARRETT of Nebraska.
H.R. 588: Mr. ENGLISH of Pennsylvania.
H.R. 591: Ms. SLAUGHTER.
H.R. 715: Mr. DEFAZIO.
H.R. 777: Mr. FOX of Pennsylvania and Mr. GEJDENSON.
H.R. 789: Mr. ROHRABACHER and Mr. KASICH.
H.R. 814: Mr. GUTIERREZ and Mrs. MALONEY of New York.
H.R. 857: Mr. BARCIA of Michigan.
H.R. 859: Mr. CHAMBLISS.
H.R. 900: Mr. MOAKLEY.
H.R. 915: Mr. PAYNE, Mr. WEYGAND, Mr. KING of New York, Mr. ADAM SMITH of Washington, and Mrs. JOHNSON of Connecticut.
H.R. 965: Mr. GINGRISH, Mr. ARMEY, and Mr. ROYCE.
H.R. 991: Mr. ADAM SMITH of Washington.
H.R. 1023: Mr. GOODLING and Mr. DUNCAN.
H.R. 1025: Mr. WAXMAN.
H.R. 1031: Mr. SESSIONS.
H.R. 1059: Mr. CALVERT.
H.R. 1061: Mr. LEWIS of Georgia.
H.R. 1114: Ms. KAPTUR, Mr. Cooksey, Mr. THORNBERRY, Mr. LAHOOD, and Mr. TALENT.
H.R. 1151: Mr. CUNNINGHAM.
H.R. 1202: Mr. SMITH of New Jersey, Mr. CLYBURN, Mr. GUTIERREZ, and Mr. FRANKS of New Jersey.
H.R. 1232: Ms. HOOLEY of Oregon, Mr. HINCHEY, and Mr. EVERETT.
H.R. 1234: Mr. JACKSON, and Mr. CUMMINGS.
H.R. 1288: Mr. MALONEY of Connecticut.
H.R. 1362: Mr. SUNUNU.
H.R. 1373: Mr. CUMMINGS.
H.R. 1383: Mr. KUCINICH.
H.R. 1425: Mr. MILLER of California, Mr. SERRANO, Mr. NEAL of Massachusetts, and Ms. KILPATRICK.
H.R. 1526: Mr. SNOWBARGER.
H.R. 1534: Mr. SHUSTER
H.R. 1714: Mr. LEWIS of Georgia and Mr. DEAL of Georgia.
H.R. 1800: Mr. NUSSLE and Mr. PAXON.
H.R. 1807: Mr. SANDLIN, Mr. FOLEY, Mr. FALEOMAVAEGA, Mrs. LOWEY, Mr. LEWIS of Georgia, and Mr. DAVIS of Illinois.
H.R. 2023: Mr. BONIOR.
H.R. 2067: Mr. ROEMER and Ms. KILPATRICK.
H.R. 2088: Mrs. MCCARTHY of New York.
H.R. 2116: Mrs. ROUKEMA.
H.R. 2340: Mr. SENSENBRENNER.
H.R. 2347: Mr. MARTINEZ and Mr. ROTHMAN.
H.R. 2377: Mr. FAZIO of California, Mr. JOHN, Mr. BLUMENAUER, Mr. GILLMOR, and Mr. BURR of North Carolina.
H.R. 2431: Mr. FRANK of Massachusetts, Mr. CRAPO, Mr. BAKER, Mr. BARCIA of Michigan, Mr. BARTLETT of Maryland, Mr. BARTON of Texas, Mr. BACHUS, Mr. BOEHLERT, Mr. BUNNING of Kentucky, Mr. BURTON of Indiana, Mr. CANADY of Florida, Mr. COBURN, Mr. COX of California, Mr. DIAZ-BALART, Mr. DOOLITTLE, Mrs. EMERSON, Mr. ETHERIDGE, Mr. EVANS, Mr. FARR of California, Mr. FOLEY, Ms. FURSE, Mr. GOODE, Mr. GOODLING, Mr. HALL of Texas, Mr. HEFLEY, Mr. HOEKSTRA, Mr. HORN, Mr. HUNTER, Mr. INGLIS of South Carolina, Mr. KENNEDY of Rhode Island, Mr. LATOURETTE, Mr. LEWIS of Kentucky, Ms. LOFGREN, Mr. LUCAS of Oklahoma, Mr. MARKEY, Mr. MCINTOSH, Mr. MILLER of Florida, Mr. MILLER of California, Mr. PAPPAS, Mr. REDMOND, Mr. RUSH, Mr. SENSENBRENNER, Ms. SANCHEZ, Mr. SCARBOROUGH, Mr. SCHIFF, Mrs. LINDA SMITH of Washington, Mr. SOLOMON, Mr. SOUDER, Mr. SPENCE, Mr. STARK, Mr. STRICKLAND, Mr. TALENT, Mr. TORRES, Mr. TURNER, Mr. WICKER, Mr. UNDERWOOD, Mr. UPTON, and Mr. YATES.
H.R. 2439: Mr. LOBIONDO, Mr. COBLE, Mr. BARRETT of Wisconsin, Mr. KILDEE, Mr. BARRETT of Nebraska, Mr. WAMP, Mr. MINGE, Mr. BALLENGER, Mr. FRANK of Massachusetts, Mr. PARKER, Mr. GILCHREST, Mr. MCHALE, Mr. POSHARD, Mr. SOUDER, Ms. PRYCE of Ohio, and Mr. SHAYS.
H.R. 2454: Mr. UNDERWOOD, Mr. GUTIERREZ, Mr. HILLIARD, Mr. POSHARD, and Mr. BROWN of California.
H.R. 2456: Mr. BARCIA of Michigan, Mr. GOODE, Mr. HALL of Texas, Mr. MORAN of Virginia, Mr. GILLMOR, Mr. SMITH of Oregon, and Mrs. MORELLA.
H.R. 2457: Mr. HILLIARD, Mr. POSHARD, and Mr. BROWN of California.
H.R. 2474: Mr. BUNNING of Kentucky and Mr. LAHOOD.
H.R. 2476: Mr. CLEMENT and Mr. FALEOMAVAEGA.
H.R. 2495: Mr. TURNER, Mr. BROWN of Ohio, and Mr. ENGEL.
H.R. 2519: Mr. WEYGAND and Mr. FALEOMAVAEGA.
H.R. 2524: Mr. GORDON.
H.R. 2563: Mr. BUNNING of Kentucky.
H.R. 2568: Mr. MINGE and Mr. MANZULLO.
H.R. 2588: Mr. SHERMAN, Mr. METCALF, Mr. ORTIZ, and Mr. CAPPS.
H.R. 2597: Ms. LOFGREN and Ms. VELAQUEZ.
H.R. 2602: Ms. LOFGREN and Mr. MANTON.
H.R. 2604: Mr. BARTLETT of Maryland, Mr. HOBSON, Mr. PARKER, Mr. ABERCROMBIE, Mr. HEFNER, Mr. CALLAHAN, Mr. FARR of California, Mr. GILCHREST, Mr. MCDADE, and Mr. EVERETT.
H.R. 2616: Mr. ROEMER.
H.R. 2631: Mr. HILL, Mrs. FOWLER, Mr. COOK, Mr. MCHUGH, Mr. TIAHRT, Mr. LEWIS of Kentucky, Mr. MCINTYRE, Mr. BATEMAN, and Mr. WHITFIELD.
H.J. Res. 89: Mr. SKAGGS, Mr. OLVER, and Mr. SAWYER.
H. Con. Res. 19: Ms. FURSE.
H. Con. Res. 65: Mr. GILLMOR and Ms. DEGETTE.
H. Con. Res. 80: Mr. WISE, Mr. COBURN, Mr. BURTON of Indiana, Mr. HULSHOF, and Mr. GOODLING.
H. Con. Res. 107: Mr. KUCINICH, Ms. LOFGREN, Mr. OBEY, and Mr. HOLDEN.
H. Con. Res. 130: Mr. ROYCE, Mr. MENENDEZ, and Mr. PAYNE.
H. Con. Res. 153: Mr. LAZIO of New York.
H. Res. 111: Mr. PETERSON of Minnesota.
H. Res. 235: Ms. HARMAN, Mr. LAMPSON, Mr. CHAMBLISS, Mr. OBERSTAR, and Mr. MEEHAN.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1031: Ms. CHRISTIAN-GREEN.

EXTENSIONS OF REMARKS

QUALITY CHILD CARE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. HOYER. Mr. Speaker, we are learning new information each day about just how critical the first 3 years of life are for a child's brain development, intellectual growth, and emotional, social, and moral development. These factors will help determine the health and productivity of a child in later life. In 1993, the National Education Goals Panel reported that nearly half of infants in the United States do not have what they need to grow and thrive. High quality care from a parent or other adult is necessary to facilitate growth and development. Five million children under age 3 are in the care of other adults while their parents work outside the home. Parents of very young children have few child care service options. Many cannot afford to stay home with their children or to pay for safe, high quality developmental child care services. The Federal Government's involvement in the development of our children and grandchildren has become even more critical.

Child care providers are a valuable asset to their communities. Their contributions to providing quality child care is the backbone to economic stability throughout this country. For example, over 85 percent of the children in child care in southern Maryland participate because their parents work. Without quality child care options, parents will not be able to provide their children with the early childhood development they need to get a quality start to their future.

Child care needs in Calvert, Charles, and St. Mary's Counties in southern Maryland are a prime example of the national need for quality child care. In 1990, the number of children under age 3 in these three counties ranged between 2,500 and 5,000. Child care providers in southern Maryland, and throughout the country, are doing a good job at meeting child care needs, but there is the possibility that resources will become strained in the future. Child care providers cannot provide quality services without the Federal Government's support.

I have been committed to ensuring that the Federal Government provide sufficient resources to increase the quality of child care throughout the country. One of the programs that I have focused on is the Child Care and Development Block Grant. This program makes funds available for child care services and activities to improve the availability, accessibility, and affordability of child care. A portion of the funding is set aside to improve the quality and availability of healthy and safe child care for all families, including quality activities such as training.

The Child Care and Development Block Grant was reauthorized last year as part of the welfare reform bill. A portion of this legislation permitted a slight increase in funding for the Child Care and Development Block Grant. But, in order for child care providers to be able to provide the type of quality care we all want for our children and grandchildren, they need to have access to sufficient resources.

This is why Congresswoman DELAURO, Congressman MCGOVERN, and I are working toward getting child care providers the resources they need by further increasing the amount of funding that goes toward the Child Care and Development Block Grant. The Early Learning and Opportunity Act, which we introduced, does just that. The bill creates flexible, competitive State grants to improve the quality of care for children under age 3. In addition, it increases funding for Head Start and more than doubles funding for Early Head Start, a crucial component to quality child care.

The White House is hosting a conference in October on child care. The national attention to be focused on quality child care during this conference will be critical. I am confident that it will lead to local and national quality child care improvements. I look forward to participating in this conference and working with other Members of Congress to ensure that early childhood education and child care funding this country so desperately needs becomes available.

IN MEMORY OF REV. FERRIS A. KLEEM

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the memory of Rev. Ferris Kleem, a Catholic and Maronite priest, a scholar, and a philanthropist.

Father Kleem was born in Wilkes-Barre, PA. After high school, he served in Italy in the infantry and medical corps of the U.S. Army. He earned a bachelor's degree in biology and chemistry from King's College and went on to study medicine at the American University of Beirut, Lebanon. His international experiences did not end there. He earned a degree in sacred theology at Catholic University in Angers, France and was ordained as a Roman Catholic priest in the Holy Cross order in LeMans, France. His passion for learning led him to pursue further studies at Catholic University of America, Johns Hopkins, McGill and Cleveland State Universities, and the University of the Holy Spirit in Lebanon. He received a doctorate in higher education from Wayne State University.

As an assistant at St. Brendan Church in North Olmsted and at SS. Cyril & Methodius Church in Lakewood, Father Kleem shared his spirituality, international experiences, and knowledge with many Catholics in northeast Ohio. During this time, he also counseled divorced and separated Catholics in Cleveland. He led pilgrimages to Lourdes, Fatima, the Holy Land, and other religious sites. In 1991, he founded a philanthropic group, Our Lady of the Cedars Society.

My fellow colleagues, please join me in honoring a man whose countless contributions and achievements will never be forgotten.

A RECOGNITION OF FEDEX'S DONATION TO THE NATIONAL DIGITAL LIBRARY

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. FORD. Mr. Speaker, today I would like to take the opportunity to recognize FedEx Corp. for its $1 million donation to the National Digital Library Program at the Library of Congress.

As you know, Mr. Speaker, the Library of Congress is the world's largest library, with a collection of more than 111 million items, which until recently was only available to those who could visit its hallowed halls. Thanks to recent advancements in technology, however, that has all begun to change.

Over the last 7 years the Library has been able to begin digitizing a wide array of its archives, ranging from Civil War photographs and panoramic maps to Thomas Edison's early films and Walt Whitman's writings. Moreover, since 1994, when the National Digital Library Program was launched, these and other invaluable historical documents have been available via the World Wide Web to millions of people across the globe, including elementary and secondary students right here in America. And thanks to FedEx's generous gift last week, even more of this priceless information will become widely accessible in the next century.

It goes without saying that the residents of Memphis and the mid-South region are extremely fortunate to have a corporate partner in their community that is lead by an innovative and visionary chairman, Fred Smith, who recognizes the nexus between technology and education. Mr. Speaker, FedEx understands that if this Nation is to compete and win in tomorrow's marketplace—driven and dominated by digitalization, deregulation, diversity, and globalization—then we must develop a workforce that is more highly skilled and computer literate than ever before.

By donating resources to ensure that every young person with access to a computer can be exposed to the world of ideas, FedEx is helping to fulfill its role as a partner with its community and the Federal Government. The challenge now is for Congress to step up to

the plate and muster the political will and resources to partner with States and the private sector to rebuild and computerize every schoolhouse in America, so our young people can lead this Nation from what has been to what can be in the new millennium.

CONGRATULATIONS TO THE SIKHS OF KHALISTAN ON THEIR INDEPENDENCE ANNIVERSARY

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. EVANS. Mr. Speaker, I rise today to salute the Sikhs of Khalistan on the 10th anniversary of their declaration of independence. Khalistan declared its independence from India on October 7, 1987. A decade later things have not changed in Punjab, Khalistan. India continues to enforce a brutal tyranny that the Indian Supreme Court described as "worse than a genocide."

When India had its 50th anniversary in August, we heard a lot about Indian democracy and we heard about the elections in Punjab. India is a democracy only for the elites. For the Sikhs of Khalistan, the Muslims of Kashmir, the Christians of Nagaland, and so many other living under Indian occupation, it is not a democracy at all. Let me share with my colleagues the statement of Narinder Singh, a spokesman for the Golden Temple in Amritsar, the holiest of Sikh shrines, which was attacked by the Indian regime in June.

On August 11, Narinder Singh was interviewed on National Public Radio. Here is what he said:

"The Indian Government all the time they boast that they're democratic, they're secular, but they have nothing to do with democracy, they have nothing to do with secularism. They try to crush Sikhs just to please the majority." In view of the fact that a quarter of a million Sikhs have been murdered by the regime since 1984, I believe that Narinder Singh is exactly right.

Despite the elections in Punjab and throughout India, the repression is still going on. Ram Narayan Kumar, a Hindu human-rights activist who has exposed disappearances and mass cremations in Punjab, was threatened with death if he does not drop his work. Justice Ajit Singh Bains, chairman of the Punjab Human Rights Organization, had to go to the Supreme Court to get permission to visit his terminally ill brother in Canada. By the time the papers were issued, his brother had died. Hundreds of political opponents of the Punjab government have been arrested, and the government conducted a warrantless search of an opposition newspaper editor's home. Sikh activist Simranjit Singh Mann faces new charges under the repressive TADA law, although this brutal law expired in May 1995. Human-rights activist Jaswant Singh Khalra is still missing over 2 years after he was kidnapped by the Punjab police. On September 4, a Sikh church, known as a Gurdwara, in Chandigarh, was raided on the pretense of looking for a terrorist. No terrorist was found, so the police contented themselves with beating and torturing six of the clergy, known as Granthis. On June 29, the elected mayor of the village of Khiala Khurd, Gurdial Singh, was stripped naked, held upside down, beaten, and tortured in front of the townspeople. His crime? He is a baptized Sikh. Mr. Speaker, these are not the acts of a democratic government.

When police in Los Angeles beat Rodney King, they were eventually punished. The New York policemen who violated a Haitian immigrant with a plunger are in the process of begin punished for this terrible act. In India, police officers murder innocent Sikhs like 3-year-old Arvinder Singh and collect cash bounties for it. According to the PHRO and other human rights organizations, more than 60,000 of these bounties have been paid out by the Indian regime. How can a moral country like America stand by and allow these events to pass by unnoticed?

Mr. Speaker, it is time to take action against this brutal tyranny. India has initiated unconditional talks with the Christian nation of Nagaland. We must demand that it undertake similar talks with the Sikhs of occupied Khalistan. We should declare our support for a free and fair plebiscite on independence in Khalistan, end our aid to India, and declare it a country that practices religious persecution. We should place an embargo on India similar to the one we had on South Africa and the one we still maintain against Cuba, ending only when these conditions are met and freedom is allowed to flourish in South Asia. Then and only then can India legitimately claim that it is a democracy. I look forward to the day when we can welcome India into the fold.

DISTINCTION BETWEEN EMPLOYEES AND INDEPENDENT CONTRACTORS

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. VISCLOSKY. Mr. Speaker, I rise to call your attention to legislation that I am introducing today that will clarify the distinction between employees and independent contractors. My legislation will tighten and simplify the definition of independent contractor in order to prevent employers from inappropriately classifying their employees as independent contractors.

The Internal Revenue Service [IRS] currently uses a complex and ambiguous 20-point common law test to determine whether a worker should be classified as an employee or an independent contractor. The main problem with this test is that it isn't really a test at all. It is simply a set of guidelines that companies and the IRS refer to when determining whether workers should be classified as employees or independent contractors. Because the test is so ambiguous, different companies, IRS inspectors, and courts can—and have—classified the same type of workers differently.

In recent years, employers have increasingly exploited the test's ambiguity, or purposely misinterpreted the test, in order to designate many of their present employees as independent contractors. Doing so cuts down on employers' costs, but it hurts workers because employees and independent contractors are treated very differently under Federal law. Those who are classified as employees are covered by worker safety standards, have the right to bargain collectively, and are eligible to receive unemployment compensation. Independent contractors, on the other hand, are not covered by the same stringent worker safety standards, do not have the right to bargain collectively, and are not entitled to receive unemployment benefits.

The practice of improperly designating workers as independent contractors has negatively affected tens of thousands of workers, including those who work in the construction, service, agriculture, and garment industries. The problem is particularly troublesome in the trucking industry, where it is relatively easy to classify owner-operators as independent contractors. As a result, there are thousands of workers in Indiana's First Congressional District, and throughout the country, who have been—or fear that they soon will be—classified as independent contractors.

Although I opposed the measure, the House of Representatives came dangerously close to forcing thousands of employees to become independent contractors when, on June 26, 1997, it approved a provision to expand the definition of independent contractor as part of omnibus tax legislation. Fortunately, this provision was not included in the final version of the legislation. Public Law 105–34, but it further convinced me of the need to address the standards for determining whether a worker is an employee or an independent contractor.

The legislation I am introducing would replace the current 20-point test with a simpler and stronger 8-point test as follows:

The Internal Revenue Code of 1986 shall be amended to clarify the standards for determining whether an employer-employee relationship exists.

An individual who performs services for any person (in this section referred to as the "service recipient") shall be presumed to be an employee of such person unless all of the following requirements are met:

(1) The individual makes comparable services available to the general public on a regular and consistent basis and represents himself as an independent contractor with respect to such services.

(2) The individual has performed, or is available to perform, services for more than one recipient at the same time.

(3) The service recipient does not have the right (and does not attempt) to control the manner or means of the individual's performance of such services.

(4) The individual controls the means of performing the services, including setting the sequence and hours of work.

(5) The individual operates under contracts to perform specific services for specific amounts of money, the rate of which is negotiated for every service performed.

(6) The individual may realize a profit or suffer a loss under contracts to perform work or services.

(7) The individual is responsible for the satisfactory completion of the work that the individual contracts to perform and is liable for a failure to complete the work.

(8) The individual incurs significant unreimbursed capital expenses (not typically incurred by employees) in carrying on the business activity in which such services are performed.

By preventing employers from improperly classifying their workers as independent contractors, my legislation will protect the rights and benefits of those employees who fear that they will soon be classified as independent contractors. Finally, I would like to point out that the test I am proposing today is balanced in such a way that workers who truly are independent contractors would continue to be classified as such.

Mr. Speaker, I urge you and my other colleagues to prevent us from becoming a nation of independent contractors by cosponsoring this important legislation.

JOHN LIVINGSTONE AMERICAN LEGION POST 1466 HONORED FOR 50 YEARS OF SERVICE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. SOLOMON. Mr. Speaker, on November 15, 1997, the John Livingstone American Legion Post 1466 in Poughkeepsie, NY, celebrates 50 years of tireless service to the veterans, their families, and the communities of my congressional district. As a lifetime American Legion member, it gives me tremendous pride to recognize the valuable work done by this post to further the American Legion's efforts toward adequate programs and benefits for America's veterans and the vitality and well-being of its community.

Of all of my experiences as a Member of Congress, I would have to say that I cherish the work which I have done with the American Legion above nearly all else. The members of the Legion are true American heroes, serving their country first in uniform, then later by ensuring the respect and proper treatment of their fellow veterans. Legion posts also further the welfare and spirit of their communities, by sponsoring and supporting scholarships and sports teams for youths, as well as other communitywide events.

Post 1466 exemplifies the Legion's tradition, with its Legionnaires presenting on a daily basis examples of patriotism and pride in flag and country which we can all follow. Good citizens like Leonard W. Peluso, Joseph Carao, Arthur Marx, and Robert Sheedy, the four surviving charter members of American Legion Post 1466, helped make this country the great Nation that it is. They will continue, through their selfless service to America's veterans and national defense, to ensure that the United States will remain a secure global powerhouse into the next millenium.

At this time, Mr. Speaker, I ask that you and all members join me in paying tribute to all the members of the John Livingstone American Legion Post 1466 for their 50 years of unwavering and invaluable devotion to their community and our Nation as a whole.

TRIBUTE TO JUANITA GITTINGS

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. BONIOR. Mr. Speaker, today I rise in honor of a woman who I have had the pleasure to work with and know. A woman who has dedicated 13 years of service to the people of St. Clair County. On September 30, 1997, Juanita Gittings retired from her position as director of St. Clair County Family Independence Agency. Her friends and colleagues will honor Juanita with a retirement roast on October 10, 1997.

Throughout the years, I have had the pleasure to work with Juanita. I have always thought of Juanita as a problem solver and strong leader. She is a decisive, cooperative, intelligent, and a dedicated team player. Juanita's participation on various community boards gave her the insight to meet the needs of the people within St. Clair County. Since 1984, Juanita has been a witness to many changes in policy. She has used her abilities to work with the various government agencies to implement programs that will benefit families and individuals in need.

Juanita has always been willing to help neglected and abused children and people who were affected by poverty. Yet through her compassion and understanding, Juanita empowered people to get their lives back on the right track. Juanita knew that ultimately people had to help themselves. Her job was to give them the tools that they needed to be self sufficient. For these reasons, Juanita was awarded the Public Citizen of the Year Award for 1997.

St. Clair County has been lucky to have a leader like Juanita Gittings. Few people give to their community the same time and energy that Juanita has given to hers. Juanita's commitment and contributions have touched the lives of many people. On behalf of the citizens of St. Clair County, I would like to thank Juanita for all of her hard work and dedication.

TRIBUTE TO DAVID H. GOLDSTEIN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. SKELTON. Mr. Speaker, I rise today to say a special word in tribute to David H. Goldstein, who has served as executive director of the Jewish Community Relations Bureau/American Jewish Committee of Greater Kansas City since 1972. Goldstein, an expert in community relations, is celebrating his 25th anniversary as executive director.

A native of Cleveland, OH, Goldstein began his career in public relations by earning a bachelor's degree in sociology from Case Western Reserve University and a master's degree in education from Butler University. After college, Goldstein went to work for the Anti-Defamation League of B'nai B'rith in New England. He then took a post at the Jewish Community Relation Council in Indianapolis. While at that job, Goldstein designed one of the earliest Head Start programs. Head Start is a program designed to prepare underprivileged children for school, and Goldstein became its first director in Indianapolis. Later, Goldstein went on to direct a Head Start program in Washington, DC, and then to work in fair housing at the Federal Department of Housing and Urban Development before coming to Kansas City to head the JCRB.

While at his post in Kansas City, Goldstein has helped coordinate a working relationship between the Jewish community and the community at large. Other major areas of Goldstein's involvement have centered around fostering good relations with the African-American community, fighting anti-Semitism, and working for freedom for Soviet Jewry.

Goldstein is a member of the board of directors of the Kansas City chapter of the Southern Christian Leadership Conference and a life member of the National Association for the Advancement of Colored People. He has served on the boards of the American Civil Liberties Union and the Urban League, and was cochairperson of the Kansas City, MO Human Rights Commission.

Mr. Speaker, for 25 years David H. Goldstein has served the people of the Kansas City area with pride and honesty. I am certain that the Members of the House will join me in paying tribute to this great American.

IN HONOR OF MAYOR JOHN M. COYNE OF BROOKLYN, OHIO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KUCINICH. Mr. Speaker, I rise today to honor the life long work of Mayor John M. Coyne of Brooklyn, OH. Mayor Coyne is currently completing his 50th consecutive year as mayor of Brooklyn. Mayor Coyne was first elected in 1948 and holds the record for being the longest serving mayor of a city in the United States. On October 22, 1997, Cleveland State University will honor Mayor Coyne for his lifetime achievement of 58 years in public office. The celebration will benefit the John M. Coyne Endowed Public Service Scholarship at the Maxine Goodman Levin College of Urban Affairs at Cleveland State University.

Mayor Coyne has had a long and distinguished career in public service. Prior to being elected mayor of Brooklyn, he served 2 years as treasurer and 6 years as clerk-auditor for the city. In 1966, Mayor Coyne pioneered legislation for the first mandatory seat belt law in the country. Brooklyn was the first city in the country to implement a mandatory seat belt law. Mayor Coyne also recommended and implemented a mandatory curbside recycling program as part of the city's solid waste management plan. As a result of his efforts Brooklyn was the first city in Cuyahoga County and the second in the State of Ohio to enact a mandatory recycling program.

Mayor Coyne has also served on various political and civic committees during his career and has been recognized for his commitment

to the community. He served five consecutive terms as Chair of the Cuyahoga County Democratic Party from 1982–93. He also served as a member of the Cuyahoga County Board of Elections from March of 1990 to August of 1991 and as a suburban representative on the Greater Cleveland Regional Transit Authority from March of 1981 to August of 1982. He was the first recipient of the Ernest J. Bohn Award for outstanding execution of public business. In addition, Mayor Coyne was recognized by the Waterford Society as their 1993 Man of the Year and received the Irish Good Fellowship Club Award in 1984.

Mayor John M. Coyne is a proven public servant. He has dedicated his life to improving his community and I applaud his efforts. I am proud to honor Mayor Coyne and wish him continued success in the future.

INDIA RAIDS SIKH CHURCH, SHOWS ITS RELIGIOUS INTOLERANCE

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. EVANS. Mr. Speaker, on September 4, the same day that this Congress voted against an amendment to cut aid to India, Indian security forces attacked a Sikh church, which is called a Gurdwara. They claimed to be looking for a terrorist, but they had no search warrant and they did not ask the Gurdwara management to send the alleged terrorist out. Instead, they just stormed this house of worship and tortured six Granthis, the clergy of the Gurdwara.

India tells the world that it is a secular democracy. This raid on a Sikh house of worship proves otherwise. Clearly, Sikhs, among others, do not enjoy religious freedom under Indian rule. Narinder Singh, a spokesman for the Golden Temple in Amritsar, the center and seat of the Sikh religion, puts it in perspective. On August 11, he told National Public Radio,

> The Indian government all the time they boast that they're democratic, they're secular, but they have nothing to do with democracy, they have nothing to do with secularism. They try to crush Sikhs just to please the majority.

This is the same Golden Temple that was subjected to a brutal military assault on June 4, 1984. To this day, it remains under police surveillance.

On June 29, a man named Gurdial Singh, who is the elected mayor of the village of Khiala Khurd, was stripped by the police in front of the people of his village. He was then held upside down while Indian forces beat and tortured him. All this happened to Gurdial Singh because he is a baptized Sikh.

The most revered mosque in Kashmir was subjected to an attack similar to the massacre at the Golden Temple. Many Muslim prisoners are force-fed pork, which is against their dietary laws. This is a form of emotional and spiritual torture.

India still enforces an old law against encouraging a Hindu to change his religion. This law expired years ago, but is treated as if it is still on the books. It is as if the United States still enforced the Alien and Sedition Acts of the Fugitive Slave Law. Some of the more militant Hindus even suggested that the late Mother Teresa might not be worthy of honor because the Sisters of Mercy persuaded some people to embrace Christianity. This is secular India.

Secular India is a land marked by the government-sponsored murders of over 200,000 Christians since 1947, more than 250,000 Sikhs since 1984, over 53,000 Muslims since 1988, and thousands upon thousands of other minorities. Here is a land in which religious persecution reigns.

America is the moral voice of the world, the bastion of freedom for the oppressed peoples all over this globe. It is our moral duty to do what we can to end this kind of oppression. We should formally declare India a country that practices religious oppression and impose appropriate sanctions, up to and including an embargo if necessary. We should stop providing monetary support for a government that practices religious persecution, violates human rights, and continues to develop nuclear weapons. And we should speak out strongly in support of the freedom movements in Punjab, Khalistan, in Christian Nagaland, in Kashmir, and throughout South Asia and the world.

Let freedom ring in South Asia.

TRIBUTE TO HENRY B. GONZALEZ

SPEECH OF

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Mr. REYES. Mr. Speaker, I rise to recognize my esteemed colleague, HENRY B. GONZALEZ. He has been an outstanding leader for San Antonio, the Hispanic community, and for all Americans due to his dedicated service to this Congress for 36 years. As the dean of the Texas delegation, HENRY B. has been a state leader who has represented our state with great commitment. Congressman GONZALEZ has truly been working for the citizens of this country his entire life. Starting a career of public service in 1945, he began working on critical issues for San Antonio. After a number of different community positions, he began a political career in 1953 with a position on the San Antonio city council, graduating to the State senate, and culminating with his long membership in this body beginning in 1961. Throughout his storied career he relentlessly advocated for veterans, small business, labor, housing, economic development, education, the environment, and civil rights. He took difficult positions and never wavered in standing for what was just and right.

Never shying away from responsibility, he took the helm of the House Banking Committee in 1989 and for 5 years dealt with the daunting problems of the savings and loan crisis, and other complex banking issues during his tenure. Currently, as the ranking member to the committee he has continued to be a voice of wisdom, bringing his expertise and experience to current issues. He has been a wealth of knowledge for all Members of this House and a source of inspiration for those new and old.

As a fellow Texas Congressman, I commend HENRY B. for his guidance, numerous accomplishments, and know that his career will be a benchmark for all of us to aspire to reach. Farewell and buena suerte amigo.

A TRIBUTE TO STATE REPRESENTATIVE JACK L. KUBIK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. LIPINSKI. Mr. Speaker, I would like to pay tribute to an outstanding public servant who serves some of the same constituents I do—State Representative Jack L. Kubik of Illinois.

After nearly 14 years of service in the general assembly Representative Kubik recently announced he was retiring at the end of his current term in 1998. He will be difficult to replace.

Representative Kubik was first elected in 1984 at the age of 28, bringing a youthful perspective to the Illinois House of Representatives. He quickly proved to be a true leader in the legislature as he worked to represent the needs of his constituents while reaching out to all of his colleagues, regardless of party, for the betterment of Illinois.

Representative Kubik has been a leader in the area of property tax reform, senior issues, judicial reform, and the rights of the disabled. He has sponsored legislation to increase penalties for car-jacking; limit property taxes; assist those seeking hospice care; crack down on gangs; and help the deaf and hearing impaired. He sponsored one of the most comprehensive stalking laws in the United States and has been a leader in working to improve the backlog of child support collection in Illinois.

Representative Kubik's leadership and political abilities have been recognized by his colleagues. He currently serves as an assistant house minority leader and chaired the house Republican campaign committee in 1994 that helped bring his party a majority in the legislature for the first time in more than a decade.

Representative Kubik, whose family has a long tradition of public service, has been recognized by numerous organizations for his efforts to improve his community and his State. These honors include the Suburban Area on Aging's Legislator of the Year Award; VietNow President's Award; the Illinois Press Association's Legislative Service Award; and the Illinois Hearing Aid Society Award.

Representative Kubik's retirement will afford him the opportunity to spend more time with his new bride, Aggie, and pursue his work in the public relations field and the family business, Life Newspapers.

Mr. Speaker, I salute Representative Kubik on his 14 years of public service and give he and Mrs. Kubik my best wishes for the future.

CAPE VERDEAN VETERANS HONOR THE MEMORY OF PVT. EDWARD ALMEIDA

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. FRANK of Massachusetts. Mr. Speaker, on November 10, the Cape Verdean American Veterans Association headquartered in New Bedford, MA will be holding a military ball, which will be an occasion of mixed feelings. As with any ball, the occasion will be one for good friends to enjoy each others company, as well as some good music. But there will be a sad note to this particular ball because it will commemorate the death in July 1965 of Pvt. Edward Almeida, who was the first New Bedford resident to be killed in action during the conflict in Vietnam.

It is typical of the Cape Verdean veterans that they are honoring the memory of their fallen comrade on this occasion, and that they will be on this Veteran's Day tempering their good fellowship with a remembrance of the ultimate sacrifice made by Private Almedia, whose dedication to duty, honor, and country stand as a model for others. Because of a previous commitment I made some time ago to speak to university students, I will myself be unable to join the Cape Verdean Veterans and Auxiliary, and their friends in the Greater New Bedford community in this evening. But I believe with Veteran's Day approaching that it is important that all of us take this occasion to pay tribute to Private Almeida and all of those who, like him, made the ultimate sacrifice for their country and their fellow Americans. The cape Verdean American veterans deserve to be congratulated for their dedication to the memory of their fallen colleague, and to the important work they continue to do to make sure that America remembers both those who gave their lives for their country, and those who have returned from foreign wars and are entitled to our gratitude and support for their efforts.

IN MEMORY OF WILLIAM AUGUSTINE

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KUCINICH. Mr. Speaker, I rise to honor the memory of William Augustine of Cleveland, OH, a dedicated father of seven children.

William Augustine was born in Cleveland. He was one of eight children. He served in the Merchant Marine during World War II, then joined the Air Force. He was a self-made man.

Mr. Augustine and his ex-wife, Ruth, raised seven children on a small farm in Seville, OH. He worked as a convention decorator for a large firm in Cleveland all day, then returned home for dinner with his family before working on the farm. Mr. Augustine dedicated his life to showing his children that having an education would make their lives easier. When his eldest son attempted to drop out of school, Mr. Augustine encouraged him to return. His son is now a lawyer in San Antonio, TX. His other six children have also prospered.

My fellow colleagues, please join me in honoring William Augustine, a man who recognized the value of a good education. He wanted nothing more than for his children to enjoy an easier, more prosperous life than his own, and he instilled in them the significance of education. His efforts are reflected in the prosperity of his children who will, no doubt, pass this legacy on to Mr. Augustine's eight grandchildren.

HONORING GLORIA SHEAFFER, A CAREER OF DEDICATED SERVICE TO OTHERS AND THE AMERICAN RED CROSS OF GREATER HANOVER, CELEBRATING THEIR 80TH ANNIVERSARY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. GOODLING. Mr. Speaker, I am pleased to have the opportunity to honor a woman who has dedicated her life to the well being of others. Gloria Sheaffer, executive director of the American Red Cross's Hanover Chapter, will be retiring after 20 years of service to the people of Hanover, PA.

Since 1977, under the leadership of Mrs. Sheaffer, the Greater Hanover Chapter has been able to deliver many essential services to the surrounding community. Her dedicated staff and volunteers have provided food to families, health care related services to veterans, assisted seniors in the community, and provided services for children.

A dedicated mother, Gloria knows that the key to serving the community starts with serving the family. She initiated programs such as Home Alone which helped working parents who must leave their children unattended for a portion of the day, an HIV/AIDS education program to provide the facts on this disease, and reached out to families affected by Operation Desert Storm.

While these programs represent only a small portion of Gloria Sheaffer's accomplishments over the last 20 years, I believe Gloria's mark will be left in the heart and mind of each staff member and volunteer with whom she has served. I commend her on a successful career and know she will continue to serve throughout her retirement.

Mr. Speaker, at this time, I would also like to recognize the 80th anniversary of the American Red Cross of Greater Hanover. While we most often associate the work of the Red Cross with disaster assistance, we forget how they touch our lives on a daily basis. In fact for the last 80 years, they have been serving more than 20,000 area residents annually. This local chapter has worked above and beyond their basic mission and I am honored to associate myself with them on this important historical milestone. It is the work of many coming together with a single mission—to serve others in their immediate time of need—which has made this quality organization a longstanding national and local success story.

I extend my heartfelt appreciation and congratulations to the staff and volunteers of the American Red Cross of Greater Hanover and wish them continued success in years to come.

CHINA NUCLEAR CERTIFICATION THREATENS UNITED STATES TROOPS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. SOLOMON. Mr. Speaker, the Clinton administration recently announced that it is preparing to certify that China is in compliance with its international nonproliferation obligations and no longer exporting nuclear weapons-related material to countries such as Iran and Pakistan. According to United States law, such a certification is required before American corporations may trade in nuclear technology with China. Conveniently, this announcement came just a month before the United States visit by China's president Jiang Zemin, at which the certification would be the keystone of a successful summit. China's historical and current actions, however, indicate that it is still and will continue to pursue its dangerous nuclear proliferation activities. In an effort to score public relations points, President Clinton is willing to risk the lives and security of the American troops which will inevitably be called to deal with the crises created by China's nuclear trade in the world's hot spots.

In an attempt to justify this illogical and foolhardy plan, the Clinton administration claim that certification would engage China's nuclear and military elite into the international nuclear regime. The administration seems to have convinced itself that China's assertions that it is no longer supplying nations like Iran and Pakistan with nuclear technology are genuine. After even minimal analysis, these weak justifications prove themselves meritless.

The Clinton administration's engagement policy toward China has already proven itself a failure. In 1996, China sold ring magnets, used in centrifuges for the construction of nuclear weapons, to Pakistan. The administration accepted China's promise that it had recommitted to nuclear non-proliferation and decided, consistent with its engagement policy, not to sanction China. Despite this "promise," however, the Chinese then proceeded to sell a special industrial furnace to an unsafeguarded nuclear facility in Pakistan, falsifying the related documents. China has continued to persist in its dealings with such nations, including a recent incident in which a Chinese merchant ship was found to be transporting illegal chemicals intended for the production of missile fuel from China to the Middle East. China's "commitment" to non-proliferation remains a lie. There is no reason to think that this latest undeserved concession by the United States will succeed in curbing China's dangerous and irresponsible nuclear trade with unregulated nations.

The predictions of huge profits for the U.S. area is also misleading. China's own nuclear

engineers admit that their interest in U.S. nuclear technology will last only as long as it takes them to reverse engineer the technology and produce the plants themselves. This short-term gain for one industry is hardly worth the enormous potential risk to international security and the U.S. troops which are charged with its protection.

Finally, and most important, certification is unacceptable because China and its nuclear proliferation activities have been and remain to this day a serious threat to the security of U.S. troops in the region. Through its irresponsible and illegal transfers of weapons of mass destruction to unregulated states such as Pakistan and Iran, China contributes to regional instability. As we all know, it is American troops, whether as part of a U.N. force, an Allied mission, or independently, which are committed to quelling regional conflicts in the very areas, including the Middle East and Asia, where China markets weapons. These weapons of mass destruction could easily be used against American troops if the United States were to become involved, as in the Persian Gulf war, in protecting national security obligations abroad.

Certification that China is in compliance with its nonproliferation obligations is not only undeserved, it is dangerous. By allowing the Chinese to obtain American nuclear technology, the administration will aid China in further destabilizing already volatile regions such as the Middle East, where U.S. troops will be called in to reinstate order. The Clinton administration cannot and will not be allowed to sacrifice the safety of American troops simply to record a public relations victory.

COMMEMORATING THE 75TH ANNIVERSARY OF THE WEBB SCHOOLS

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. DREIER. Mr. Speaker, in 1922, in the foothills of the San Gabriel Mountains, Vivian and Thompson Webb opened the Webb School of California, an all boys high school dedicated to developing men of character. In 1981, the Vivian Webb School for girls was established to reinforce the traditions of service, leadership, and honor upon which the school was founded. As the Webb Schools celebrate their 75th anniversary on October 25, I want to recognize the faculty and staff for their commitment to educational excellence and the highest standard of academic achievement.

The Webb Schools have provided several generations of students with a strong foundation for leadership, personal advancement, and ethical and social responsibility. Many of the schools' 3,080 alumni have gone on to distinguished careers in business, government, medicine, education, media, the law, and the arts.

Today, the academic curriculum offers students from 12 States and 11 countries a choice of 71 different courses in English, literature, mathematics, languages, history, fine arts, and the sciences. Of the Webb graduates, 100 percent go on to 4 year colleges and universities, including such highly selective institutions as Harvard, Stanford, Yale, Columbia, Duke, Georgetown, Pepperdine, Purdue, Northwestern, Princeton, Dartmouth, Amherst, Boston College, Boston University, the Claremont Colleges, UCLA, USC, and UC Berkeley.

Webb students have a combined SAT median score of 1320, and they excel in State, regional, and national competitions. Webb students received the 1994 Tapestry Award from Toyota Motor Corp. for designing a multimedia exhibit explaining the physics of dinosaur motion. A team of students placed second in the 1996 Toshiba/NSTA ExploraVision Awards, the largest K–12 science contest in the world, with a design for a self-powered artificial heart. Webb students also placed first in California and third in the country in the 1996 National Physics Bowl, and they finished in the top 10 nationally in the 1996 and 1997 National French Contests.

An example of the technical skill and creativity of Webb students can be seen in the Web site they created on the Internet at www.webb.org. The Webb Schools are committed to the application of computers and related technologies in education to prepare their students for the academic rigors of post-secondary education, and to ensure that they can compete and prosper in the 21st century information economy.

Mr. Speaker, in June, I had the honor of giving the commencement address to the Webb School of California's 1997 graduating class. I told the students that they will always be able to think back to the day of their graduation and draw upon the inspiration of a job well done. Today, as we approach the 75th anniversary of the Webb Schools, I want to echo those sentiments to the faculty, staff, and alumni. They have done a tremendous job of carrying out Vivian and Thompson Webb's founding vision of an institution dedicated to distinguished academic achievement, and unwavering ethical behavior and personal responsibility.

TRIBUTE TO ALVIN R. BELL

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. OXLEY. Mr. Speaker, I am proud to recognize Alvin R. Bell, a constituent of mine who for the second straight year participated in CIVITAS@Bosnia and Herzegovina, an intensive program from August 1 through August 17, 1997, designed to train teachers from throughout Bosnia and Herzegovina with materials and methods developed to educate for democracy. Mr. Bell was part of a team of 20 American educators who were assigned to 16 locations throughout Bosnia and Herzegovina, including the Republic of Srpska; the Americans teamed with 18 teachers from the Council of Europe in nine of these sites. This education for democracy program reached 550 teachers from both entities of Bosnia and Herzegovina.

The summer training program was developed by the Center for Civic Education as part of a major civic education initiative in Bosnia and Herzegovina. The goals of the program are to provide teachers with the tools necessary to help prepare students and their communities for competent and responsible citizenship, including participation in elections and other opportunities to take part in the political life of their communities. Achieving this goal will contribute to the reconstitution of a sense of community, cooperation, tolerance, and support for democracy and human rights in this war torn area.

I am also pleased to announce that the curricular materials being used for the program in Bosnia and Herzegovina have been adapted from the we the people * * * the citizen and the Constitution foundations of democracy, and the project citizen programs, which are supported by Congress and used in schools throughout the United States. Initial reports evaluating the summer program indicate that materials (selected and adapted by educators from Bosnia and Herzegovina) and teaching methods were enthusiastically received and will be adapted for use in classrooms in both entities of the country.

Alvin Bell is a teacher at Findlay High School in my hometown of Findlay, OH. Mr. Bell has guided five different teams of students to Washington, DC, to participate in the we the people * * * the citizen and Constitution national finals. This impressive academic competition simulates a congressional hearing and provides students an opportunity to demonstrate their knowledge and understanding of the U.S. Constitution and Bill of Rights.

Mr. Speaker, I wish to commend Alvin Bell for his dedication and commitment during the CIVITAS@Bosnia and Herzegovina summer training program. His work is helping to achieve the overall objective of building democracy in Bosnia and Herzegovina.

ETHICS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, October 8, 1997 into the CONGRESSIONAL RECORD:

REFORMING THE HOUSE ETHICS PROCESS

The House recently passed reforms of its procedures for considering charges of misconduct against a Member. The reforms were based upon the recommendations of a bipartisan task force set up in the wake of the highly contentious, widely criticized handing of the ethics charges against Newt Gingrich last year. The reforms make some modest improvements, but overall are a disappointment.

CURRENT PROCESS

One of the major responsibilities of the House of Representatives is to police its Members to make sure that their actions are not bringing discredit upon the House. This is a key responsibility; the American system of government depends upon the confidence of the people in their elected representatives.

Since the 1960s, the House has considered charges of Member misconduct—such as accepting bribes, misusing campaign funds, or lying to investors—through its Standards of Official Conduct Committee. This is the only bipartisan committee in the House with equal numbers of Democrats and Republicans. It reviews charges of misconduct, launches investigations, and recommends to the full House whether and how a Member should be punished. The full House then makes the final decision on disciplining the Member.

Over the years this system has worked reasonably well, but in recent years the process has become increasingly politicized, with charges often brought against Members for political purposes and with the Standards Committee increasingly deadlocking along partisan lines.

REFORMS

The reform package passed by the House made some modest improvements to the process, but also had serious flaws.

On the plus side, it would make the operations of the Standards Committee less partisan, by allowing both the chairman and ranking minority member to set the Committee's agenda and by making the staff nonpartisan. It also expedites consideration of complaints, lessens the time burdens on Committee members, and helps to protect the rights of an accused Member by guarding against leaks of confidential matters at the early stages of an investigation.

But overall I voted against the package. Since the Committee was set up, outside groups have generally been able to file charges against Members if they believe there is good evidence of possible misconduct that should be investigated. Some important cases have been brought before the Standards Committee in this way, including the charges against Speaker Gingrich that resulted in his being reprimanded by the full House and paying a $300,000 penalty.

Under the new Committee rules, however, people outside Congress can no longer file complaints with the Committee, even if they have personal and direct knowledge of egregious conduct by a Member. Now only a Member of the House could file charges against another Member. I believe the new rules make it even harder to hold Members accountable for serious misconduct. By this action the House does further damage to the integrity of the institution.

INVOLVING OUTSIDERS IN INVESTIGATIONS

I was also disappointed that the reform package failed to include a bipartisan proposal that I had introduced to involve outsiders in the investigation of charges against Members.

Under my proposal, the Speaker and the Minority Leader would jointly appoint a pool of "independent fact-finders" to be called upon by the Standards Committee to help in ethics investigations as needed, on a case-by-case basis. These individuals would be private citizens, and might include, for example, retired judges, former members, or just ordinary citizens. The findings and recommendations of these independent fact-finders would be reported back to the full Committee, which then makes recommendations to the full House. The basic idea is to restore credibility to the process by involving outsiders at a key point in the consideration of the charges against a Member—investigating the evidence and making recommendations on possible discipline—with the final judgment on the case still resting with the full House, as it must under the Constitution.

Our current process has simply lost too much credibility with the public and the media. There have always been inherent conflicts of interest when Members judge fellow Members—either to protect a friend or Member of the same party or to go after an opponent for political purposes. But in recent years those tensions have come to the forefront, as the ethics process has become highly partisan, bitter, and contentious.

Various other professions are increasingly calling on outsiders to help them police their membership—to reduce the tensions, stalling, and conflicts of interest. Several state legislatures, for example, are now successfully using independent ethics panels to help consider charges of misconduct against legislators. The House should do the same.

However, the House leadership opposed the idea of allowing outsiders to help investigate Member misconduct—perhaps fearing a loss of control over the disciplinary process—and it was not allowed to be considered by Members on the floor.

CONCLUSION

The unfortunate fact is that the House usually moves to reform its ethics process only after a major ethics scandal or a widely perceived failure of the system. The major problems we experienced with the Gingrich case gave us a rare opportunity to make some serious reforms that go to the heart of our difficulties in policing ourselves and, in turn, help restore credibility to the institution of the Congress. We should have passed more meaningful reforms.

Although we were not successful this time in including outsiders in the process, I believe that House movement in that direction is almost inevitable. I agree fully with the new Chairman of the Standards Committee, who said that next time the "use of non-House Members will be a fait accompli". Involving outsiders in the ethics process is not a panacea, but it is a significant step in the right direction. It means more openness in the spirit of good government, and it reflects confidence within the House that it is able to withstand the scrutiny.

IN HONOR OF ALOYSIUS HEPP

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KUCINICH. Mr. Speaker, I rise today to congratulate Dr. Aloysius Hepp, recipient of NASA's Exceptional Achievement Medal. Dr. Hepp, a senior materials scientist at Cleveland's NASA Lewis Research Center, received the Exceptional Achievement Medal for his significant support of the socioeconomic business programs in the small business, technical, and procurement arenas.

Dr. Hepp graduated from Carnegie Mellon University as the top chemistry major in his class. After earning a Ph.D. from the Massachusetts Institute of Technology, Dr. Hepp spent a year with NASA Lewis before moving onto stints with the Center for Naval Analyses and the Polaraid Corp. Dr. Hepp returned to NASA Lewis in 1987 to continue his accomplished career. In fact, 5 out of the last 7 years, NASA Lewis honored Dr. Hepp by awarding him the Research Achievement Award. In addition to his position with NASA Lewis, Dr. Hepp serves as an adjunct professor at the State University of New York-Albany and Cleveland State University. Dr. Hepp also spent a year as a visiting scholar at Harvard University.

Dr. Hepp has played an active role in promoting diversity at NASA Lewis and increasing opportunity for minorities in education and business. For example, Dr. Hepp works with a NASA Lewis program to provide high school and college minority students with summer internships. Over the years, these internships have provided a valuable experience to many of Cleveland's youth. In many cases, these students have collaborated with scientists to produce presentations and publications.

The work done by Dr. Hepp is yet another example of the excellent work done by the scientist, engineers, and administrative personnel at the NASA Lewis Research Center. My fellow colleagues, please join me in recognizing the contributions made by Dr. Aloysius Hepp to the scientific community and the community of Cleveland in general.

HONORING KATHY WALLACE OF BELLAIRE, OH

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. NEY. Mr. Speaker, I commend the following to my colleagues.

Kathy Wallace, of Bellaire, OH, has been named the Ohio Valley Medical Center's 1997 Ree Cook-Reiter Women's Center Woman of the Year. Kathy is the first recipient of the award which honors women who are devoted to helping their communities.

Kathy is special to many people in the Ohio Valley whose lives she has touched through her caring and giving attitude. Some of those people are residents of the Country Club Retirement Center in Bellaire where she gives weekly manicures. She always has a warm smile and friendly conversation for them. Kathy also donates sweet treats to nursing home residents from the Dairy Queen she owns in Martins Ferry, OH.

Kathy has taught Bellaire and Belmont County about the importance of volunteering and dedication to one's community. She leads by example. Mr. Speaker, I ask that my colleagues join me in thanking Kathy Wallace for her service to Belmont County, and to congratulate her as she is honored as the first recipient of the 1997 Ree Cook-Reiter Women's Center Woman of the Year. I wish Kathy Wallace continued success, health and prosperity.

TENNESSEE GENERAL ASSEMBLY SYMBOLICALLY POST-RATIFIES CONSTITUTION'S 15TH AMENDMENT

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. FORD. Mr. Speaker, the recently concluded 1997 regular session of the 100th Tennessee General Assembly took a very historic

and symbolic action. On April 2, 1997, both the Tennessee House of Representatives and the Tennessee Senate adopted House Joint Resolution 32, "to post-ratify Amendment 15 to the Constitution of the United States of America guaranteeing the right of citizens to vote regardless of race, color, or previous condition of servitude". On April 8, 1997, the Governor of Tennessee officially signed House Joint Resolution 32.

Mr. Speaker, the Federal Constitution's 15th amendment is a fundamental legacy from the Reconstruction period following the Civil War. While the 13th amendment abolished slavery in 1865, and the 14th amendment defined citizenship by 1868, it was not until the 15th amendment came along in 1870 that the right to cast a vote was extended to African-American males uniformly in all regions of the Nation. Of course, the 19th amendment, ratified in 1920, further extended ballot access to females of all ethnic backgrounds.

Mr. Speaker, up until just this year, Tennessee was the only State—which had been in the Union both well before the 15th amendment was proposed and long after it had gained ratification in 1870—to have never gone on record, albeit symbolically, in support of this vital section of our Nation's highest legal document. As a matter of fact, a resolution specifically denouncing the 15th amendment was adopted by the 36th Tennessee General Assembly in 1870 and that resolution of rejection had remained Tennessee's only official pronouncement on the matter for the ensuing 127 years. But this embarrassing chapter of history was duly remedied when House Joint Resolution 32 was presented last spring in the Tennessee House of Representatives by the Honorable Tommie F. Brown of Chattanooga, who was joined by the other 15 members of the legislative black caucus as cosigners. Subsequently, all remaining members of both chambers of the general assembly added their names to House Joint Resolution 32 as cosigners.

To appropriately document this notable correction of history, I respectfully ask that the full text of House Joint Resolution 32 be inserted in the CONGRESSIONAL RECORD immediately following my remarks. After that, I request that an article appearing in the April 21, 1997, issue of Jet magazine, reporting on Tennessee's action, likewise be placed in the RECORD. And, finally, to recognize the person who discovered and confirmed this historical omission, and who labored to bring it to the attention of my State's 16 African-American lawmakers, I would like to have entered in the RECORD the full text of a proclamation executed in the city of Nashville on April 28, 1997, and cosigned by the Speaker of the Tennessee House and by all members of the Tennessee legislative black caucus, which pays tribute to Mr. Gregory D. Watson of Texas, a constitutional scholar of some renown. The material follow:

STATE OF TENNESSEE HOUSE JOINT RESOLUTION NO. 32

By Representatives Brown, Brooks, Bowers, Langster, Armstrong, Towns, Ulysses Jones, Pruitt, Miller, Larry Turner, Cooper, Lois DeBerry, John DeBerry, Arriola, Beavers, Bird, Bittle, Bone, Boner, Boyer, Buck, Burchett, Caldwell, Chumney, Clabough, Ralph Cole, Ronnie Cole, Cross, Curtiss, Davidson, Davis, Dunn, Eckles, Farguson, Fitzhugh, Ford, Fowlkes, Fraley, Garrett, Givens, Godsey, Goins, Gunnels, Haley, Halteman Harwell, Hargett, Hargrove, Hasell, Head, Hicks, Hood, Huskey, Jackson, Sherry Jones, Kent, Kernell, Kerr, Kisber, Lewis, Maddox, McAfee, McDaniel, McDonald, McKee, McMillan, Mumpower, Newton, Odom, Patton, Phelan, Phillips, Pinion, Pleasant, Rhinehart, Ridgeway, Rinks, Ritchie, Roach, Robinson, Sands, Sargent, Scroggs, Sharp, Stamps, Stulce, Tidwell, Tindell, Brenda Turner, Walker, Walley, West, Westmoreland, White, Whitson, Williams, Windle, Winningham, Wood and Mr. Speaker Haifeh; and Senators Atchley, Burks, Carter, Cohen, Cooper, Crowe, Crutchfield, Davis, Dixon, Elsea, Ford, Fowler, Gilbert, Graves, Harper, Haun, Haynes, Henry, Herron, Jordan, Koella, Kurita, Kyle, Leatherwood, McNally, Miller, Person, Ramsey, Rochelle, Springer, Williams, Womack and Mr. Speaker Wilder.

A Resolution to post-ratify Amendment 15 to the Constitution of the United States of America guaranteeing the right of citizens to vote regardless of race, color, or previous condition of servitude.

Whereas, on February 26, 1869, the Fortieth Congress of the united States of America, at its third session, by a two-thirds (2/3) majority of both Houses, submitted to the legislatures of the several states for ratification a proposal to amend the Constitution of the United States of America in the following words, to wit:

"AMENDMENT 15

"Section 1. The right of citizens of the united States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

"Section 2. The Congress shall have power to enforce this article by appropriate legislation."; and

Whereas, by proclamation of Federal Secretary of State Hamilton Fish, dated March 30, 1870 (16 Stat. 1131–2), this proposed amendment to the United States Constitution was officially declared to have been duly ratified by the legislatures of the constitutionally-required margin of at least three-fourths (3/4) of the several states, there being at the time 37 states in the Union; and

Whereas, after Amendment 15 had made its way into our Nation's highest law in early 1870, the legislatures of five other states which had been in the Union prior to its adoption—but which, like Tennessee, had not approved the amendment—post-ratified it, many years after 1870, as follows: Delaware in 1901 (Senate Joint Resolution No. 13); Oregon in 1959 (Senate Joint Resolution No. 7); California in 1962 (Senate Joint Resolution No. 9); Maryland in 1973 (Senate Joint Resolution No. 56); Kentucky in 1976 (House [Joint] Resolution No. 75); and

Whereas, for the past 21 years, Tennessee has stood alone as the only State in the Union, both well before Amendment 15 was proposed and long after it was adopted, whose legislature has never placed its own unique imprimatur upon these fundamental two sentences of the United States Constitution; now, therefore,

Be it Resolved by the house of Representatives of the one Hundredth General Assembly of the State of Tennessee, the Senate concurring, That Amendment 15 to the United States Constitution, quoted above, is hereby post-ratified by the Tennessee General Assembly.

Be it further Resolved, That House Joint Resolution No. 98 (Act "Number LXXX") of the Thirty-Sixth General Assembly of the State of Tennessee, in which Amendment 15 was rejected by the Tennessee House of Representatives and by the Tennessee Senate, be hereby revoked, repealed, and utterly rescinded.

Be it further Resolved, That a properly inscribed copy of this Resolution be transmitted by the Secretary of State of Tennessee to the Archivist of the United States, Washington, D.C., in compliance with Pub. L. 98–497.

Be it further Resolved, That properly inscribed copies of this Resolution be individually transmitted by the Secretary of State of Tennessee to each of the following persons in Washington, D.C. with the respectful request that this Resolution be published in the Congressional Record: the Vice-President of the United States, as presiding officer of the United States Senate; the Parliamentarian of the United States Senate; the Speaker of the United States House of Representatives; and the Parliamentarian of the United States House of Representatives.

Adopted: April 2, 1997.

JIMMY NAIFEH,
Speaker, House of Representatives.

JOHN S. WILDER,
Speaker of the Senate.

Approved this 8th day of April 1997.

DON SUNDQUIST,
Governor.

[From Jet Magazine, Apr. 21, 1997]

TENNESSEE BECOMES LAST STATE TO RATIFY 15TH AMENDMENT

Just after the Civil War, the 15th Amendment to the U.S. constitution guaranteed that no one could be denied the right to vote because of their "race, color or previous condition of servitude."

Today, 127 years later, Tennessee recently became the last state to formally agree with the amendment.

The state's House of Representatives and the Senate voted to make amends by unanimously approving a resolution that ceremoniously ratified what has been the law of the land since 1870.

The resolution was sponsored by Rep. Tommie Brown of Chattanooga, who learned in September from constitutional scholar Gregory Watson of Austin, TX, that Tennessee had never post-ratified the amendment.

The 15th amendment was submitted to the states for ratification after it was approved by the 40th U.S. Congress in February 1989. Three-quarters of the 37 states in existence at the time approved it; the bill was ratified in March 1870.

Sen Keith Jordan of Franklin reminded his colleagues that because Tennessee was the first state to rejoin the Union after the civil War, it was not required to ratify the 13th, 14th and 15th Amendments as were other Southern states.

Many states post-ratified the amendment later, including Delaware in 1901; Oregon in 1959; California in 1962; Maryland in 1973 and Kentucky in 1976.

STATE OF TENNESSEE, HOUSE OF REPRESENTATIVES

PROCLAMATION

Whereas, it is appropriate for this Legislative Body to honor those persons who through their outstanding accomplishments in public service have established a legacy that others can merely hope to emulate; and

Whereas, Gregory D. Watson of Austin, Texas is one such noteworthy public servant, whose watchful eye and attention to microscopic, and often overlooked, detail are legendary to all who have come to know, or know of, him; and

Whereas, during his meritorious tenure with the Texas Legislature, Gregory Watson championed numerous and varied causes in the quest for better government at both state and federal levels; and

Whereas, Mr. Watson is best known for the May 1992 ratification of the 27th Amendment to the United States Constitution; the ratification of the 27th amendment was the culmination of a decade of hard work on his part and on the part of those state lawmakers across the nation who joined with him in the endeavor; and

Whereas, in March of 1982, a government class at the University of Texas in which Mr. Watson was enrolled was assigned by the instructor the task of writing a report about "a governmental process'. While at the Austin Public Library, Mr. Watson happened upon a book about the U.S. Constitution which contained a chapter devoted exclusively to those constitutional amendments which the U.S. Congress had adopted and transmitted to the state legislatures for ratification, but which a sufficient number of the state legislatures had never ratified; and

Whereas, in the chapter, Mr. Watson noticed the proposal: "No law, varying the compensation for the services of the (U.S.) Senators and (U.S.) Representatives, shall take effect, until an election of (U.S.) Representatives shall have intervened"; having researched the issue of time constraints on the ratification of proposed amendments to the U.S. Constitution, Mr. Watson knew intuitively that the quoted amendment, which had been submitted by Congress to the state legislatures with no expiration date, was not only still pending business before the state legislatures, but indeed, was a vehicle to correct what many Americans during recent years had come to view as something of a conflict of interest within the Congress; and

Whereas, to his astonishment, Mr. Watson received a grade of "C" on the report, because the professor disagreed with his conclusion that what was then a 192-year-old constitutional amendment could still be subject to full ratification by modern-day legislative bodies; and

Whereas, not only to provide her wrong, but also to achieve something positive for the nation as a whole, Mr. Watson, in April of 1982, vigorously embarked on a nationwide crusade to secure ratification of the constitutional amendment; and

Whereas, Mr. Watson's astute efforts with respect to the 27th Amendment have been chronicled in many different places; he was featured in the June 1, 1992, issue of People's magazine and in the February 22, 1993, issue of U.S. News and World Report magazine; he was also prominently featured in such legal periodicals as 10 Glendale Law Review (92–109) during 1991 and 61 Fordham Law Review (497–557) in late 1992; he was cited in the Congressional Record by U.S. Representative J.J. Pickle on March 24, 1987; and

Whereas, Mr. Watson is an integral part of the 393 page novel, Amending America, by Richard B. Bernstein with Jermone Agel, which novel explores various amendments proposed to (some of which later successfully became part of) the U.S. Constitution; and

Whereas, Mr. Watson's work has been noted in countless newspaper articles, including, such trusted as the Los Angeles Times, The New York Times, USA Today and The Washington Post; and

Whereas, the 15th Amendment to the U.S. Constitution of the United States of America, guaranteeing the right of citizens to vote regardless of race, color, or previous condition of servitude, made its way into our Nation's highest law in early 1870, the legislatures of five other states which were part of the Union prior to its adoption, but which, like Tennessee, had not approved the amendment, post-ratified its many years after 1870; and

Whereas, for the past 21 years, Tennessee has stood alone as the only state in the Union, both well before Amendment 15 was proposed and long after is was adopted, whose legislature had never placed its own unique imprimatur upon these fundamental two sentences of the United States Constitution; and

Whereas, on April 8, 1997, the 15th Amendment of the Constitution of the United States of America was ratified and signed by the Honorable Don Sundquist, Governor of the State of Tennessee; and

Whereas, it is fitting and appropriate that the elected Representatives of the State of Tennessee should pause to pay tribute to an exemplary gentleman who has given unreservedly of himself, his time and his talent to perpetuate the public good; now, therefore,

I Jimmy Naifeh, Speaker, of the House of Representatives of the One-Hundredth General Assembly of the State of Tennessee, at the request of and in conjunction with Representative Joe Armstrong, Chairman, Tennessee Legislative Black Caucus and its members do hereby proclaim that we recognize, honor and thank Gregory D. Watson for the intregal part he played in "Amending America" and his many contributions to constitutional law.

Proclaimed in Nashville, Tennessee on this the 28th day of April, 1997.

Jimmy Naifeh, Speaker of the House of Representatives. Joe Armstrong, Representative, Knoxville. Henri Brooks, Representative, Memphis. John Deberry, Representative, Memphis. Larry Turner, Representative, Memphis. Joe Towns, Representative, Memphis. Barbara Cooper, Representative, Memphis. Tommie Brown, Representative, Chattanooga. Roscoe Dixon, Senator, Memphis. Thelma Harper, Senator, Nashville. Edith Taylor Langster, Representative, Nashville. Mary Pruitt, Representative, Nashville. Kathryn Bowers, Representative, Memphis. Lois Deberry, Speaker Pro Tempore, Memphis. John Ford, Senator, Memphis. Ulysses Jones, Jr., Representative, Memphis. Larry Miller, Representative, Memphis.

EDUCATIONAL CHOICE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. GINGRICH. Mr. Speaker, I want to encourage my colleagues to read the following articles about educational choice. One is an editorial from the Wall Street Journal, the other, an article by Lindsay Sobel from The Hill, entitled "Voucher Opponents Send Own Children to Private Schools." I believe that it is crucial that every child of every background in every neighborhood is given the opportunity to access the best education possible. It amazes me that many of our colleagues continue to arrogantly refuse to offer the children in the failing District of Columbia schools the same educational opportunities that are available to their own children.

[From the Wall Street Journal, Sept. 8, 1997]

SIDWELL LIBERALS

Our vote for the worst scandal in America right now is the education monopoly that keep poor, inner-city kids trapped in awful public schools. Special mention here goes to the politicians who oppose giving these children the choice to escape even as they send their own kids to private schools.

Let's call them Sidwell Liberals, after the famous Washington, D.C., school where President and Mrs. Clinton sent their daughter. That school turned out to be a splendid choice for Chelsea Clinton, who is now moving on in impressive style to her freshman year at Stanford. Vice President Al Gore and his four children have also benefited from elite private education. Despite this personal experience, both men oppose giving the same kind of choice to kids who must walk through school metal detectors within miles of the White House.

Now comes a survey of Congress showing the same kind of Sidwell hypocrisy. Nina Shokrali, an education analyst at the Heritage Foundation, spent the summer asking Members of Congress where their kids go to school. She got answers from about nine of 10 House members and 77 Senators. Of those responding, 34.4% in the House and 50% of Senators with school-age or older kids have sent them to private schools.

Members of Congress are upper-middle-class folk with the income to afford private school tuition. This isn't true of most American families, which is one reason only 14% of school-age kids go to private school nationwide. For black and Hispanic children, the number is 8%. Yet the Heritage study shows that 32% of the Congressional Black Caucus, and 44% of the Hispanic Caucus, educate their children outside the same public school system they claim to hold so dear.

Many parents are satisfied with public schools, of course, and if you live in the likes of Winnetka, Ill., or Scarsdale, N.Y., or the state of Utah this is at least rational. Many of these parents figure they've already exercised "choice" in where they've decided to live. Their "tuition," if you will, comes in the form of high-priced real estate. This is one reason many middle-class voters have been reluctant to embrace a full-fledged voucher program, especially with the teachers' union demagoging the issue.

But where this opposition is insane, and becomes a form of national self-destruction, is in the big urban school systems that work like the Mir space station. Some of the best of these schools have 50% dropout rates. Many teachers wouldn't dream of sending their own kids to the same urban schools they work in everyday.

It is precisely these horrendous schools that education reformers have begun to target with school-choice proposals that offer some kind of financial or tax help to low-income families. The Republican House passed a bill last year for the District of Columbia, 241–177, only to see it opposed by Senators who send their children to private schools. Ted Kennedy's kids went to private school, of course. Arlen Specter, a Republican from Pennsylvania, has also opposed the D.C. choice bill, but chose private schools.

The Heritage study doesn't get into individuals, but our own reporting shows plenty

of Sidwell Liberals in the House, too. A couple of them belong to committees holding hearings this week on both the D.C. proposal and broader school choice. Missouri's Bill Clay is the ranking Democrat on the Education Committee and voted against the D.C. bill last year. So did Democrat Matthew Martinez of California. Yet both didn't object to private schools for their own offspring. Overall, according to the Heritage study, nearly 40% of the Members on the House Education committee, which has jurisdiction over school choice, have chosen private schools for their kids.

The political fashion among GOP pollsters now is that "school choice" doesn't sell to the middle class. But how about junking the polls for once and making the case based on justice and the national interest? America can't stay a great nation with millions of inner-city kids held hostage to a public school monopoly that turns them into truants or worse. Not every American kid can go to Sidwell, but none of them should be consigned to schools no liberal would accept for his own flesh and blood.

[From The Hill, Wednesday, Oct. 1, 1997]

VOUCHER OPPONENTS SEND OWN CHILDREN TO PRIVATE SCHOOLS

(By Lindsay Sobel)

Sen. Carol Moseley-Braun (D-Ill.) sends her only son to a private parochial school in Illinois. Sen. Edward M. Kennedy (D-Mass) sent his children to private schools in the D.C. area, while Del. Eleanor Holmes Norton (D-D.C.) sent at least one of her children to Georgetown Day School, a private school.

Others who sent their children to D.C. area private schools include Senate Minority Leader Tom Daschle (D-S.D.) and Sens. James Jeffords (R-VT.) and Byron Dorgan (D-N.D.)

But none of them favor a proposal to give 2,000 D.C. students federally funded vouchers that would enable them to attend private schools.

Mosely-Braun said such a program would be "a dilution of support for public education," a sentiment echoed by the others.

But supporters of the measure argue that low-income families should have the same choices about where to send their children to school that members of Congress do. "The nation should be outraged that [congressional opponents" insist that school choice should not be an option when they send their children to private schools," said Star Parker, president of the Coalition on Urban Renewal and Education.

Although at least 20 members of Congress whose families live in the Washington area have school-age children, a survey by. The Hill revealed none who send their children to the beleaguered District of Columbia's public schools.

Most of these members support a proposal that would provide 2,000 D.C. students with scholarships to attend private schools, because they consider the D.C. schools so inferior. But some do not support a nationwide voucher program because they believe that most public schools provide an adequate education.

The measure is part of the House's District of Columbia Appropriations bill, but it failed in the Senate.

But Moseley-Braun said money spent on vouchers could be used "to fix up the crumbling public schools." She said everyone has the right to send their children to a prviate school, but added, "Taxpayers should not be forced to pay for it" because that is "paying twice."

The D.C. provision is different from most voucher proposals in several ways: The scholarship money for students to attend private schools does not come out of the public school budget. Families must be below the poverty level to receive the full scholarship.

Del. Norton opposes the plan on the basis that it violates D.C. home rule. Donna Brazile, Norton's chief of staff, said that supporters of the bill do not want to help D.C. students. "This is a form of national said Brazile, adding, "They can't impose their will anywhere else in America, but they can impose it here."

Those who support the measure include those who sent their children to both public and private schools, Virginia Reps. Jim Moran (D) and Tom Davis (R) both send their children to public schools in their districts in the Virginia suburbs.

Moran said that while he supports vouchers in Washington because District schools are in a severe crisis, "I believe in public schools and wanted my kids to have a diverse experience.'His first-grade daughter and third-grade son attend Cora Kelly Elementary School in Alexandria, which is 80 percent minority.

Asked if he would have sent his children to public schools if he lived in the District, Moran replied. "I would make the decision that almost every black middle-class parent has already made and not subject my kids to the D.C. public schools. "Most low-income parents would do the same if they had the option," he added.

Davis, too, said he opposes vouchers in general. But he supports the proposal for D.C. because, "The city can't even certify that the schools are safe."

Acknowledging that he would never send his kids to D.C. public schools and doesn't know any members of Congress who do, Davis said he has three children in the public schools in Virginia. He called the difference between the two systems like night and day, adding. "The reason the middle-class has left the city is the schools."

IRS LESSONS FROM THE INS

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. GALLEGLY. Mr. Speaker, like millions of Americans around the country, I am still reeling from the Internal Revenue Service hearings a few weeks ago. Not all that was brought to light was very surprising. Anyone who has ever had to deal with the IRS knows just getting a phone call answered is comparable to climbing K–2.

But when confirmation of the agency's abusive practices and mismanagement turned to outright disregard for the law, I was not only outraged, but began to see striking similarities with another very political Federal agency, the Immigration and Naturalization Service.

In 1996, the Department of Justice Inspector General's Office found that high ranking INS officials had lied to Congress, instructed others to do the same and obstructed the subsequent investigation. The events leading to the investigation occurred during a congressional fact finding visit to the Krome Detention Facility in Miami.

Several individuals were eventually disciplined, however some received promotions during the investigation. And while the disciplinary recommendations from the inspector general ranged from demotion and suspension to termination, to date, almost all have been reinstated or reassigned and not one was terminated.

Mr. Speaker, the IRS hearings and the Krome case illustrate a disturbing pattern for exceptionalism in this administration. Wrong doing is not only tolerated but encouraged and rewarded. The IRS now has the opportunity to do the right thing. Learn from the errors of another agency, put politics aside, identify those responsible and administer the fair hand of justice. This is a simple first step in restoring the confidence of the American people in their government.

A TRIBUTE TO CLIFF BARBER

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. GILMAN. Mr. Speaker, I would like to make our colleagues aware that one of my distinguished constituents will be celebrating his 80th birthday this coming weekend.

Clifford Barber of the town of Montgomery, NY, has earned renown in our community as one of the most prominent and respected attorneys in Orange County. In his capacity as a counselor as well as a local judge in the town of Montgomery, Cliff became known as the embodiment of integrity and dedication.

In 1977, Cliff Barber became the Republican County chairman of Orange County. In that role, Cliff personified fairness and even-handedness in keeping the Republican Party synonymous with good government. An early and enthusiastic supporter of Governor Ronald Reagan for President, the people of my congressional district elected Cliff as a delegate to the Republican National Convention in Detroit in 1980.

Soon after President Reagan took office, he appointed Cliff as Superintendent of the U.S. Mint at West Point. The newest of our Nation's Mints, West Point was considered a stepchild in many ways. Under Cliff's leadership, the West Point Mint assumed the responsibility for most of our commemorative coins, which as we all know has earned a great deal of revenue for the Federal Government without burdening the taxpayers. West Point also continued to produce the bulk of our one cent pieces.

It was during his tenure as Superintendent of the Mint that Cliff became known as the champion of the rights of our Federal employees. He never hesitated to make certain that the health, safety and well-being of the employees at the Mint were never forgotten, and when Cliff retired in 1989 he was genuinely beloved by all who worked under him.

Cliff Barber's retirement from the West Point Mint freed him to resume his political activities in Orange County. Despite the 8-year hiatus, Cliff was re-elected Republican chairman in 1989, and served until 1995. His second tenure as party chairman was even more noted

than his first, and he retired as the grand old man of the Grand Old Party.

Mr. Speaker, I am pleased to join with his wife Jane, his children, his family, and his many loved ones in coming together to wish Cliff the best on this milestone occasion, and our sincerest wishes that Cliff's coming years will be as eventful, productive, and healthy as the first 80 have been.

CAMPAIGN FINANCE REFORM

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KIND. Mr. Speaker, I rise today to offer a word of warning to House of Representatives leadership. Yesterday's failure to consider campaign finance reform in the Senate should not be used as an excuse against allowing a vote in this body.

I was very disappointed to see that a minority of the Senate was able to block consideration of the McCain-Feingold legislation. It is clear that the will of the majority is being denied by the procedural tricks of the Senate leadership. In the House, the will of the majority is being denied by the refusal of the House leadership to allow a vote.

While it may be easy for Members of Congress who oppose reform to point to the failure in the Senate as the excuse for inaction in this House, I will not accept that excuse. I will continue to demand that the House of Representatives be given the opportunity to vote on campaign finance reform.

TRIBUTE TO GERALD DAVID LLOYD

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. FARR of California. Mr. Speaker, I rise today to honor a man who served his country, his community and his family. Gerald David Lloyd, known to family and friends as Joe, was a man whose civic responsibility was the foundation of his life.

Mr. Lloyd enlisted in the U.S. Marine Corps in 1968 where he served for 6 years, achieving the rank of Sergeant E–5 and receiving a number of prestigious awards and medals: National Defense Service Medal; Rifle Marksman; Vietnamese Service Medal with three stars; Vietnamese Campaign Medal with Device; Good Conduct Medal; and RVN Cross of Gallantry with Palm.

In 1974, Mr. Lloyd served as a fighter with the California Division of Forestry. Immediately thereafter, he began a career as a plumber and maintenance worker. In 1980, he returned to Federal employment working for: the U.S. Marine Corps Air Station, El Toro, CA; the Department of the Army, Fort Ord, CA; and most recently, the Department of the Navy, Naval Support Activity Monterey Bay, CA. In his position as maintenance worker at the Naval Support Activity Monterey Bay, Mr. Lloyd was responsible for plumbing, carpentry, painting, and electrical work.

As during his military service, Mr. Lloyd's career as a Federal employee includes numerous awards. He received the Special Act Award and Performance Act Award three times each. In May of this year, he was honored with the Unsung Hero Award.

Just 1 month later, Mr. Lloyd performed the most heroic act of all, he gave his life while saving that of another. On the morning of June 9, 1997, while reporting to work, Mr. Lloyd heard gun shots. Reacting immediately, Mr. Lloyd ran to the assistance of James P. Gaughran who had been wounded in an unprovoked attack. Mr. Lloyd used his scan card to access a secured building so Mr. Gaughran could get inside to safety. In the process, Mr. Lloyd was shot and killed. He is survived by his wife Marilyn and their two children, Jennifer and Adam.

This tragedy was a grievous loss to the entire community. Mr. Lloyd's death was mourned by the many who knew him through his involvement in the American Legion, as a coach and referee for the American Youth Soccer Organization and as a volunteer with Boy Scout Troop 285.

The Department of the Navy, Naval Support Activity Monterey Bay, Naval Post Graduate school will present Mrs. Lloyd with the Good Samaritan Award for the selfless actions of her husband. This award also speaks to the kind of life Mr. Lloyd lived and hoped to inspire in others.

Mr. Lloyd will be missed by many and admired by all who hear of his heroic act. This is a tragedy felt by our entire community. Our hearts go out to the Lloyd family.

AUTOMOTIVE EXCELLENCE BEGINS WITH AWARD-WINNING TEAM MEMBERS

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. BARCIA. Mr. Speaker, in today's increasingly competitive global marketplace, if any of our manufacturers are to hold positions of world preeminence, it will only happen because of skilled members of the manufacturing team who are recognized by their peers for their excellence and capabilities. I am proud to tell our colleagues that two such individuals, Subir Chowdhury and Ken Zimmer, are vital honored members of the Delphi Saginaw Steering Systems division of General Motors.

Earlier this year, these two engineers won the Henry Ford II distinguished Award for Excellence in Engineering from the Society of Automotive engineers. This international award is given to those individuals who use their engineering skills to achieve product or manufacturing process contributions that have been assessed to have had the greatest positive effect on the passenger car, truck, and business industries. They won this award for their work in coauthoring "QS9000 Pioneers: Registered Companies Share Their Strategies for Success," a work intended to help companies develop quality systems that provide improvement in products, preventing defects, and reducing variation and waste in the supply chain. This work has already achieved world acclaim. J.D. Powers himself has said "QS9000 is the means by which original equipment manufacturers will make added contributions to automotive quality." The work has also received praise from Fortune Magazine, U.S. Auto Scene, and Automotive News.

Subir Chowdhury and Ken Zimmer are no strangers to acclaim. They have also earned the Golden Quill Award from the American Society for Quality Control [ASQC] automotive division, nominated for the Shingo Prize for Excellence in Manufacturing, won the Section Leadership Award at the 50th ASQC Congress, and received a Certificate of Commendation from Gov. John Engler. Mr. Chowdhury has also earned the Young Leadership and Excellence Award from the Automotive Hall of Fame, the Ralph E. Cross Outstanding Young Manufacturing Engineer Award from the Society of Manufacturing Engineers, and the Judson C. Jarvis Service Award by the American Society for Quality Control. Their other extensive work with the ASQC and the Automotive Industry Action Group has rightly put them in a position to be world leaders in the future development of top quality automotive products.

I was pleased to have been of assistance to Subir's family when they wanted to come from their home in India to be at last fall's presentation of the Young Leadership and Excellence Award from the Automotive Hall of Fame, because families should be able to celebrate the successes of one another. Their years of support earns them the moment of glory that comes from the hard work that is an example to all young people who want to know if what they do can make a difference.

Mr. Speaker, I am proud to have these two fine gentlemen as constituents, and I know General Motors is proud to have them as members of its team. I urge you and all of our colleagues to join me in congratulating Subir Chowdhury and Ken Zimmer on their tremendous accomplishments. They are two people who make our Nation proud.

TRIBUTE TO THE GREATER BATON ROUGE FOOD BANK IN LOUISIANA

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. GINGRICH. Mr. Speaker, since becoming the majority party, my Republican colleagues and I have sought ways to downsize the Federal government, lower taxes, and return power, money, and influence to the American people. We believe that local problems are best solved at the local level by local citizens who have a greater knowledge of the issue at hand and more passion to solve the problem that a team of removed Federal bureaucrats in Washington, DC.

However, as government is asked to do less to solve our Nation's problems, individuals must do more. Today I proudly celebrate the Greater Baton Rouge Food Bank in Louisiana, which embodies the essence of what we believe in: local citizens and businesses pulling

together to solve a local problem. It is neighbor helping neighbor in the true volunteeristic spirit which so attracted de Tocqueville to this great country during his tour of America in the early 1830's.

In June of this year, I had the privilege of visiting the Greater Baton Rouge Food Bank with Congressman BAKER, who personally raised from private sources nearly all of the $525,000 needed to purchase and renovate an old warehouse that now houses the food bank. In addition to the purchase and renovation funds coming primarily from private sources, a full 95 percent of the food distributed to the food bank is donated from private sources.

The food bank has a partnership with Associated Grocers in the Greater Baton Rouge area and houses its reclamation center. Bent boxes and cans are sent to the center from the member grocery stores, credits are given to the stores for write-offs on damaged goods, and the usable items are given to the food bank.

The food bank's mission is to meet emergency, short-term needs of the hungry in the greater Baton Rouge area. In 1996, 3,200 people per day were assisted by the food bank. Of those needy individuals, 44 percent were children and 16 percent were elderly.

The food bank also developed and coordinates a program called Lagniappe du Coeur ("something extra from the heart") which collects leftover food area restaurants like Popeye's, packages it in single meal units, and distributes it to shelters. The goal is to have zero waste of food in the Baton Rouge community. This is the State's first and only perishable food recovery program.

Those who wish to learn more about the Greater Baton Rouge Food Bank can do so by accessing its web page at www.challenger.net/GBRFB. The food bank can also be e-mailed at: BRFOODBANK@AOL.

I am a strong believer in volunteerism. Some can donate money or goods; some can donate their time. But everyone can donate something. My philosophy is simple: if America has been good to you, go find a fellow American to be good to. I hold up the Greater Baton Rouge Food Bank as a shining example of this spirit.

CONGRATULATIONS TO NIKE, INC.

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Ms. FURSE. Mr. Speaker, it is my pleasure today to congratulate the world's largest sports company, Nike, whose headquarters is in the First Congressional District of Oregon. Nike was recently named one of the 100 best companies for working mothers by Working Mother magazine.

Nike has recognized that creating a work atmosphere that meets the needs of their employees results in a successful company. Working mothers employed by Nike enjoy competitive pay, opportunities to advance, a large child care facility, and flexible hours. Nike has given working mothers the opportunity to participate in a professional career without having to worry that their children are well cared for.

I offer my sincere congratulations to Nike for their efforts to make their corporation family friendly. It is quite an honor for Nike to be recognized as one of the 100 best companies for working mothers.

ON THE RETIREMENT OF LOUISIANA NATIONAL GUARD ADJUTANT GENERAL, MAJ. GEN. ANSEL M. "BUDDY" STROUD, JR.

HON. BOB LIVINGSTON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. LIVINGSTON. Mr. Speaker, I rise today to offer my most sincere appreciation and thanks to Maj. Gen. Ansel M. Stroud, Jr., upon his retirement from a distinguished career of dedicated service as Adjutant General of the Louisiana National Guard. We will miss his leadership.

General "Buddy" Stroud gallantly served the U.S. Army, the State of Louisiana, and the United States of America for over 53 years.

General Stroud, while you will be most remembered for your 17-year tenure as Adjutant General which began in 1980—the longest of any AG in our Nation—Louisiana has been benefiting from your exemplary leadership since 1947, when you first joined the National Guard. And I want to particularly thank you for building the Louisiana National Guard into one of the premier State Guards in America. In addition, your personal efforts have made Louisiana's Emergency Preparedness Office and the Hurricane and Disaster Response Organization a model for the rest of the country.

Your career has been as distinguished as it has been long. In fact, few others in our Nation can lay claim to such an outstanding lifetime of achievement.

General, you are the definition of selfless service and the embodiment of what Douglas MacArthur called "those three hallowed words": duty, honor, country.

Mr. Speaker, General Stroud has earned the undying gratitude of the people of Louisiana and, in fact all Americans.

Thank you General Stroud. You and your wonderful wife Jane have my best wishes for the coming years.

RECOGNIZING CRISSIA REAY, WINNER OF THE NATIONAL YOUTH ESSAY CONTEST

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. MANZULLO. Mr. Speaker, I am delighted today to extend my sincerest congratulations to 15-year-old Crissia Reay of Wonder Lake, IL. Crissia is the winner of the National Youth Essay Contest for her essay comparing the lives and voyages of explorers Christopher Columbus and Amerigo Vespucci. The contest is sponsored by the National Italian American Foundation and the Daughters of the American Revolution. Crissia's essay was selected from hundreds of entries from across the country. As a well-deserved reward for her dedication and hard work, Crissia will receive a $1,000 prize and a trip to Washington, DC later this month where she will participate in ceremonies honoring Columbus by reading aloud her winning essay.

I am proud to have Crissia as one of my constituents. Her accomplishment reflects a love of learning and the discipline and motivation to accept a challenge and meet with success. I join with Crissia's parents, relatives, teachers, and friends in commending her and her remarkable achievement. Crissia's winning essay, entitled "Christopher Columbus and Amerigo Vespucci: The Men and Their Discoveries," appears below.

CHRISTOPHER COLUMBUS AND AMERIGO VESPUCCI: THE MEN AND THEIR DISCOVERIES

(by Crissia Ahnna Reay)

Christopher Columbus and Amerigo Vespucci were both explorers, born in the same country in the same time frame, but there the similarities end. They were worlds apart from each other in their personal lives and significant differences were also visible in their voyages.

Columbus was born Cristoforo Colombo near Genoa, Italy in 1451. His father was a weaver and Columbus' family were humble, common folk. He had very little schooling in his early life. Bordering on illiterate when he left his home in Italy, he learned to read and write in Portugal. Vespucci was born in Florence, Italy in 1454. However, his early life was very different from Columbus' owing to the fact that Vespucci was born into a noble Florentine family. Vespucci was described as having a "sagacious" (scientific) mind and was educated in the areas of commercial science, cosmology, astronomy and geography. Consequently, we can understand why money and titles were so important to Columbus, while they seemed to play a lower key role in Vespucci's life and explorations. Having grown up with a common, almost low background, explains why Columbus felt that land, titles and wealth were symbols of success. Whereas, Vespucci's affluent background sheds light as to why he didn't seem driven to obtain those symbols of success and could explore for the simple quest of knowledge without stipulating what he must receive in return (as Columbus felt he must).

Columbus made four voyages to the new world, Vespucci only two that can be proven. In his explorations Columbus visited mainly the islands of the West Indies, San Salvador, Cuba, Jamaica and what is now modern day Mexico; touching only lightly on the continent of South America. Vespucci mainly explored and charted the eastern coastline of South America (from this experience, he concluded that it extended too far and couldn't be Asia). Columbus was interested in settling the places he found, Vespucci in mapping them.

There are other important discoveries that came from their journeys that are rarely mentioned. Columbus found the most efficient way to use the North Atlantic wind system for transatlantic sailing. He was the first to notice the equatorial current and made the first observations of the westerly compass variation. It was because of Vespucci that people found out that there were two oceans separating Europe from Asia instead of one. He created his own method of

celestial navigation by which he obtained longitude and came within 50 miles of being correct in his estimation of the earth's circumference one of the closest guesses of that time.

Columbus and Vespucci were both undoubtedly great men. Their voyages, although each holding its own different significance, greatly complement one another. Columbus (though unable to claim title as the first European setting foot on the Americas due to previous Icelandic adventurers) was the first to make the discovery stick. In that essence Columbus discovered the new world. Columbus was the rock that started the landslide of exploration and settlement of the Americas. Vespucci, picking up where Columbus left off, was the one to conclude that it was not Asia that his predecessor had found (Columbus died thinking it was) but it was indeed a new, previously unknown land. In Vespucci's own words. "These regions we may rightly call Mundus Novus, a New World, because our ancestors had no knowledge of them."

Vespucci actually outfitted and helped prepare far more voyages than he was part of himself. In fact, it was in that way he and Columbus first met. In collaboration with Berardi, a ship builder in Seville, Vespucci prepared a ship for Columbus' second voyage in 1493. In 1498, he and Columbus first became personally acquainted when Vespucci made even more ships for Columbus' third voyage.

Though there was much friction between their supporters, there is nothing to suggest any personal rivalry on the parts of these two renowned explorers. In fact, towards the end of Columbus' life when he was ailing and virtually deserted, he found in Vespucci a caring, sympathetic friend. This is apparent in the words Columbus wrote of Vespucci a year before Columbus' death in 1506. "He has at all times shown a desire to serve me, and is an honorable man."

Whatever else is said about them, one thing remains outstanding and undeniable; they were bold and courageous explorers, who made remarkable discoveries that have permanently changed the face of the world's geography and in a great part shaped the history of the world that followed after.

TRIBUTE TO THE J. C. PENNEY COMPANY

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. JOHNSON of Texas. Mr. Speaker, the J. C. Penney Company is honored for its outstanding accomplishments in expanding the participation of people with disabilities in American life.

The company's philosophy has always embraced the core idea that it is ability, not disability, that counts in a job and in life. Indeed, the company has been true to the belief that its founder, John Cash Penney, who in 1913 called for partnership between the company and the people of the communities it serves, including those with disabilities.

In its policies and practices, J. C. Penney recognizes and utilizes the talents of individuals with disabilities. Hiring, training, and career development reflect this commitment.

As J. C. Penney has become a model for corporate citizenship, its customers have benefited. Stores nationwide exceed legal requirements for accessibility. With careful attention to the requirements of the Americans With Disabilities Act, personnel are trained to serve customers with disabilities. J. C. Penney publishes a catalogue of special needs merchandise. Its catalogues and national advertising feature people with disabilities. The company generously supports the work of disability organizations and encourages its employees at all levels to volunteer.

The National Organization on Disability, on behalf of 49 million Americans with disabilities, proudly presents the 1997 Hats Off Corporate Citizenship Award to one of America's foremost corporate citizens, the J. C. Penney Co.

COUNCIL OF KHALIST CELEBRATES ITS 10TH ANNIVERSARY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. BURTON of Indiana. Mr. Speaker, October 7, 1997, marks a significant occasion in the history of the Sikh Nation. Ten years ago today, the Sikh nation declared its independence and forged the Nation of Khalistan. Led by Dr. Gurmit Singh Aulakh, the Council of Khalistan has brought the Sikh struggle for freedom to the attention of world leaders. Dr. Aulakh and the Council of Khalistan should be applauded for their efforts to liberate Khalistan through peaceful, non-violent means.

As you know, the Sikhs had ruled themselves for over 80 years before the British conquered the subcontinent and created the artificial entity called India for their own administrative convenience. At the time of India's independence 50 years ago, the Sikhs joined with India on the promise of Gandhi and Nehru that they would enjoy the glow of freedom, and that no law affecting the Sikhs would be enacted without their consent. Well Mr. Speaker, that promise was soon broken, and no representative of the Sikhs has ever signed India's Constitution.

India cannot survive as one political entity for much longer. In actuality, India is a conglomerate of Nations held together through oppression. It has as many as 18 official languages, and the central government is run by an unstable 13-party coalition. The only remaining question is whether India's inevitable breakup will be peaceful like the Soviet Union's or violent like Yugoslavia's. I join with the leaders of the Khalistani freedom movement in expressing the hope that it will be peaceful. However, if India continues its policy of genocide, it may preclude that possibility.

Since 1984, more than 250,000 Sikhs have been murdered by Indian forces. According to various human rights groups, more than 60,000 police officers received cash bounties for their participation in these murders. According to a 1995 report published by human rights activist, Mr. Jaswant Singh Khalra, at least 25,000 young Sikh men have been abducted, tortured, and killed, then their bodies are declared "unidentified" and finally they are cremated. On September 6, 1995, shortly after this report was published, Mr. Khalra was kidnapped by the police. Over 2 years later, his whereabouts remain a mystery. I would submit, Mr. Speaker, that Mr. Khalra has probably been murdered like so many before him.

Furthermore, India's own Central Bureau of Investigation [CBI] conducted a brief investigation at just one cremation site and was able to confirm about 1,000 mass cremations. Now, the National Human Rights Commission says that it will investigate this brutal policy that Indian's own Supreme Court has called "worse than a genocide." So far, no one has been punished for these murders.

Religious persecution continues in India as well. On September 4, 1997, a Sikh church was invaded by security forces without a search warrant. Six Granthis, who serve as the guardians and teachers of the Sikh holy scriptures, were subsequently beaten and tortured. Police occupation of the Golden Temple, the holiest Sikh shrine, continues to this day. The mayor of a village in Punjab was tortured in front of the people because he is an Amritdhari, or baptized, Sikh. Amritdhari Sikhs are considered a criminal class. Sikhs have been raped, beaten, tortured, and even killed because they would not renounce their religious beliefs. Meanwhile, an expired law that made it illegal to convert a Hindu to any other religion continues to be enforced despite the fact that is has expired.

It is clear from events like this that the Sikhs are a captive nation in the Indian Empire, colonized and enslaved for the benefit of a Brahmin elite that is grossly out of touch with its people, many of whom live in abject poverty. The only real solution is a fully independent Khalistan.

We must end our financial support of tyrants. We need to send strong messages to India, and put a stop to the endless amount of foreign aid we send to them until the repression ends. We should also use our influence as the world's preeminent superpower to affect a vote on freedom for Khalistan, similar to the vote the United States conducts in Puerto Rico. Mr. Speaker, many of my colleagues in this Congress calls India "the largest democracy in the world." Well, if that is true, than what's good for the United States must be good for "the largest democracy in the world." I challenge India to follow the path of democracy, and let the people of Khalistan and all the nations under its occupation choose their own destiny at the ballot box. Only then can India be considered a truly democratic nation.

HONORING SHERMAN SPEARS

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. DELLUMS. Mr. Speaker, I rise to recognize the achievement of one of my constituents, Mr. Sherman Spears. He will be honored on October 14, 1997 as a recipient of the Ameritech Award of Excellence in Crime Prevention on behalf of the National Crime Prevention Council. Out of 140 nominations, Mr. Spears was selected along with eight extraordinary individuals who are fighting crime and building community.

Mr. Spears was shot at the age of 19 and fortunate to have survived. The incident, which left him a paraplegic, motivated him to dedicate his life to doing what he can to help at-risk young people make choices to keep themselves and others alive, and to teach them how to build safer communities. Since 1993, he has been the coordinator of Teens on Target, a youth violence prevention program in my hometown of Oakland, CA. He began the Caught in the Crossfire hospital peer visitation program in 1994.

Mr. Spears used his experience and understanding to develop the Caught in the Crossfire program. This program provides adolescents, who are recovering from violent injuries in the Highland Hospital trauma center, with educational materials about violent crime to dissuade victims and their friends from retaliating against their attackers. Upon discharge, Mr. Spears contacts the patients to see if they have used the referrals given to them, such as joining a program to help them get their GED, changing friendship groups, or joining and attending a physical rehabilitation program.

Caught in the Crossfire provides visitation to all recovering adolescents who are referred by the Highland Hospital staff. This averages 50 visits per year. The average length of hospital stay of each patient is 2–3 days; Mr. Spears responds to the call for help within 24 hours.

Teens on Target approaches at-risk youth in an attempt to reform their perspectives and to help them understand the repercussions of violence. The program trains multiethnic urban youth to educate their peers about the causes of violence and how to prevent it at home, in their neighborhood, and in their city. Each year, 25 youth from two high schools in Oakland are trained by Mr. Spears to: First, provide peer violence prevention education at schools, conferences and community events; second, educate professionals on the impact of violence on youth and strategies for prevention that will work; third, provide an informed voice to the media about how youth can be leaders in preventing violence; fourth, provide positive role models for youth; and fifth, provoke policy makers to take action to prevent violence. The youth, at risk for dropping out of school themselves, are referred to Teens on Target by probation officers, principals, counselors, and teachers. They provide four interactive violence prevention workshops to approximately 2,000 youth per year addressing the issues of gun violence, street and gang violence, alcohol and drug violence, and family violence. Over 5,000 youth have received this training since Mr. Spears has coordinated the project.

I would like to thank the National Crime Prevention Council and Ameritech for their commitment in helping individuals fight crime and build community, and for recognizing and honoring the work of Mr. Spears and others.

Sherman Spears did not let his experience with violence become an excuse for defeat. He has not allowed the physical difficulties resulting from that incident to keep him from making a contribution to his community. Instead, he has used his unique insight to create programs to address crime throughout Oakland. We, in Oakland, are fortunate and proud to have Mr. Spears working on the front lines, to help break the vicious cycle of violence. Thank you so much for your commitment and work on our behalf. I also ask my colleagues to join me in congratulating Sherman Spears and hardworking individuals like him who make a difference in their communities.

AMERICAN TEACHERS IN BOSNIA AND HERZEGOVINA HELP DEVELOP SUPPORT FOR DEMOCRACY AND FREE ELECTIONS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. YOUNG of Alaska. Mr. Speaker, I am proud to recognize Doug Phillips of Anchorage, AK, who participated in CIVITAS at Bosnia and Herzegovina from August 1 through August 17, 1997. This intensive program is designated to train teachers from throughout Bosnia and Herzegovina with materials and methods developed to educate for democracy. Mr. Phillips was part of a team of 20 American educators who were assigned to 16 locations throughout Bosnia and Herzegovina, including the Republika Srpska; the American teamed with 18 teachers from the Council of Europe in nine of these sites. This education for democracy program reached 550 teachers from both entities of Bosnia and Herzegovina.

The summer training program was developed by the Center for Civic Education as part of a major civic education initiative in Bosnia and Herzegovina supported by the U.S. Information Agency and the U.S. Department of Education and built on a program begun in 1996. The U.S. Information Service in Sarajevo provided valuable assistance to the program. The goals of the program are to provide teachers with the tools necessary to help prepare students and their communities for competent and reasonable citizenship, including participation in elections and other opportunities to take part in the political life of their communities. Achieving this goal will contribute to the reconstitution of a sense of community, cooperation, tolerance, and support for democracy and human rights in this war torn area.

I am also pleased to announce that the curricular materials being used for the program in Bosnia and Herzegovina have been adapted from the "we the people * * * the citizens and the Constitution, foundations of democracy," and the project citizen programs, which are supported by Congress and used in schools throughout the United States. Initial reports evaluating the summer program indicate the materials—selected and adapted by educators from Bosnia and Herzegovina—and teaching methods were enthusiastically received and will be adapted for use in classrooms in both entities of the country.

Mr. Phillips is the social studies program coordinator for the Anchorage public schools. He also serves as the state coordinator for the "we the people * * * the citizens and the Constitution" program in Alaska.

Mr. Speaker, I wish to commend Doug Phillips for his dedication and commitment during the CIVITAS at Bosnia and Herzegovina summer training program. His work is helping to achieve the overall objective of building democracy in Bosnia and Herzegovina.

TRIBUTE TO HENRY B. GONZALEZ

SPEECH OF

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 7, 1997

Ms. ROYAL-ALLARD. Mr. Speaker, it is an honor and privilege to participate in tonight's special order honoring the service provided to our Nation by my friend and colleague, the Honorable HENRY B. GONZALEZ.

Over the course of his distinguished career, Congressman HENRY B. GONZALEZ has served his home State of Texas and our Nation in many important capacities. He was elected to the San Antonio City Council in 1953 and served in the Texas State Senate from 1957 to 1961.

In 1961, the voters of Texas' 20th Congressional District elected him to the U.S. House of Representatives, where he served honorably as a Member of Congress and a member of the Banking Committee for 36 years.

He was appointed chairman of the Subcommittee on Housing and Community Development in 1981 and chairman of the full Banking Committee in 1989.

Throughout his 36 years of service Mr. GONZALEZ has always been a leader in the fight for basic human rights and needs, including safe and affordable housing, consumer protections, and economic opportunity and equity.

As chairman of the Committee on Banking and Financial Services, Mr. GONZALEZ served as a strong and productive leader.

He managed and led to enactment of numerous bills, including complex legislation reforming the savings and loan industry, fundamental reform of bank regulation, and the last major public housing legislation to become law.

As ranking member last term, Mr. GONZALEZ, helped to defeat several banking proposals that weakened consumer protections.

HENRY B. GONZALEZ is a leader who opened doors of opportunity and set the standard for Latino-Elected officials throughout the Nation. I am pleased to join my colleagues in memorializing his accomplishments and wishing him happiness in his retirement.

HONORING CLARA PADILLA ANDREWS

HON. ELIZABETH FURSE

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Ms. FURSE. Mr. Speaker, I rise today in honor of Hispanic Heritage Month to recognize an outstanding individual, a constituent and friend of mine in the First Congressional District of Oregon, Ms. Clara Padilla Andrews. Ms. Andrews has dedicated her life to serving others.

Ms. Andrews is the owner and publisher of the El Hispanic News, a bilingual English/Spanish weekly community newspaper in Oregon. Previously, Ms. Andrews has served as a Community and Family Services Integration of Services Supervisor and the Hispanic Services Coordinator for Multnomah County in Portland. Through her tenure with the county, she demonstrated her strong will, dedication, and commitment to sharing her talents and knowledge to promote networking partnerships. Her ability as a community organizer and strong encouragement of project collaboration were essential ingredients in the work she did and continues to do in creating a better society for all.

Ms. Andrews is known for her "behind-the-scenes" advocacy on behalf of disenfranchised Hispanic families in Multnomah County. She was instrumental in obtaining monetary support to staff positions at three high schools to reduce the Hispanic student drop-out rate.

She was also essential in the renovation of the Galaxy Apartment complex. This cluster of apartments in their original condition were a Northeast Portland neighborhood eyesore in deplorable condition with a prevalence of drugs and prostitution, crime and poverty.

Today the Galaxy Apartments are the Villa de Clara Vista Apartments named in honor of Ms. Andrews. Through her relentless efforts, she founded the Hacienda Community Development Corp. and recruited board members to spearhead the renovation effort to make affordable family housing available. The project today also includes a one-stop center for coordinated social services for area occupants. This project now serves as a national model.

Ms. Andrews has worked at all levels of government. Her civic involvement is admirable, as she served as the Secretary of State for New Mexico from 1983 to 1986 and was the highest ranking Latina elected official at that time. When Ms. Andrews lost her granddaughter, Susana Gurule, to cancer, she founded the Susana Maria Gurule Foundation which focuses its efforts on increasing the number of minority volunteers for the national marrow donor program registry. As a result of her work, she has also been named to the national marrow donor program board.

Ms. Andrews is a 1986 recipient of a Congressional Hispanic Caucus Distinguished Service Award, the 1994 Doernbecker Hospital Hero's Award, Executive Women in State Government Distinguished Award and several others. She has also been named one of the 100 Most Influential Hispanics four times.

Ms. Andrews is an exemplary citizen. Her lifetime of achievements and contributions to making society a better place for all serves as a model for all of us to learn from and follow. In recognition of National Hispanic Heritage month, it is my honor to recognize my friend, Ms. Clara Padilla Andrews.

HONORING UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER'S 25TH ANNIVERSARY

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. BENTSEN. Mr. Speaker, I rise to honor the University of Texas Health Science Center in Houston for 25 years of excellence in medical education and research. A vital component of the Texas Medical Center in my district, UTHSC's research and academic institutions have trained some of our Nation's finest medical professionals and led to pioneering treatments for many diseases.

The University of Texas Health Science Center in Houston was launched on October 20, 1972, with the mission of becoming one of the Nation's outstanding academic health centers. By any measure, UTHSC has achieved that lofty goal. From an initial enrollment of 1,260 students, the university now educates over 3,000 students in its six medical institutions—the graduate school of biomedical sciences, and dental branch, the school of public health, the medical school, the school of nursing, and the school of allied health sciences. These students receive hands-on training in the finest teaching hospitals in the world, learning their trade alongside doctors at the M.D. Anderson Cancer Center, Hermann Hospital, and LBJ General Hospital.

Staying ahead of the curve has been the hallmark of UTHSC. From its earliest days, UTHSC's leaders foresaw the evolving trends in medical research and practice—from the rise of managed care to the recognition that the best medicine is often preventative medicine, and the revolution in treating diseases through medicine at the molecular level. Their leadership has helped create a new model for academic health centers to follow. Leaders such as Cheves Smythe, M.D., founding dean of the medical school; Reul A. Stallones, M.D., founding dean of the school of public health; Alton Hodges, Ph.D., founding dean of the School of Allied Health Sciences; and Elizabeth C. Jones, founding dean of the school of nursing, all played key roles in building an institution that is on the cutting edge of education and research.

Their success in anticipating the future direction of medical science culminated in 1995 with the establishment a new institute for the 21st century. The Institute of Molecular Medicine for Prevention of Human Diseases. This institute will help doctors and scientists at UTHSC continue to develop breakthrough therapies for widespread chronic diseases such as atherosclerosis, diabetes, and cancer. UTHSC has also been conducting groundbreaking research on the disaster relief and emergency medical services [DREAMS] telemedicine project, which will provide state-of-the art, emergency medical services to military personnel in remote areas and help field-test recent advances in military telemedicine. This project will test innovative technologies and apply them to real world situations, helping our soldiers in hot spots around the world, and then translate those breakthroughs to civilian medicine to help patients of industrial accidents, natural disasters, and other traumas.

The University of Texas Health Science Center is setting the pace for biomedical research. Between 1989 and 1996, a time when other research institutions struggled, UTHSC research funding by contracts, grants and gifts nearly doubled, growing from $49 million to $95 million. Through aggressive research fundraising and the new institute of molecular medicine, the foundation has been laid for even greater success in the years to come.

Mr. Speaker, I congratulate the University of Texas Health Science Center for 25 years of excellence and innovation in medicine and wish them greater success as they build for the 21st century.

TRIBUTE TO NATALIE GITELMAN

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. MATSUI. Mr. Speaker, I am pleased today to pay tribute to Mrs. Natalie Gitelman, for exceptional service to the House of Representatives as our first director of the House Child Care Center. After a decade of dedicated service, she is retiring.

A graduate of the University of Massachusetts, Mrs. Gitelman has committed herself to working with the most delicate among us, our children. Her service and commitment to children dates back to 1953 when, upon receiving her bachelors degree, Mrs. Gitelman began work as a child care worker.

Mrs. Gitelman began her career as a counselor to children destined for foster and adoptive families. Her recruitment endeavors and preparatory counseling with natural, foster, and adoptive parents ensured homes for children ranging in age from birth through adolescence.

1966 saw the advent of Mrs. Gitelman's career in education. As the head teacher at Green Acres School in Rockville, MD, she developed and implemented classroom programs for the cooperative school. Over the course of her tenure Mrs. Gitelman handled much of the admissions work, served on the new director search committee and as one of two staff representatives on the board of trustees.

In 1975, she was named head teacher of the early childhood department of Pingry School in Short Hills, NJ and later named director and teacher of Prospect Cooperative Nursery School in Mapelwood, NJ. Again she was responsible for the development and implementation of the department's teaching program and admissions criteria.

The following 2 years produced two more teaching opportunities for Mrs. Gitelman at the Prospect Cooperative Nursery School in Maplewood, NJ the Summit Child Care Center in Summit, NJ. And from 1979 until 1984 Mrs. Gitelman served as one of six education coordinators with the Newark Pre-School Council, the Head Start Grantee Agency for Newark, NJ.

Mrs. Gitelman's lifelong endeavor of working with children should not obscure her commitment to learning about them. Though she received her master of science in education

from the Bank Street College of Education in 1978 she would continue with nondegree course work on early childhood education and its administration for years thereafter.

In 1984 Mrs. Gitelman was adopted founding director of the United Nations Day Care Centre. It was here that Ms. Gitelman could use her inherent love of children and well fostered administrative skills to construct a model day care program others would strive to emulate.

In fact, in 1987 Mrs. Gitelman was called upon by the House of Representatives to recreate with success a day care program fit for the institution and staff it would support.

Over the past 10 years the House of Representatives Child Care Center has become such a place. Mrs. Gitelman's vision of a warm and healthy sanctuary for children has provided some respite as well for parents, who rest in the knowledge that their children are in a safe and caring environment.

Mr. Speaker, in recognition of HRCCC's success as a premier child day care facility and Natalie Gitelman's 10 years of commitment, I ask my colleagues to join me in saluting her and wishing her a very happy and active retirement.

TRIBUTE TO NORMAN WAYNE WRIGHT

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. BOB SCHAFFER of Colorado. Mr. Speaker, I stand before you today to pay tribute to Mr. Norman Wayne Wright of Colorado, who was taken from us and sent to the Lord on August 19, 1997. Norman was a dedicated Republican committed to the beliefs and ideals of the Republican party. He never failed to lend support when it was needed. The Baca Weekly in Colorado described Mr. Wright the following way:

As one who entered this life on August 17, 1954, in Hutchinson, Kansas, to bless the home of George and Madge Wright. There he joined two brothers, Gary and Jerry, and was later joined by a brother Mark, and two sisters, Carol and Melinda. He lived in several different states during his childhood and was graduated from the Lovington High School in Lovington, NM in 1972.

In 1973, Norman joined the Armed Services, where he served for 3 years in the Army until 1976. During that time he was stationed in Fort Leonard Wood, Fort Polk, Fort Riley and for 1 year in Germany. During the early part of his Armed Services stint, he met Paulette Alfrey, and they were married on January 12, 1974. They have shared the blessing and direction of the Lord upon their lives for more than 23 years and their children Shade Harley, Lea Ann, and Gabriel Henry.

When Norman was around 10 years of age, he accepted Christ as his personal savior. The story of the rest of his life could be told in terms of God's gracious dealings in his heart. In July of 1974, he joined the membership of First Baptist Church of Walsh, CO, where he faithfully served the Lord until his passing. He grew to believe that the greatest possession of his life was his relationship to Christ, and the sharing of that relationship with others was his greatest accomplishment. Norman had an open heart and an open home, and he ministered to many people because of it.

Norman had varied interests and abilities. He loved horses; riding them, breaking them, shoeing them, training them and working them. He liked to braid cowboy gear, go hunting, fishing, looking for arrowheads, guiding people through the canyons while explaining the writings and the ancient paintings on the canyon walls, or just sitting down with a good history book, or even Baxter Black's poetry. He enjoyed good simple music with a clear message like one might hear from the Chuckwagon Gang, and he also liked to sing along with friends and his guitar. Family activities were special to him, and getting together with friends, whether for coffee or for branding, brought him a great deal of joy.

Norman volunteered his time to serve in his church, taught a Sunday School class, and ushered faithfully. He has served as a municipal judge, a city council chairman, a representative for "Colorado For Family Values" and as a guest speaker for the Baca County Historical Society. Some of the recent, cherished highlights of his life include fishing with Gabe, taking his family out, going to Indianapolis with John to see Shade and watch the Speedway Races with him, speaking to Boy Scout Troop #71 in Colorado Springs on commitment, sharing in the 25th Anniversary of his parents' pastorate in Junction City, KS, and celebrating his 43rd birthday on Sunday, August 17.

Norman was preceded in death by his brother George Henry Wright Jr. in 1952. He leaves to mourn his passing his wife Paulette and children Shade, Lea, and Gabe of the home in Walsh, CO; his parents George and Madge of Junction City, KS; his three brothers, Gary and wife Sheila also of Junction City, KS; Jerry and wife Nita of Chapman, KS; Mark and Alicia of Fredonia, KS; and two sisters, Carol and husband Lionel Martin of Queses, Portugal; and Melinda and husband Rod Thompson of Moore, OK. Also missing him are his father-in-law and mother-in-law Eugene and Verna Lee Alfrey of Walsh, CO, brother-in-law Loyd Brown and wife of Granada, CO; John Brown and wife Patricia of Campo, CO; sister-in-law Cheryl and husband Paul George of Amarillo, TX; plus many nieces and nephews, and a host of friends and relatives.

Mr. Speaker, I would also like to share some thoughts his wife Paulette shared with me. "I can truthfully say my husband was honorable. His heart dictated what was true and honest. In my eyes, many times, he always took the hard road. The easy way out was never the right way. For every situation God had already set the standard."

Mr. Speaker, Norman Wayne Wright is a symbol of what America stands for, family values, hard work and a solid faith in the Lord. Thank you for giving me this opportunity to share his memory with the House today.

PERSONAL EXPLANATION

HON. ROBERT A. WEYGAND

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. WEYGAND. Mr. Speaker, I was unfortunately detained in my district Monday, October 6, 1997 and a portion of Tuesday, October 7, 1997 and missed several votes as a result.

Had I been here, I would have voted in the following way: I would have voted "yea" on rollcall votes 490, 491, 492, 493 and 496; I would have voted "nay" on rollcall votes 494 and 495.

As exporting becomes increasingly more important to U.S. businesses, the role of the Export-Import Bank must be maintained. The Export-Import Bank places businesses in my district and districts across the nation on a level playing field when competing against foreign businesses subsidized by foreign governments. This program allows for the expansion of U.S. markets thereby increasing the stability of our economy and preserving American jobs. I would, therefore, have voted in favor of reauthorizing the Export-Import Bank.

I would also have voted for the conference report on the Department of Agriculture Appropriations bill for Fiscal Year 1998. Among many important programs, this conference report includes full funding for the Food and Drug Administration's initiative to curb underage smoking in our country. In addition, the bill provides over $3.9 billion—$118 million more than approved by the House of Representatives—for the important Women Infant and Children's (WIC) nutritional program.

I would also have voted in favor of instructing the House conferees to Foreign Operations Appropriations Conference Committee to insist on the House approved provisions to reinstate the "Mexico City" policy. It is my belief that federal funds should not be used to fund abortions here or abroad.

MEDICARE PARTIAL HOSPITALIZATION INTEGRITY ACT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. STARK. Mr. Speaker, on behalf of Representative KAREN THURMAN and myself, I am today introducing legislation to reform Medicare's partial hospitalization benefit.

The partial hospitalization benefit is an important addition to Medicare, helping people with substantial mental health needs, who in the absence of this service would need to be hospitalized.

Unfortunately, Congress' effort to provide this improved benefit has become prey to some unethical and corrupt "health care providers." In some areas, the benefit is being badly abused. I include an article from the Miami Herald of September 2, 1997, which describes the situation in Florida.

The bill we are introducing today will deny coverage of services in home and nursing home settings; establish quality standards that will prevent fly-by-night operators from being eligible to participate; establish a prospective payment system for the partial hospitalization benefit, so that costs are brought under control; and provide a demonstration project to determine whether more comprehensive services by quality providers can indeed save Medicare some revenues.

The administration proposed most of these changes this summer, but the partial hospitalization problem was new to Congress and

we did not have time to consider these proposals in this summer's Balanced Budget Medicare Title.

I hope that these provisions can be considered early in the next session of Congress, so that this abuse of the system can be stopped. The situation in Florida indicates that we cannot afford to wait.

The partial hospitalization benefit—when done right—is an important and cost-effective tool to reduce the length of stay of an inpatient hospitalization and to prevent the need for inpatient hospitalization altogether. The reforms we are suggesting have the support of the partial hospitalization, who are as anxious as we are to expel the bad actors from this specialty.

Why partial hospitalization is a useful service is well described in the following materials provided by the Association of Behavioral Healthcare, Inc.

[From the Miami Herald, September 2, 1997]

MEDICARE ABUSES SPARK CRY FOR ANTI-FRAUD LAW

(By Peggy Rogers)

Florida's notorious Medicare cheats have yet another type of record—abusing a special psychiatric program out of all proportion to the rest of the nation.

Patient snatching is among the homegrown scams employed in this "partial hospitalization" program, which is supposed to provide several hours a day of intensive psychiatric care. The unwitting elderly and mentally ill, often told they are going on recreational outings, are lured from boarding homes each day to be used as patients.

The boom is astounding. In 1993, Florida outfits billed federal insurers $2.9 million for partial hospitalization. Last year, Florida's total was $112 million—half of the $220 million Medicare spent nationwide for partial hospitalization, federal anti-fraud authorities say.

So "aberrant" and "alarming" are Florida's numbers that state health-care administrators are proposing a state law to clamp down on abusers. If authorities with the Florida Agency for Health Care Administration secure a sponsor, the law requiring licensure of partial hospitalization programs would be considered during the next legislative session.

At the same time, federal authorities in Miami this summer have recommended a moratorium on Medicare billing by new companies.

In 1991, Washington expanded partial hospitalization payments to facilities outside of hospitals. It was intended to save mentally disturbed patients from full hospitalization and save taxpayers money. Services include therapy and stabilization, several hours a day, several days a week.

While Florida consumes half of the program's entire national budget, the state has 26 percent of the private companies providing the service and only 6 percent of the recipients inapplicable Medicare plans, according to a recent report by a Miami-based Medicare anti-fraud squad, Operation Restore Trust.

Eighty percent of the Florida companies are in Dade, Broward and Palm Beach counties.

"We believe that the situation in Florida . . . warrants immediable action," warned Dewey Price, leader of Operation Restore Trust's Miami office.

A moratorium and other recommended actions "should be adopted as quickly as possible to protect both the [Medicare] Trust Fund and the beneficiaries who are supposed to receive partial hospitalization services at these facilities." Price urged policymakers in this report earlier this summer.

Audits in Florida report a "high incidence" of kickbacks to boarding homes for use of their residents, as well as other "widespread, fundamental abuses"—including a lack of medical eligibility by most of the people purportedly receiving treatment.

A temporary ban on admitting new companies to the program would allow Medicare time to regain control of the situation and create lighter policies, authorities say.

One policy now allows partial hospitalization programs to provide care outside their centers. One review found billings for patients from locations as distant as 150 miles.

The companies, typically for-profit outfits, are virtually unregulated.

They are supposed to provide patients with several hours a day of therapy and stabilizing treatment. But spot federal audits found that "none of the group sessions are being led by licensed staff as required by state law to provide psychotherapy" and that "no active treatment is being provided.".

The state does not pay for partial hospitalization and has lost little money. But controlling quality is a big concern, along with helping Medicare safeguard public money, said spokeswoman Colleen David of the Agency for Health Care Administration.

"Our fundamental problem is that these programs are not licensed, and licensing is a proxy for monitoring quality," David said. "The program has clearly grown exponentially over a very short period of time."

The number of partial hospitalization centers billing Medicare in Florida grew from none in 1991, the year the federal government expanded the category, to 87 in 1994.

Since then, the number has tripled. Of the 259 Florida companies today, Dade County alone has 167, Broward County has 22 and Palm Beach, 20.

There is also a nationwide problem with increases in spending per patient. Operation Restore Trust's Dewey Price noted, "and nowhere is the situation more alarming than in the state of Florida."

In 1993, three of the state's partial hospitalization programs ranked among the 30 nationwide with the highest per-patient claims. A year later, Florida had 10 of the 30 highest billers. And in 1995, Florida had 22 out of 30.

"Data for 1996 has been requested, and we expect even more aberrant results," Price reported.

[Excerpts from recent publications of the Association for Ambulatory Behavioral Healthcare, Inc.]

The huge and expanding older adult population continues to pose a tremendous challenge to the mental health delivery system, including payers, providers, and purchasers. As the elderly cohort grows, the demands on all levels of services grows exponentially. Depression and other later life psychiatric issues such as anxiety secondary to loss of health or a permanent change in physical condition, difficulty coping with dementia in a spouse, severe grief and loss, and panic over the inability to live independently and the subsequent placement in a nursing home facility are all common events. These problems are generally acute and debilitating and frequently present themselves simultaneously as well as in the context of a limited or nonexistent social support system. At the same time, it has been well documented that the elderly tend to underutilize mental health services because of stigma surrounding psychiatric care, cost and transportation limitations, and both patient and professional bias and misunderstanding that surrounds the detection, need for treatment, and cooperation with follow through for care.

Geriatric partial hospitalization programs are a viable option to improve the mental health services available to the elderly population. First, partial hospitalization addresses the problems of accessibility and acceptability. Generally transportation for patients is provided, and since patients return home each day the stigma associated with an inpatient stay in a psychiatric care facility is averted. Additionally, the treatment takes place in the environment of an age-similar group which has been shown to foster cohesion, therapeutic learning, and consistent application to daily life problems. Second, a geriatric partial hospitalization program is able to respond to diverse patient needs on both the individual and group level, as each patient receives a specifically tailored personalized treatment plan, and the therapy provided in the groups is relevant to a wide variety of patient problems. Treatment specifics are flexible within the standards set forth by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO, 1995) and the Medicare revisions of the guidelines for partial hospitalization (HCFA, 1995). Third, the availability of intensive treatment in partial hospitalization will often avert the need for inpatient care. This fact allows the health care provider to treat the patient at the most appropriate level of care, maintain him or her in the least restrictive environment, and places less stress on the patient, as the partial hospitalization program allows the patient to participate in an intensive psychiatric care program while still maintaining outpatient status. Finally, a geriatric partial hospitalization program is designed to reduce and control psychiatric symptoms, prevent relapse or exacerbation of problems, and improve mental, emotional, and physical functioning, all of which contribute to building in the patient the ability to live as independently as possible while enjoying the highest level of health.

A geriatric partial hospitalization program should be a separate, identifiable, organized unit that provides a significant link within a comprehensive continuum of mental health services, and thus, improves the overall continuity of care for the elderly patient. It is defined as a distinct, organized, time-limited, ambulatory, coordinated, active treatment program that offers structured, therapeutically intensive clinical services, less than 24 hours per day, to elderly patients. . . . The partial hospitalization program is a complex treatment that is intended for patients who exhibit profound or disabling conditions related to an acute phase of mental illness or an exacerbation of a severe and persistent mental disorder. The program generally operates as an outpatient unit in a hospital or as a part of a community mental health center and is to operate under the direct supervision of a physician. The program is to provide regular, coordinated, diagnostic, medical, psychiatric, psychosocial, occupational therapy, and multi-disciplinary treatment modalities on a more intensive level than is generally provided in an outpatient clinic setting.

Geriatric partial hospitalization programs are designed to serve elderly patients with

appropriate clinical diagnoses, diverse medical problems, and a broad band of variability in socioeconomic and educational backgrounds. The geriatric partial hospitalization program must provide active psychiatric treatment and should be clearly distinguishable from an adult day care program, which provides primarily social, custodial, and respite services. An appropriate geriatric partial hospitalization program employs an integrated, comprehensive, and complementary schedule of active treatment approaches that are behaviorally tied to the identified problems and the specific goals contained in the individualized patient treatment plan. Specifically, active treatment refers to the ongoing provision of clinically recognized therapeutic interventions which are goal-directed and based on a written treatment plan. For treatment to be considered active the following criteria must be met:

1. treatment must be directed toward the alleviation of the impairments that precipitated entry into the program, or which necessitate this continued level of intervention,
2. treatment enhances the patient's coping abilities, and
3. treatment is individualized to address the specific clinical needs of the patient.

Geriatric partial hospitalization programs typically serve individuals 65 years of age and older who are experiencing acute psychiatric problems or decompensating clinical conditions which markedly impair their capacity to function adequately on a day-to-day basis. Usually outpatient therapy has not been effective, and without the ongoing structure, support, and active treatment provided by the geriatric partial hospitalization program these patients would require inpatient psychiatric care.

Ambulatory behavioral health services are designed for persons of all ages who present with a psychiatric and/or chemical dependency diagnosis and the need for treatment which is more intensive than outpatient office visits and less restrictive than 24-hour care.

Ambulatory behavioral health services consist of a coordinated array of active treatment components which are determined by an individualized treatment plan based upon a comprehensive evaluation of patient needs.

Ambulatory behavioral health services treat patients requiring intensive therapeutic intervention in a manner which simulates real-life experience and with the least amount of disruption to their normal daily functioning.

Ambulatory behavioral health services are available to patients on a consistent basis and are augmented with 24-hour crisis backup.

Ambulatory behavioral health services require active involvement of the service team and patient with both community and family resources.

Finally, due to the matching of patient needs with targeted interventions, the provision of treatment in the most appropriate, least restrictive environment, and the reliance on patient strengths, resources and family and community support systems, ambulatory behavioral health services are cost efficient.

[From Medicare Explained, 1996, published by CCH Inc.]

PARTIAL HOSPITALIZATION COVERAGE

Medicare also covers partial hospitalization services connected with the treatment of mental illness. Partial hospitalization services are covered only if the individual otherwise would require inpatient psychiatric care. [Soc. Sec. Act §§1833(c), 1835(a)(2)(F), 1861(s)(2)(B).]

Under this benefit, Medicare covers: (1) individual and group therapy with physicians or psychologists (or other authorized mental health professionals); (2) occupational therapy; (3) services of social workers, trained psychiatric nurses, and other staff trained to work with psychiatric patients; (4) drugs and biologicals furnished for therapeutic purposes that cannot be self-administered; (5) individualized activity therapies that are not primarily recreational or diversionary; (6) family counseling (for treatment of the patient's condition); (7) patient training and education; and (8) diagnostic services. Meals and transportation are excluded specifically from coverage. [Soc. Sec. Act. §1861(ff)(2).]

The services must be reasonable and necessary for the diagnosis or active treatment of the individual's condition. They also must be reasonably expected to improve or maintain the individual's condition and functional level and to prevent relapse or hospitalization. The course of treatment must be prescribed, supervised, and reviewed by a physician. The program must be hospital-based or hospital-affiliated and must be a distinct and organized intensive ambulatory treatment service offering less than 24-hour-daily care. [Soc. Sec. Act §1861(ff).] Effective October 1, 1991, partial hospitalization services also are covered in community health centers (see ¶382). [Soc. Sec. Act §1861(ff)(3).]

HONORING PETER DANNER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, October 8, 1997

Mr. KILDEE. Mr. Speaker, I rise today to honor the recipient of the 1997 Golden Door Award, Mr. Peter Danner. The award will be given posthumously to Mr. Danner at the annual dinner meeting of the International Institute of Flint on Tuesday, October 14. The International Institute of Flint presents this award annually to a foreign-born citizen who has substantially improved life in the Flint community.

Peter Danner was born in Hungary in 1931. His family owned a wholesale grocery business serving southern Hungary. During World War II the business was invaded first by the Germans and then later by the Russians who looted the food for the soldiers. After graduating from high school Peter joined the Hungarian military. He planned to study engineering but the military did not cooperate and he was assigned to work in an office.

In 1956 Peter started his long journey to the United States. Leaving Hungary during the revolution he arrived in this country on December 24, 1956. Peter often reminisced about his arrival on Christmas Eve. He was living in New Jersey and the decorations fascinated him. Peter was excited to leave behind the drab Communism of Hungary for the bright cheerfulness of his new home.

Pursuing his dream of studying engineering, Peter enrolled in Bard College in New York. The lure of abundant jobs with General Motors prompted him the move to Flint in 1957. His first job there was not with the automotive giant but as a bellboy at the Durant Hotel. Peter still held onto his dream and enrolled that same year at the University of Detroit. He studied engineering in earnest and eventually graduated and became employed by General Motor. He worked as a design engineer for many years.

In 1963 Peter became a U.S. citizen and 1 year later he met and married his wife, Martha. They have three children, Dr. Stephanie Danner Paluda, Ava Danner, and Nicholas Danner.

Peter lived his life guided by the principles that family, community, education, and harmony of existence were of the utmost importance. His involvement with the International Institute of Flint, the Rotary Club of Flint, the Boy Scouts, the Saginaw Valley Engineering Council, Holy Cross Hungarian Church of Detroit and Most Blessed Sacrament Church exemplified his beliefs. Out of his experience as a immigrant forty years ago came his compassion for those seeking a new life in this country.

Mr. Speaker, it is with great honor that I ask the House of Representatives to rise with me today and pay tribute to a great American, Peter Danner. He will be missed by his family, his friends and his community but his legacy lives on.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 9, 1997, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 20

10:00 a.m.

Indian Affairs

To hold hearings on H.R. 79, to provide for the conveyance of certain land in the Six Rivers National Forest in the State of California for the benefit of the Hoopa Valley Tribe, and S. 156, to provide certain benefits of the Pick-Sloan Missouri River Basin program to the Lower Brule Sioux Tribe.

SR–485

OCTOBER 21

9:30 a.m.
Labor and Human Resources
To hold hearings on S. 1124, to amend title VII of the Civil Rights Act of 1964 to establish provisions with respect to religious accommodation in employment.
SD–430

10:00 a.m.
Indian Affairs
To hold hearings on H.R. 700, to remove the restriction on the distribution of certain revenues from the Mineral Springs parcel to certain members of the Agua Caliente Band of Cahuilla Indians, and H.R. 976, to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians.
SR–485

OCTOBER 22

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366
Labor and Human Resources
Business meeting, to consider pending calendar business.
SD–430

10:00 a.m.
Judiciary
To hold hearings on the nomination of Bill Lann Lee, of California, to be Assistant Attorney General, Department of Justice.
SD–226

OCTOBER 23

9:00 a.m.
Environment and Public Works
To hold hearings to examine the Army Corps of Engineers flood control project at Devils Lake, North Dakota.
SD–406

9:30 a.m.
Indian Affairs
To hold hearings on S. 1077, to amend the Indian Gaming Regulatory Act.
SD–106

10:00 a.m.
Armed Services
To hold hearings on the nominations of Lt. Gen. Peter J. Schoomaker, USA, to be Commander-in-Chief, United States Special Operations Command and for appointment to the grade of general, and Lt. Gen. John A. Gordon, USAF, to be Deputy Director of Central Intelligence and for appointment to the grade of general.
SR–222
Labor and Human Resources
To hold hearings on S. 869, to prohibit employment discrimination on the basis of sexual orientation.
SD–430

OCTOBER 27

10:00 a.m.
Governmental Affairs
Oversight of Government Management, Restructuring and the District of Columbia Subcommittee
To hold hearings to examine the social impact of music violence.
SD–342
Indian Affairs
To hold oversight hearings on the contemporary status of the Bureau of Indian Affairs of the Department of the Interior.
Room to be announced

2:00 p.m.
Labor and Human Resources
Public Health and Safety Subcommittee
To hold hearings to examine proposals to deter youth from using tobacco products.
SD–430

OCTOBER 28

10:00 a.m.
Labor and Human Resources
To resume hearings to examine an Administration study on the confidentiality of medical information and recommendations on ways to protect the privacy of individually identifiable information and to establish strong penalties for those who disclose such information.
SD–430

OCTOBER 30

10:00 a.m.
Labor and Human Resources
To hold hearings to examine recent developments and current issues in HIV/AIDS.
SD–430

NOVEMBER 5

9:30 a.m.
Indian Affairs
To hold oversight hearings on proposals to extend compacting to agencies of the Department of Health and Human Services.
SR–485

CANCELLATIONS

OCTOBER 29

9:30 a.m.
Indian Affairs
To resume oversight hearings on proposals to reform the management of Indian trust funds.
Room to be announced

POSTPONEMENTS

OCTOBER 9

10:00 a.m.
Armed Services
To hold hearings on the nominations of Robert M. Walker, of Tennessee, to be Under Secretary of the Army, Jerry MacArthur Hultin, of Virginia, to be Under Secretary of the Navy, and F. Whitten Peters, of the District of Columbia, to be Under Secretary of the Air Force, all of the Department of Defense.
SR–222